

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular to the financial services industry on the European Markets Infrastructure Regulation (‘EMIR’)

The Authority would like to draw your attention to a number of technical standards adopted by the European Commission.

On the 19th December 2012, the European Commission adopted six regulatory technical standards and three implementing technical standards in terms of EMIR. The technical standards cover the following areas:

- **Over-the-Counter (‘OTC’) Derivatives**
 - Indirect clearing arrangements;
 - The clearing obligation procedure;
 - The public register;
 - Access to a trading venue;
 - Non-financial counterparties; and
 - Risk mitigation techniques for OTC derivatives contracts not cleared by a central counterparty.

- **Central Counterparties (‘CCPs’)**
 - Authorisation and on-going requirements applicable to a CCP;
 - Capital, retained earnings and reserves of a CCP; and
 - The format of the records to be maintained by CCP.

- **Trade Repositories**
 - The minimum details of the data to be reported to trade repositories;
 - The details of the application for registration as a trade repository;
 - The data to be published and made available by trade repositories;
 - Operational standards for aggregating, comparing and accessing the data;
 - The format and frequency of trade reports to trade repositories; and
 - The format of applications for registration of trade repositories.

The technical standards are available on the European Commission web-site under the section dedicated to [Derivatives](#).

Timing

The regulatory technical standards will be published immediately after receipt of a ‘no-objection’ from the European Parliament and Council, who have one month within which to object these standards. The month is extensible to a further one month at their discretion.

The implementing technical standards are not subject to the above scrutiny, and will therefore be published right after their adoption. These standards will enter into force on the twentieth day following their publication.

As from the date of entry into force of the technical standards:

[i] National Competent Authorities will have 1 month to notify ESMA of the classes of OTC derivatives already cleared by CCPs established in their jurisdiction;

[ii] The CCPs established in the EU/EEA will have 6 months to submit their application for authorisation under EMIR. The relevant National Competent Authorities would then have 6 months to determine whether or not to authorise the relevant CCPs; and

[iii] Third country CCPs will have 6 months to submit their application to ESMA for recognition under EMIR.

A chart which summarises the timing of the different obligations is available on the section of the ESMA website dedicated to [EMIR](#).

Non-Financial Counterparties

The requirements of EMIR on OTC derivatives are applicable to both financial and non-financial counterparties that enter into derivative contracts. Some non-financial counterparties may however benefit from exemptions. In December 2012, ESMA issued a guide to the industry on the parts of EMIR which apply to non-financial counterparties. The guide is available on the section of the ESMA web-page dedicated to [EMIR](#).

Contacts

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