

# MFSA

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## MALTA FINANCIAL SERVICES AUTHORITY

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

This circular follows the circulars issued by the Malta Financial Services Authority (‘MFSA’) on the 29<sup>th</sup> November 2012 and 8<sup>th</sup> January 2013. In these circulars, the MFSA explained its current work on EMIR, and the European Commission’s adoption of a number of technical standards.

EMIR will become applicable on the 15<sup>th</sup> March, 2013. The purpose of this circular is to provide the industry with an update on developments with regards to this European Regulation.

#### **Publication of the Regulatory Technical Standards and Implementing Technical Standards**

The following Commission Delegated Regulations, which may be accessed through the following [link](#), were published in the Official Journal of the European Union on the 23<sup>rd</sup> February 2013:

- I. Commission Delegated Regulation (EU) No 148/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories;
- II. Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP;
- III. Commission Delegated Regulation (EU) No 150/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards specifying the details of the application for registration as a trade repository;
- IV. Commission Delegated Regulation (EU) No 151/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, with regard to regulatory technical standards specifying the data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data;

- V. Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on capital requirements for central counterparties; and
- VI. Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties.

The following Implementing Technical Standards, which may be accessed through the following [link](#), were published in the Official Journal of the European Union on the 21<sup>st</sup> December 2012:

- I. Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories;
- II. Commission Implementing Regulation (EU) No 1248/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of applications for registration of trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories; and
- III. Commission Implementing Regulation (EU) No 1249/2012 of 19 December 2012 laying down implementing technical standards with regard to the format of the records to be maintained by central counterparties according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories.

### **Timing**

The implementation of EMIR requires:

- I. The National Competent Authorities (NCAs) to notify ESMA of the classes of OTC derivatives already cleared by Central Counterparties ('CCPs') in their jurisdiction;
- II. The CCPs established in the EU/EEA to submit their application for authorisation under EMIR by the 15<sup>th</sup> September 2013. The NCAs will then have 6 months following a complete application to determine whether or not to authorise the CCP;
- III. Third country CCPs to submit their application for recognition under EMIR within 6 months. ESMA will then have 6 months to determine whether or not to recognise the CCP following a complete application;
- IV. Trade Repositories to apply for registration to ESMA; and

V. Third country Trade Repositories to start applying for recognition to ESMA.

### **Legal Notice**

On the 1<sup>st</sup> March 2013 Legal Notice 81 of 2013, relating to the Financial Markets Act (OTC Derivatives, Central Counterparties and Trade Repositories) Regulations, 2013, was published on the Government Gazette. A copy of the Legal Notice may be accessed through the following [link](#).

### **Guidance Notes and Assessment of Applicant CCP questionnaire**

In the coming weeks, the MFSA will be issuing two sets of Guidance Notes in order to provide guidance to the industry in relation to EMIR. The first set of Guidance Notes will relate to Central Counterparties, whilst the second set of Guidance Notes will be dedicated to OTC Derivatives and Trade Repositories.

The MFSA also adopted an *assessment of applicant CCP questionnaire* which must be completed by any potential CCPs wishing to establish an operation in Malta. This document was prepared to facilitate the authorisation process in terms of the EMIR Regulation.

### **MFSA Website Section Dedicated to EMIR**

The MFSA has created a section on its website dedicated to EMIR. All relevant information with regards to this Regulation, including the above mentioned *assessment of applicant CCP questionnaire*, may be accessed through the following [link](#).

### **Other Updates**

ESMA is currently working on draft regulatory technical standards in relation to the clearing obligation. Moreover, the Commission also requested ESMA to draft implementing acts concerning the equivalence between the legal and supervisory frameworks of certain third countries with EMIR.

### **Contacts**

Should you have any queries on EMIR, please do not hesitate to contact: Mr Christopher P. Buttigieg, Deputy Director, Securities and Markets Supervision Unit, ([cbuttigieg@mfsa.com.mt](mailto:cbuttigieg@mfsa.com.mt)), Mr Edward Grech, Analyst, Securities and Markets Supervision Unit ([egrech@mfsa.com.mt](mailto:egrech@mfsa.com.mt)), or Mr Nathan Fenech, Analyst, Securities and Markets Supervision Unit ([nfenech@mfsa.com.mt](mailto:nfenech@mfsa.com.mt)).

**Communications Unit**  
**Malta Financial Services Authority**  
**8<sup>th</sup> March 2013**