

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

CIRCULAR ON THE EUROPEAN MARKET INFRASTRUCTURE REGULATION ('EMIR')

Clearing Through Central Counterparties ('CCPs') Established in the UK

This circular is being addressed to all market participants, particularly those entities which fall within the scope of EMIR, mainly financial counterparties, non-financial counterparties and clearing members.

Implications of the possibility of the UK being considered as a third-country jurisdiction under EMIR

The Authority is currently assessing any implications should the UK be considered as a third-country jurisdiction under EMIR. In this respect, the analysis and comments provided herein are being made in the context of such a scenario.

On the 29th March 2019 any UK-based CCPs will be treated as third country CCPs. A third country CCP requires recognition by the European Securities and Markets Authority ('ESMA') prior to being able to offer clearing services to EU customers. However, prior to ESMA's recognition process, the European Commission must also adopt an implementing act determining, amongst other issues, that the legal and supervisory arrangements of the relevant third country imposes legally binding requirements which are equivalent to those contained in Title IV of EMIR. Cooperation arrangements must also be in place between ESMA and the relevant third country competent authorities whose legal and supervisory frameworks have been recognised as equivalent.

In view of the above, the Authority anticipates possible challenges and risks for any stakeholders which are somehow linked to UK-based CCPs.

Consultation and feedback

The Authority would like stakeholders which are currently making use of CCPs established in the UK to **get in touch with the Authority in order to discuss possible ways forward in this eventuality**. Such stakeholders might include, Financial Counterparties, Non-Financial Counterparties and Clearing Members.

In the eventuality that stakeholders are in doubt as to whether they make use of UK-based CCPs or otherwise, the Authority recommends that such stakeholders contact their respective counterparts/brokers in order to obtain the necessary confirmations.

Deadline for feedback

Stakeholders are encouraged to contact the Authority as soon as possible and preferably by not later than **Friday 27th July 2018** on EMIR@mfsa.com.mt.

Contacts

Should you have any additional queries kindly contact Mr Nathan Fenech, Analyst within the Securities and Markets Supervision Unit, on (+356) 2548 5517.

**Communications Unit
Malta Financial Services Authority
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