
TO : **Regulated Entities**
i. **Cyprus Investment Firms**
ii. **UCITS and Management Companies**
iii. **Alternative Investment Funds managed by AIFMs**
iv. **Non-Financial Counterparties**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **30 July 2021**

CIRCULAR No : **C461**

SUBJECT : **Reporting under Regulation on OTC Derivatives, Central Counterparties and Trade Repositories ('EMIR') - zero net positions**

The Cyprus Securities and Exchange Commission ('CySEC') would like to bring the attention of Regulated Entities to the following:

Divergent market practices have been observed, at EU level, with regards to reporting under EMIR in the specific scenario of zero net positions. Those practices, inter alia, include:

- A. Termination of the position and reporting of a new one using a different UTI at a later stage. No valuations are reported between the termination of the first position and the creation of the latter.
- B. Maintaining the position open and reporting a zero contract value on a daily basis.
- C. Maintaining the position open without reporting the contract value on a daily basis.
- D. Exiting the position without reporting a termination.
- E. Termination of the position and reviving (reopening) it later using the original UTI.

In this regard, it should be noted that out of the identified options, only A and B are in line with the regulatory framework under EMIR.

Option C does not meet the requirement to send daily valuation for all outstanding derivatives (Article 2 of the CIR 1247/2012 and example in TR Q&A 3b). Option D

results in a failure to report termination of a derivative (Article 9 of EMIR) leading to a derivative that remains open in the TR's records but does not receive daily valuations and other relevant modifications. Option E does not satisfy the requirement to identify a derivative with a unique UTI (Article 4a of the CIR 1247/2012 as amended by the CIR 2017/105 as well as the validation rules for field 2.93).

Additionally, it is worth mentioning that the above-mentioned requirements and guidance are not expected to change under EMIR REFIT ([Final Report](#)). In particular, with respect to option E, the action type 'Revive' is introduced to allow for reopening of a derivative that has been terminated or errored by mistake but should not be used for regular closing and reopening of positions.

Sincerely

Demetra Kalogerou
Chairman of the Cyprus Securities and Exchange Commission