

TO : Reporting Entities:
i. Cyprus Investment Firms¹
ii. Credit Institutions²
iii. Market operators of trading venues
iv. Approved Reporting Mechanisms

FROM : Cyprus Securities and Exchange Commission

DATE : 20 September 2017

CIRCULAR No : C238

SUBJECT : Transaction Reporting Requirements

A. Introduction

1. The Cyprus Securities and Exchange Commission ('CySEC') wishes with this circular to inform the Reporting Entities on the new requirements regarding transaction reporting regime, which are provided in article 26 of [Regulation \(EU\) No 600/2014](#) on Markets in Financial Instruments ('MiFIR') and they will enter into force on 3 January 2018.
2. Under the existing framework and in particular, according to article 25 of [Directive 2004/39/EC](#) on Markets in Financial Instrument ('MiFID I'), investment firms³ which execute transactions in any financial instruments admitted to trading on a regulated market are required to report details of such transactions to their competent authority as quickly as possible, and no later than the close of the following working day. This obligation applies whether or not such transactions were carried out on a regulated market.

The reports are exchanged between competent authorities through an IT system established by ESMA (ex CESR), called the Transaction Reporting Exchange Mechanism ('TREM') in order to enable the competent authorities to detect and investigate potential cases of market abuse, to monitor the fair and orderly functioning of the markets as well as the activities.

3. MiFIR, which will enter into force on 3 January 2018, brings a number of changes on the abovementioned MiFID I transaction reporting regime. In particular, it extends the scope of:

¹ Including branches of Cyprus Investment Firms established in another member state (article 14 of [Commission Delegated Regulation \(EU\) 2017/590](#)).

² Credit institutions as defined in article 2 of the Business of Credit Institutions Laws of 1997 to 2017 (Law No. 66(I)/1997), which they are allowed to provide/perform investment services/activities.

³ Transaction reporting obligation applies to credit institutions as well - References to investment firms or firms on this circular include credit institutions and the text should be read as referring to them as well.

- i. financial instruments for which transactions should be reported (additional financial instruments are captured under MiFIR),
 - ii. information that should be provided per each transaction (MiFIR extends the information to be included in transaction reports compared to MiFID I from 23 data fields to 65 data fields).
4. For ease of reference and better understanding, the interpretation of terms used in this circular is included in Annex 2.

B. Regulatory framework

5. The regulatory requirements relating to transaction reporting regime are provided in the following documents:
- i. [Regulation \(EU\) 600/2014](#) on markets in financial instruments – MiFIR (title IV).
 - ii. [Commission Delegated Regulation \(EU\) 2017/590](#) with regard to regulatory technical standards for the reporting of transactions to competent authorities ('Regulation 2017/590')
 - iii. Technical Reporting Instructions - MiFIR Transaction Reporting - [ESMA/2016/1521](#)
 - iv. Guidelines – Transaction reporting, order record keeping and clock synchronisation under MiFID II - [ESMA/2016/1452](#)
 - v. Questions and Answers on MiFIR Data Reporting - [ESMA 70-1861941480-56](#)

C. KEY PROVISIONS OF THE NEW TRANSACTION REPORTING REGIME

6. Transaction reporting obligation: Article 26(1) of MiFIR states that investment firms which execute transactions in financial instruments shall report complete and accurate details of such transactions to the competent authority as quickly as possible, and no later than the close of the following working day.

The competent authorities shall establish the necessary arrangements in order to ensure that the competent authority of the most relevant market in terms of liquidity for those financial instruments also receives that information.

The competent authorities shall make available to ESMA, upon request, any information reported in accordance with this article.

7. Financial instruments that are reportable: According to article 26(2) of MiFIR, the obligation to report transactions applies to:
- i. financial instruments which are admitted or traded on a trading venue or for which a request for admission to trading has been made;
 - ii. financial instruments where the underlying is a financial instrument traded on a trading venue and;

iii. financial instruments where the underlying is an index or a basket composed of financial instruments traded on a trading venue.

It is clarified that the reporting obligation applies to transactions in financial instruments referred to in point (i) – (iii) above, irrespective of whether or not such transactions are carried out on a trading venue.

It is further clarified that the transaction reporting obligation captures all transactions on OTC derivatives that the underlying is traded on an EU trading venue, as well as the transactions on financial instruments traded outside the EU but the underlying is traded on an EU trading venue.

The term ‘Traded on a Trading Venue’ is not defined in the Directive 2014/65/EC ([‘MiFID II’](#)) or MiFIR. However, ESMA issued an opinion on 22 May 2017 ([ESMA 70-156-117](#)) on what means OTC derivatives traded on a trading venue. ESMA is of the view that only OTC derivatives sharing the same reference data details as the derivatives traded on a trading venue should be considered to be TOTV and, hence, subject to MiFIR transaction reporting obligations according to Article 26(2)(a) of MiFIR.

8. Activity that is reportable: The activity that is reportable is the execution of a transaction (article 26(1) of MiFIR). The following clarifications are provided:
- i. The term ‘transaction’ is defined under Article 2(1) of Regulation 2017/590 as the conclusion of an acquisition or disposal of a financial instrument referred to in Article 26(2) of MiFIR.
 - ii. The term ‘acquisition and disposal’ is further clarified in article 2(2) and 2(3) of Regulation 2017/590, respectively.
 - iii. The term ‘acquisition’ include the following:
 - A purchase of a financial instrument
 - Entering into a derivative contract
 - An increase in the notional amount of a derivative contract
 - iv. A disposal includes the following:
 - Sale of a financial instrument
 - Closing out of a derivative contract
 - A decrease in the notional amount of a derivative
 - v. The term transaction also includes the simultaneous acquisition and disposal of a financial instrument where there is no change in the ownership of that financial instrument but post-trade publication is required under article 6, 10, 20, 21 of MiFIR.
 - vi. Article 2(5) of Regulation 2017/590 specifies what **should not constitute** a transaction for the purposes of article 26 of MiFIR, including repurchase agreements, stock lending, derivative novations and the expiration or redemption of instruments resulting from mandatory events that don’t involve an investment decision.

vii. Article 3 of Regulation 2017/590 explains further what means 'execution of a transaction' and includes the following:

- Reception and transmission of orders in relation to one or more financial instruments (unless the order is transmitted in accordance with article 4 of Regulation 2017/590 then does not deem to be execution of transaction)
- Execution of orders on behalf of clients
- Dealing on own account
- Making an investment decision in accordance with a discretionary mandate given by a client
- Transfer of financial instruments to or from accounts

9. Arrangements for submitting the transaction reports to competent authorities: Transaction reports are submitted to competent authorities by [article 26(7) of MiFIR]:

- i. the investment firm itself, or
- ii. an approved Reporting Mechanism acting on behalf of the investment firm, or
- iii. the trading venues through whose system the transaction was completed.

It is clarified that the operator of a trading venue reports to competent authorities, details of transactions in financial instruments traded on its platforms which are executed through its system by an entity which is not subject to MiFIR, or when an investment firm delegates to it the responsibility for reporting on its behalf.

10. Content of Transactions Reports: Article 26(3) of MiFIR and Table 2, Annex I of Regulation 2017/590 state the fields that the transaction reports should contain. All fields are mandatory unless stated otherwise. Special attention should be paid to following new requirements: details of the identity of the client and identifier and details for the decision maker (article 7 of Regulation 2017/590), identification of person or computer algorithm responsible for investment decision (article 8 of Regulation 2017/590), identification of person or computer algorithm responsible for execution of a transaction (article 9 of Regulation 2017/590), designation to identify an applicable waiver (article 10 of Regulation 2017/590) and designation to identify a short sale (article 11 of Regulation 2017/590).

ESMA issued on October 2016 the 'Guidelines on Transaction Reporting, order record keeping and clock synchronisation under MiFID II' – [ESMA/2016/1451](https://www.esma.europa.eu/press-news/esma-news/esma-2016-1451). Guidance is focused, among others, on the construction of transaction reports, field by field for various scenarios that can occur.

11. Legal Entity Identifier ('LEI'): Article 26(6) of MiFIR states that investment firms shall use a LEI to identify clients that are legal persons.

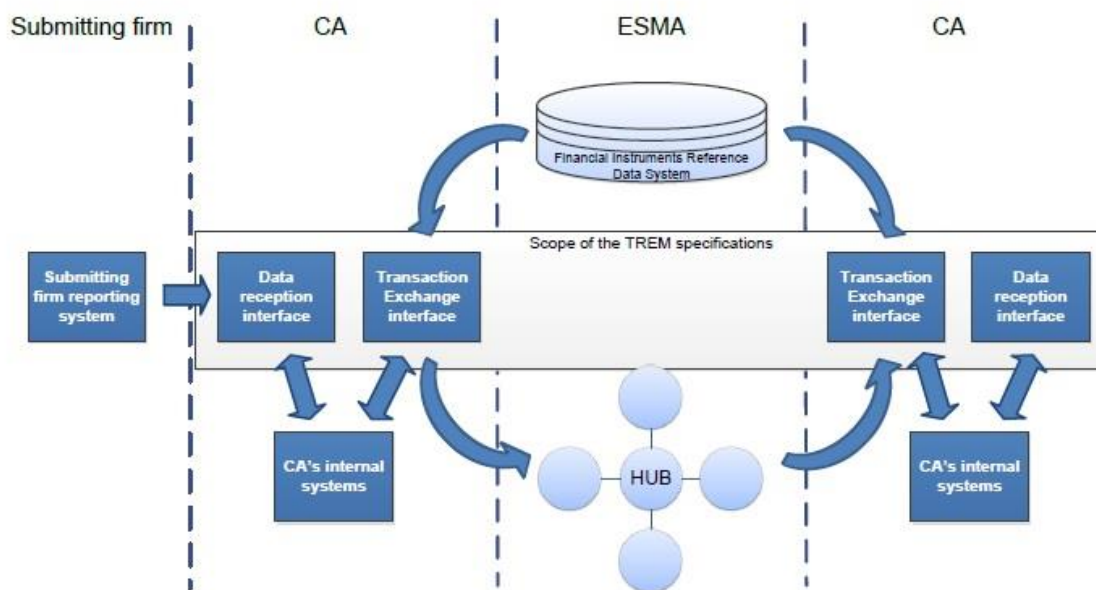
Recital 14 and Article 13 of Commission Regulation 2017/590 state explicitly that investment firms should obtain LEIs from their clients before providing services which would trigger reporting obligation in respect to transactions carried out on behalf of those clients and should use these LEIs in their transaction reports. As of 3 January 2018, investment firms will not be able to execute a trade on behalf of a client who is eligible for a LEI and does not have one. For

more information about LEIs and the procedure that need to be followed by a legal entity in order to obtain one, please refer to CySEC's Circular C237.

D. Technical transaction reporting instructions

12. In the context of facilitating the application of article 26(1) of MiFIR regarding transaction reporting, a common specification for transaction reporting between competent authorities and submitting entities⁴ has been developed by ESMA. Therefore, ESMA published, on 26 October 2016, [technical reporting instructions](#), which describes the elements of the interface that shall be built between competent authorities and submitting entities in their member states that should be implemented in the same way by all competent authorities. This in particular refers to overall process for transaction data reporting, common technical format for data submission and common set of data quality controls to be applied to each transaction report.

13. The below diagram shows the context and the key logical components of the transaction reporting and exchange architecture:



14. The overall transaction reporting system is composed of the following logical components:

- i. Each submitting firm will need to implement a **reporting system** that will be preparing and submitting transaction reports to competent authorities in the requested format.
- ii. Competent authorities implement a **data reception interface** that will receive data from the submitting firms. This interface shall validate the compliance of the transaction reports with the common format and common validation rules as well as providing feedback to the submitting firms.
- iii. **Transaction reporting exchange interface (TREM)**: this component shall implement the common set of rules with regards to transaction reports exchange between competent

⁴ The term 'submitting entities' in this section refers to persons mentioned in point 9 above.

authorities. The data format and validation rules should be the same as for the data reported by submitting firms (except for minor technical differences).

- iv. Depending on the needs, competent authorities may also build **internal systems** that will store and analyse the received transaction data.
 - v. The **Hub**: the aim of the Hub is to allow authorities to have a secure, central and common facility to exchange their data. The Hub is the network layer of TREM.
 - vi. The **Financial Instruments Reference Data System**: in order to process transaction reports (validation and routing), each national authority needs to have the name of the relevant competent authority for all instruments for which transaction reports are required, as well as common shared reference data. Instrument reference data will be published by ESMA.
- 15.** Transactions executed on day T are reported no later than the close of the following working day, i.e. T+1.
- 16.** The incoming reports are run through mandatory validations:
- i. **File validation** – verify compliance of the file with the [XML schemas](#) (syntax of the whole file and specific transaction reports). If the file is not compliant, the whole file (all transactions included in the file) is rejected.
 - ii. **Content validation** – a set of [validation rules](#) that are executed for each transaction report and verify the content of specific fields. Incorrect transaction reports are rejected whereas correct transactions are processed in further steps. These validation rules include validations dependant on instrument reference data.
- 17.** It is the **responsibility of the submitting entity** to ensure that all feedback files are analysed and all reports are corrected:
- i. If a feedback containing file error is received, the entire file should be corrected and sent again.
 - ii. If a feedback containing content error is received, only the incorrect transaction report should be corrected and included in a new file sent to the CySEC (the new file may contain both new transaction reports and corrections of previously rejected transactions).
- 18.** The implementation date of the new transaction reporting regime is on 3 January 2018.

E. Actions required by Cyprus Investment Firms ('CIFs')⁵

- 19.** CIFs should ensure that they are familiar with the new transaction reporting requirements.
- 20.** CIFs should ensure that all clients for whom the firm carries out, on their behalf, transactions that are captured under transaction reporting, have a LEI.
- 21.** CIFs should implement a **reporting system** which, or ensure that their existing reporting system, is in line with the technical reporting standards and the applicable schemas.

⁵ In case the transaction reports will be made to CySEC by an ARM or a market operator of a trading venue on behalf of a CIF, the latter should coordinate with these persons to ensure that the actions required are taken.

22. CIFs should follow the technical instructions mentioned in Annex 2 on how to create, sign and submit a transaction report/XML file to CySEC.
23. CySEC will launch a trial period from 9 October to 10 November 2017 regarding transaction reporting. CIFs should submit on a test basis their new XML files. CIFs should perform validation tests before submitting any testing XML files to CySEC. Firms are encouraged to start testing in the early stages of the trial period so as to have enough time to correct possible errors and be ready for full implementation of the relevant requirements as of 3 January 2018.

For any queries, clarifications or any other correspondence, CIFs should send an email or:

- i. regulatory issues and business aspects of transaction reporting, to the email address mifidii.mifir@cysec.gov.cy.
- ii. technical aspects of transaction reporting, to the email address information.technology@cysec.gov.cy.

Sincerely

Demetra Kalogerou
Chairman, Cyprus Securities and Exchange Commission

cc. Cyprus Stock Exchange
Central Bank of Cyprus

Definitions

1. **Trading Venue** means a regulated market, a Multilateral Trading Facility ‘MTF’ or an Organised Trading Facility (‘OTF’), [Article 4(1)(24) of MiFID II].
2. **Market operator** means a person or persons who manages and/or operates a business of a regulated market and may be the regulated market itself [Article 4(1)(18) of MiFID II].
3. **Financial Instrument** means those instruments specified in Section C of Annex I of MiFID [article 4(1)(15) of MiFID II].
4. **Systematic Internaliser** means an investment firm which, on an organized, frequent systematic and substantial basis, deals on own account when executing client orders outside a regulated market, an MTF or an OTF without operating a multilateral system [Article 4(1)(20) of MiFID II].
5. **Regulated Market** means a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with Title III of MiFID II [Article 4(1)(21) of MiFID II].
6. **Multilateral trading facility or MTF** means a multilateral system operated by an investment firm or a market operator which brings together multiple third party buying and selling interests in financial instruments in a system and in accordance with non-discretionary rules - in a way that results in a contract in accordance with Title II of MiFID [Article 4(1)(22) of MiFID II].
7. **Organised Trading facility or OTF** means a multilateral system which is not a regulated market or an MTF and in which multiple third party buying and selling interests in bonds, structured finance products, emission allowances or derivative are able to interact in the system in a way that results in a contract in accordance with Title II of MiFID [Article 4(1)(23) of MiFID II].
8. **Approved reporting mechanism or ‘ARM’** means a person authorised under MiFID to provide the services of reporting details of transactions to competent authorities or to ESMA on behalf of investment firms [Article 4(1)(54) of MiFID II].

Method of creating and submitting the transaction report/XML File to CySEC

The XML File containing the transactions should be submitted electronically via the CySEC's Transaction Reporting System ('TRS'). No other ways for submitting the XML file are accepted.

The steps to prepare and submit the XML file are as follows:

1. Preparing the XML File

This xml file must comply with the XML schemas.

2. Signing the XML File

In order to facilitate the dissemination of the XML files from the Reporting Entities' automated systems, CySEC **does not** require a digital signature on these files.

3. Submitting the transaction report/XML file successfully

The excel file should be submitted to CySEC via the TRS system. The technical information to log in to the TRS is the following:

i. Program to be used:

Any file transfer program (SFTP – SSH2) can be used, such as FileZilla Client, which is a free program and is available at FileZilla website.

ii. Settings:

Server IP address (Host): 212.31.100.75

Server Type: sFTP using SSH2

Port: 22

iii. Login/Password:

The login and password remain the same as the one already used by CIFs to submit any electronic file via the TRS system.

For CIFs that have never requested these credentials, as well as any other Reporting Entities, they can do so anytime via email to information.technology@cysec.gov.cy. The email subject must include the following: "TRS Credentials – {full name of the Reporting Entity}_{CySEC license number (if applicable)}".

iv. TRS directories:

Upon successful connection to the TRS via the FileZilla, CIFs can view the home directory (right side screen of FileZilla) which contains two directories:

- Incoming – the XML File must be uploaded in this specific folder.
- Outgoing – the feedback file of the XML File will be dispatched from the TRS and can be downloaded from this specific folder.

Special emphasis is given to the fact that the root directory should not be used to upload any files. Furthermore, a successful file transfer notice from FileZilla does not mean a correct submission to CySEC.