

TO : i. **Cyprus Investment Firms**  
ii. **UCITS Management Companies**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **22nd January 2014**

CIRCULAR No : **CI144-2014-03**

FILE No : **E.K. 6.1.14**

SUBJECT : **EMIR - European Regulation (EU) No 648/2012 on Over the Counter Derivatives, Central Counterparties and Trade Repositories – Latest Developments**

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Following the [Announcement](#) and the [Guide to EMIR](#) issued on November 30, 2012 and October 25, 2013, respectively, in relation to the European Regulation 648/2012 on OTC derivatives, central counterparties and trade repositories or [EMIR](#), as it is known, the Cyprus Securities and Exchange Commission ('the Commission') wishes, with this circular, to update the Cyprus Investment Firms and UCITS Management Companies ('the Regulated Entities') on the latest developments concerning this issue, at European level.

In particular,

### **1. Clearing Obligation**

- i. So far, no Central Counterparty has been authorized/registered pursuant to EMIR.
- ii. In addition, the EU Regulatory Technical Standards, which will determine the classes of OTC derivatives that will be subject to the clearing obligation, are still outstanding. On July 12, 2013, the European Securities and Markets Authority ('the ESMA'), the relevant authority to draft these standards, issued a discussion paper with subject "[The Clearing Obligation under EMIR](#)", in order to seek stakeholders' views on the preparation of these standards. ESMA is now in the process of assessing the comments/views received.

iii. According to this paper, the classes of OTC derivatives that should be subject to the clearing obligation are the following:

- Credit derivatives
- Interest rate derivatives
- Equity derivatives
- Foreign exchange derivatives
- Commodity derivatives

iv. The Commission will keep you informed on the developments concerning this issue.

## 2. Reporting Obligation

i. ESMA has already approved the registration of six (6) Trade Repositories ('the TRs'), which can be viewed [here](#).

The registered TRs cover all derivative asset classes (i.e. credit, interest rate, equity, foreign exchange and commodity derivatives), irrespective of whether the contracts are traded on or off exchange.

As a consequence of the above, the Reporting Obligation will commence on **February 12, 2014**.

ii. In this regard, **all Regulated Entities** are required to start reporting directly to ESMA registered TRs, as from **February 12, 2014**, all derivative contracts they have concluded as well as any modification or termination of these contracts.

Useful information on the Reporting Obligation and in particular, on the reporting start date, format and frequency of derivative contract reports, and reporting details can be found in the [Guide to EMIR](#).

As far as the reporting of on-exchange derivatives are concerned, ESMA updated its Questions and Answers on December 20, 2013, by clarifying several issues. ESMA's announcement can be viewed [here](#).

iii. According to the Commission Delegated Regulation (EU) No 148/2013 and the details to be reported to TRs, Regulated Entities would need a unique code which would identify the reporting counterparty. The LEI<sup>1</sup> code satisfied this requirement. LEI codes can be obtained from any endorsed, by the Regulatory Oversight Committee (ROC), pre-Local Operating Units (LOUs). A list of these pre-LOUs currently endorsed is available [here](#).

iv. It is highlighted that, as from August 16, 2012, Regulated Entities are required to keep a record of any derivative contract they have concluded and any subsequent modification for at least 5 years following termination of the contract.

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<sup>1</sup> LEI = Legal Entity Identifier is a 20-digit, alpha-numeric code that connects to key reference information that enables clear and unique identification of companies participating in global financial markets.

### 3. Operational risk management requirements (Risk mitigation techniques)

- i. The Commission reminds Regulated Entities, which enter into an OTC derivative contract which is not cleared by a CCP, that they are required to put in place appropriate procedures and arrangements in order to measure, monitor and mitigate operational risk and counterparty credit risk.
- ii. The abovementioned procedures and arrangements must include at least the following:
  - Timely confirmation (as from **March 15, 2013**)
  - Portfolio reconciliation (as from **September 2013**)
  - Portfolio compression (as from **September 2013**)
  - Dispute resolution (as from **September 2013**)
  - Monitoring the value of outstanding contracts (as from **September 2013**)

### 4. ESMA's Questions and Answers on EMIR

ESMA published on December 2013, updated Questions and Answers on the implementation of EMIR, which can be viewed here ([Questions & Answers on EMIR](#)).

### 5. Information requested by the Commission

The Commission in order to verify the extent of implementation of EMIR by Regulated Entities requires Regulated Entities to fill in the table in **Appendix** and submit it to the electronic address [supervision@cysec.gov.cy](mailto:supervision@cysec.gov.cy), not later than **January 31, 2013**.

### 6. Contacts

Should you have any queries on EMIR, please do not hesitate to contact: Mrs Niki Nicolaou (Officer, Supervision Department), or send an email to the address: [legal@cysec.gov.cy](mailto:legal@cysec.gov.cy).

Sincerely,

Demetra Kalogerou  
Chairman  
Cyprus Securities and Exchange Commission

Name of Regulated Entity : .....

Authorisation number : .....

<b>Clearing Obligation</b>		
a/a	Questions	Answers
1.	Taking into consideration ESMA's paper mentioned in point 1(i) above, specify (by inserting '√') the classes of OTC derivatives that you conclude transactions:	
	Credit derivatives	
	Interest rate derivatives	
	Equity derivatives	
	Foreign exchange derivatives	
	Commodity derivatives	
2.	Do you currently clear any OTC derivative contracts to a CCP (Yes/No)?	
3.	If so, give the full name and country of establishment of CCP that clears the OTC derivative contracts you conclude.	

4.	If so, specify (by inserting '√') the classes of OTC derivatives that you clear:	
	Credit derivatives	
	Interest rate derivatives	
	Equity derivatives	
	Foreign exchange derivatives	
	Commodity derivatives	
<b>Reporting Obligation</b>		
5.	Give the name of TR that you will report the derivative contracts you conclude.	
6.	Specify (by inserting '√') the classes of derivative contracts you will report to TR:	
	Credit derivatives	
	Interest rate derivatives	
	Equity derivatives	
	Foreign exchange derivatives	
	Commodity derivatives	

7.	Will you report the derivative contracts directly to TR (Yes/No)?	
8.	If no, give the name of the person to whom you delegate the reporting obligation.	
<b><i>Operational risk management requirements (Risk mitigation techniques)</i></b>		
9.	Have you already put in place procedures and arrangements for measuring, monitoring and mitigating risks for the following (Yes/No):	
	Timely confirmation	
	Portfolio reconciliation	
	Portfolio compression	
	Dispute resolution	
	Monitoring the value of outstanding contracts	
10.	If no, give details on your intended actions.	
<b><i>Record keeping</i></b>		
11.	Do you keep a record of all derivative contracts you have concluded since August 16, 2012?	

