

**TO** : **Regulated Entities**

- i. Cyprus Investment Firms**
- ii. UCITS and Management Companies**
- iii. Alternative Investment Funds managed by AIFMs**
- iv. Non-Financial Counterparties<sup>1</sup>**
- v. Central securities depositories**

**FROM** : **Cyprus Securities and Exchange Commission**

**DATE** : **05 November 2020**

**CIRCULAR No** : **C413**

**SUBJECT** : **Reporting under Article 9 of Regulation EU 648/2012 as amended ('EMIR') – Wind down of CME Trade Repository Ltd ('CME')**

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The Cyprus Securities and Exchange Commission (the "CySEC") wishes herein to draw the attention of Regulated Entities to their obligation to comply with their EMIR Reporting requirements at all times. More specifically:

1. Article 9(1) of EMIR states that: *"Counterparties and CCPs shall ensure that the details of any derivative contract they have concluded and of any modification or termination of the contract are reported in accordance with paragraphs 1a to 1f of this Article to a trade repository registered in accordance with Article 55 or recognised in accordance with Article 77. The details shall be reported no later than the working day following the conclusion, modification or termination of the contract."*

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<sup>1</sup> Non-financial counterparty means an undertaking established in the Union other than the entities referred to in Article 2(1) and 2(8) of EMIR, which refer to the terms of 'CCP' and 'financial counterparty' respectively. The term 'undertaking' is defined in the European Commission FAQs no. II(14) as "... any entity engaged in an economic activity, regardless of the legal status of the entity or the way in which it is financed... As regards the concept of "economic activity", the Court has considered that any activity consisting in offering goods and services on a market is an economic activity, regardless of the entity's legal status and the way in which it is financed. Non-profit entities are also considered "undertakings" if they offer goods and services in the market. Individuals carrying out an economic activity are also considered to be undertakings, provided they offer goods and services in the market...".

2. Taking into account the [wind down of CME](#), Regulated Entities are encouraged to take **urgently** the necessary action in order to ensure their timely porting to an alternative EMIR trade repository.

Regulated Entities not complying with their EMIR reporting obligation will be subject to enforcement action.

Sincerely

Demetra Kalogerou  
Chairman of the Cyprus Securities and Exchange Commission