

## CLIENT INFORMATION – EMIR Refit – Mandatory Trade Reporting

Updated May 3, 2022

### 1. Background

- 1.1 We refer to certain changes to the transaction reporting requirements under the European Markets Infrastructure Regulation<sup>1</sup> (“**EMIR**”) which have led to a new regulation which came into force on 17 June 2019 (“**EMIR Refit**”).
- 1.2 EMIR, as amended, requires MUFG Bank (Europe) N.V. (“**MUFG**”) and its clients to be classified into the following categories:
- (a) financial counterparties<sup>2</sup> trading derivatives above the relevant clearing thresholds (“**FCs**”)
  - (b) financial counterparties trading derivatives below the relevant clearing thresholds (“**FC-**”)
  - (c) non-financial counterparties<sup>3</sup> trading derivatives above the relevant clearing thresholds (“**NFC+**”)
  - (d) non-financial counterparties trading derivatives below the relevant clearing thresholds (“**NFC-**”<sup>4</sup>).
- The classification applicable to MUFG is FC.
- 1.3 Where an EU NFC-, enters into certain OTC derivatives transactions<sup>5</sup> with an EU FC, as from 18 June 2020, the FC has regulatory responsibility for reporting those transactions on behalf of the NFC-.
- 1.4 In our capacity as a FC MUFG will report data on these OTC derivative transactions (“**Relevant Transactions**”, as further defined below) on behalf of the NFC- in accordance with its legal obligations as of the point in time these take effect (the “**Reporting Start Date**”)<sup>6</sup>, unless the client has informed MUFG otherwise<sup>7</sup>.
- 1.5 Market participants established in the UK are also subject to EMIR as it forms part of UK domestic law with effect from 1 January 2021 (“**UK EMIR**”). UK Financial Counterparties (“**UK FC**”) and UK non-financial counterparties falling into the category of NFC+ and NFC- (each an “**UK NFC**”) are required to report data on exchange traded derivative and OTC derivative transactions to a trade repository recognized by or registered with the Financial Conduct Authority. Any non- UK subsidiaries or non- UK entities are however not subject to UK EMIR reporting obligations. Please note that MUFG is not a UK FC for purposes of UK EMIR.

### 2. Mandatory Reporting

- 2.1 MUFG is subject to the reporting obligation in accordance with Article 9 EMIR, as amended by the EMIR Refit<sup>8</sup>.
- 2.2 MUFG will report Relevant Transactions on behalf of the NFC- to its trade repository, Depository Trust & Clearing Corporation (“**DTCC**”) and any of its subsidiaries, or to any other trade repository registered with or recognised by the European Securities and Market Authority (“**ESMA**”) (each a “**TR**”) in its sole and absolute discretion. The EMIR Refit reporting requirement only applies to OTC derivative transactions. A “**Relevant Transaction**” means each OTC derivative transaction: (i) to which the NFC- is a party; and (ii) that is subject to the EMIR reporting obligation, as amended, and as determined by MUFG in its sole and absolute discretion. The following transactions will not be Relevant Transactions:
- (a) exchange-traded derivatives categorised as OTC derivatives;
  - (b) cleared OTC derivatives;
  - (c) exchange-traded derivatives; and
  - (d) transactions entered into before the Reporting Start Date and any subsequent reportable modifications to such transactions if the NFC- is not using the same trade repository as MUFG.

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<sup>1</sup> Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

<sup>2</sup> Article 2 No. 8 EMIR.

<sup>3</sup> Article 2 No. 9 EMIR.

<sup>4</sup> For purposes of this client information NFC- shall only refer to EU NFC-.

<sup>5</sup> Article 2(7) EMIR.

<sup>6</sup> The mandatory Reporting Start Date means 18 June 2020, unless the counterparty does not have any outstanding Relevant Transactions with MUFG or is not an EU NFC- on such date, in which case the Trade Reporting Start Date will be the later of (i) the date on which the counterparty enters into the Relevant Transactions with MUFG or (ii) the date on which the counterparty becomes an EU NFC-. For any counterparty that has opted out of the mandatory trade reporting and later on decides to opt in, the Reporting State Date will be such date as agreed between the parties.

<sup>7</sup> The client may choose, by prior written notice, to opt out of the mandatory trade reporting obligation in accordance with the relevant provisions of EMIR, as amended.

<sup>8</sup> Please note that MUFG may involve third parties in the reporting process in accordance with applicable law.

### 3. Data to be provided by the NFC-

- 3.1 In order to report Relevant Transactions on behalf of the NFC-, MUFG requires the NFC- to provide and/or regularly update, if relevant, all data it needs to fulfil the reporting obligation, including, but not limited to,
- (a) the client's LEI (as defined below),
  - (b) its regulatory classification under EMIR and
  - (c) other information as reasonably requested by MUFG.

The NFC- remains responsible for the accuracy of the data, such as Relevant Data as defined below and that it is up-to-date. Relevant portfolio data includes such data which is relevant for the valuation or the settlement of a transaction and may include the reference number, the trade date, the start date, the end date, the notional amount, the calculation period, the business day convention, the settlement type, the reference prices or rates and the payment and settlement dates, and any such data as set out in Tables 1 and Tables 2 of the EMIR Reporting Annexes<sup>9</sup> excluding 17-21 (valuation) and 22-26 (collateral value) ("**Relevant Data**").

- 3.2 If the NFC- fails to provide, or cooperate in reconciling, Relevant Data, MUFG may determine the values to be submitted to the TR in its sole discretion, which may comprise default values. However, any evaluation or re-evaluation will be carried out by MUFG taking into account customary evaluation and/or dispute resolution procedures in accordance with applicable law.
- 3.3 In respect of each OTC derivative transaction, MUFG will determine in its sole and absolute discretion whether its reporting obligation has arisen and the characterisation of the Relevant Transaction. If unique reference(s) need(s) to be generated, MUFG may generate such unique reference(s).

### 4. TRs used by the NFC- and the FC

If the NFC- is not using the same trade repository as MUFG and requires MUFG to report modifications to transactions entered into before the Reporting Start Date, the NFC- should:

- (a) notify MUFG;
- (b) confirm to MUFG which trade repository it is using; and
- (c) port its transactions to the trade repository that MUFG is using.

For further information, we refer you to the additional information contained in the ESMA Consultation Paper<sup>10</sup> on the Technical standards on reporting, data quality, data access and registration of Trade Repositories under EMIR Refit and its advice that "any transfer of the derivatives between the TRs will need to be performed in accordance with the guidelines on portability<sup>11</sup>".

### 5. Legal Entity Identifier (LEI) of the NFC-

All counterparties subject to EMIR reporting obligations are required to register for a valid Legal Entity Identifier (LEI) for each legal entity in its group that engages in in-scope reportable transactions. MUFG cannot report any trades without its client's valid LEI. Therefore, the NFC- is responsible for renewing and maintaining the LEI.

**LEI**  
724500Q03K04L0479N30

**Registered Name**  
MUFG Bank (Europe) N.V. (including branches)

### 6. Relevant Changes to classification of a NFC

In order to carry out its mandatory reporting obligations, MUFG is reliant on being informed by its NFC client of the relevant classification change to NFC-. If the NFC- counterparty were to be re-classified as NFC+, it would again be liable for its own reporting as of the calculation date and therefore should inform MUFG immediately.

### 7. Notices

All communications in connection with any Relevant Transaction should be sent to: [MUSIEMIROperationalEnquiries@int.sc.mufg.jp](mailto:MUSIEMIROperationalEnquiries@int.sc.mufg.jp) or as otherwise notified by MUFG from time to time.

If you require further information please contact MUFG at [MiFID2@nl.mufg.jp](mailto:MiFID2@nl.mufg.jp)

Please note that MUFG reserves its right to update, correct or withdraw this client information at any time.

<sup>9</sup> Annex to Commission Delegated Regulation (EU) No 148/2013 of 19 December 2012, published 23 February 2013 in the Official Journal of the European Union, and the Annex to Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012, published 21 December 2012 in the Official Journal of the European Union, both as amended or replaced from time to time.

<sup>10</sup> <https://www.esma.europa.eu/press-news/consultations/technical-standards-reporting-data-quality-data-access-and-registration>.

<sup>11</sup> <https://www.esma.europa.eu/document/guidelines-transfer-data-between-trs>.