

## PRESS RELEASE

### **DTCC Derivatives Repository fined €408,000 for EMIR data breaches**

The European Securities and Markets Authority (ESMA), the EU’s securities markets regulator, has [fined](#) DTCC Derivatives Repository Plc (DDRL) a total of €408,000 for seven infringements of the European Market Infrastructure Regulation (EMIR) regarding data confidentiality, data integrity, and direct and immediate access to data.

The breaches relate to:

- granting certain asset managers access to data that they were not entitled to receive;
- setting up its IT system in a way which altered the substance of certain information reported to DDRL; and
- failing to provide regulators with direct and immediate access to relevant data.

The breaches, which were committed between 2014 and 2018, were found to have resulted from negligence on the part of DDRL.

Anneli Tuominen, Interim Chair, said:

“Today’s action against DDRL emphasises the importance ESMA places on trade repositories complying with their obligations on data confidentiality, integrity and access.”

“The provision of timely, accurate and confidential data to CCP and derivatives markets supervisors is an essential requirement in facilitating the monitoring and identification of systemic risk in EU derivatives markets.”

“ESMA will continue to monitor this area and take the necessary action to promote stable and orderly financial markets.”



EMIR provides for the protection of the confidentiality and integrity of data received by trade repositories (TRs) and requires TRs to provide such data to regulators. This is a key requirement to improve transparency and facilitate the monitoring of systemic risks in derivatives markets.

### **Data confidentiality and integrity**

This was the first time ESMA found breaches in relation to a TR's obligation to ensure the confidentiality and the integrity of the data reported under EMIR.

### **Direct and immediate access**

DDRL failed to provide direct and immediate access to regulators by:

- generating reports for regulators containing incorrect data;
- failing to provide certain regulators with transaction data they were entitled to receive in line with their responsibilities and mandates; and
- failing to provide regulators with all transaction data regarding OTC derivatives contracts that were opened and exited, cancelled or matured on the same day.

In calculating the fine, ESMA considered both aggravating and mitigating factors provided for in EMIR.

### **Next steps**

DDRL may appeal against this decision to the Board of Appeal of the European Supervisory Authorities. However, such an appeal does not have suspensive effect, although it is possible for the Board of Appeal to suspend the application of the decision in accordance with Article 60(3) ESMA Regulation.

## Notes for editors

1. [ESMA41-356-224 Public Notice - DTCC Derivatives Repository](#)
2. [ESMA41-356-187 Decision - DTCC Derivatives Repository](#)
3. DDRL was a registered trade repository up until the withdrawal of the UK from the European Union. Based on the Withdrawal Agreement, ESMA has the power to issue an enforcement decision against a UK entity. In this case, the Independent Investigating Officer's appointment took place before the end of the transition period as defined by the Withdrawal Agreement. Therefore, Brexit has no impact on the competence of ESMA to investigate whether DDRL committed one or more of the infringements of EMIR and to adopt a decision in this regard.
4. Regarding the breaches related to direct and immediate access concerning specific regulators in line with their responsibilities and mandates, DDRL failed to provide, in particular:
  - i. CCP supervisors and overseers with access to data regarding transactions where a CCP located in their jurisdiction was reported in the "CCP" field, unless the CCP was also a counterparty of the trade;
  - ii. the Autoriteit Financiële Markten, Netherlands, and the Commission de Surveillance du Secteur Financier, Luxembourg, with transaction data regarding equity derivatives contracts where the underlying of those contracts were located in their respective jurisdictions; and
  - iii. the European Central Bank with transaction data regarding derivatives contracts where the counterparties or the underlying of those contracts were located in Lithuania.
5. ESMA is the European Union's securities markets regulator. Its mission is to enhance investor protection and promote stable and orderly financial markets.

It achieves these objectives through four activities:

- i. assessing risks to investors, markets and financial stability;
  - ii. completing a single rulebook for EU financial markets;
  - iii. promoting supervisory convergence; and
  - iv. directly supervising specific financial entities.
6. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).



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