Consultation Paper

Review of the technical standards on reporting under Article 9 of EMIR

10 November 2014 | ESMA/2014/1352

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex I. Comments are most helpful if they:

1. respond to the question stated;

2. indicate the specific question to which the comment relates;

3. contain a clear rationale; and

4. describe any alternatives ESMA should consider.

ESMA will consider all comments received by **13/02/2015.**

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading Legal Notice.

Who should read this paper

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from financial and non-financial counterparties of OTC derivatives transactions, central counterparties (CCPs) and trade repositories (TRs).

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1 Executive Summary

Reasons for publication

Article 9 of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC Derivatives, CCPs and Trade Repositories (EMIR) requires ESMA to develop draft regulatory (RTS) and implementing technical standards (ITS) in relation to the application of the reporting obligation for counterparties and CCPs.

ESMA delivered its Final Report on 27 September 2012 (ESMA document 2012/600), i.e. three months after the publication of EMIR. The standards were endorsed, published and entered into force. The RTS supplementing EMIR were published in the Official Journal of the EU (OJ EU) on 23 February 2013 and entered into force on 15 March 2013. The ITS were published in the OJ EU on 21 December 2012 and entered into force on 10 January, although with effect from 15 March 2013 as well, since they depend on the RTS.

Since the entry into force of the standards ESMA has worked on ensuring the consistent application of EMIR and its RTS and ITS. The practical implementation of EMIR reporting showed some shortcomings and highlighted particular instances where improvements could usefully be made so that the EMIR reports better fulfil their objectives.

Contents

Before and since the implementation of EMIR reporting, ESMA has issued a set of Q&As, which is updated whenever necessary, dealing with the most urgent issues and clarifying some interpretations of data fields of the Technical Standards and the most appropriate way of populating them accordingly. These clarifications aim at achieving a more consistent and harmonised population of fields and reporting of complex derivatives. ESMA now proposes transforming the key Q&As, together with some other improvements, into the Technical Standards.

Next Steps

This Final Report will be submitted to the European Commission. The Commission has three months to decide whether to endorse ESMA's draft regulatory and implementing technical standards.

2 Review of the EMIR Technical Standards on reporting obligations

2.1 Background

5. Article 9 of EMIR provided a mandate for ESMA to draft RTS and ITS on a consistent application of the reporting obligation for counterparties and CCPs. In 2012 and 2013 ESMA fulfilled its mandate and submitted those drafts to the Commission, which became the Regulation No. 148/2013 (RTS) and Regulation No. 1247/2012 (ITS), the subjects of this Consultation Paper.

6. At the time when ESMA had to draft those Technical Standards, there was only limited practical experience with the reporting of derivatives. MiFID provided a possibility to implement a reporting obligation also for derivatives, where the underlying is traded or admitted to trading on a national basis but this was only implemented in some Member States. Because of the restriction on the underlying, this obligation mostly covered standardised equity derivatives and generally did not include many other derivatives. In contrast, EMIR encompasses not only equity derivatives, but all asset classes including derivatives on foreign exchanges, interest rates, commodities, indices and any other financial instruments, both OTC and on-exchange traded.

7. Additionally, EMIR trade reporting includes not only data on the transaction itself, but also information on clearing, on-going valuation and collateralisation. Including this information within trade reports was a new obligation under EMIR and so there had been no previous practical experience from a reporting point of view. ESMA had to draft the RTS and ITS according to Article 9 EMIR by 30 September 2012, i.e. less than three months after the publication of the Regulation.

8. The RTS consists of a list of reportable fields providing a definition of what the content should include. The RTS also explains how to report in the situation when one counterparty reports also on behalf of the other counterparty to the trade, the reporting of trades cleared by a CCP and the conditions and start date for reporting valuations and information on collateral.

9. The ITS consists of a list of reportable fields prescribing formats and standards for the content of the fields. The ITS also defines the frequency of valuation updates and various modifications which can be made to the report, as well as waterfall approach of possible methods for identifying counterparties and the product traded. Furthermore, it describes the timeframe by which all trades should be reported included historic trades which are required to be backloaded.

10. The given timeframe of three months for drafting Technical Standards did not allow for extensive and thorough investigations and research into the new area of reporting. In comparison with other legislation, e.g. the Dodd Frank Act, EMIR introduced new data elements in areas where ESMA could not build on lessons learnt. As a result, the

practical implementation of EMIR reporting and the experience gained so far has shown several shortcomings and limitations that need to be addressed so that the EMIR reports can better fulfil their objectives.

11. Before and since the implementation of EMIR reporting, ESMA has issued a set of Q&As, which is updated whenever necessary, dealing with the most urgent issues and clarifying some interpretations of data fields of the Technical Standards and the most appropriate way of populating them accordingly. These clarifications aim at achieving a more consistent and harmonised population of fields and reporting of complex derivatives. ESMA now proposes transforming the key Q&As, together with some other essential improvements, into the Technical Standards.

12. This Consultation Paper introduces three categories of changes to the current Technical Standards, which will be further described in the next section:

- Clarifications of data fields, their description or both;

- Adaptations of existing fields to the reporting logic prescribed in existing Q&As or to reflect specific ways of populating them;

- Introductions of new fields and values to reflect market practice or other necessary regulatory requirements.

13. For detailed changes and the actual proposals of the new Table of fields please see Annexes IV and V.

2.2 Analysis

14. During the implementation phase, ESMA and NCAs faced numerous questions on the content of data fields and how to populate them. Although the ITS and RTS provide a description of the fields and the standards and formats to be used, practical experience has shown that there is still room for interpretation by market participants. The questions raised show that some fields do not have a description comprehensive enough to ensure a harmonised way of populating them or do not reflect all the possibilities within the current derivatives markets.

15. To enhance the quality of trade reports, ESMA has elaborated and consistently updated a set of Q&As on EMIR implementation. As the solutions provided thereof are already expected to be followed by market participants, ESMA now proposes transforming some of these Q&As into Technical Standards to ensure a consistent and harmonised way of reporting.

Clarifications

16. Clarifications are introduced where either the description of a field allows for interpretation of the content or where experience shows that – despite the use of defined

standards – there are inconsistent approaches to completing the field due to the fact that the name of a field or its description lead to confusion. The following paragraphs provide examples of the main clarifications proposed.

17. The term "Reporting Counterparty" is consistently used within the description of the fields, but there is no actual field with that name. There are two relevant fields: "Counterparty ID" (Table 1 Field 2) and "Reporting Entity ID" (Table 1 Field 9). To avoid any confusion and misinterpretation when populating those fields, it is proposed that they will be renamed and referred to in a consistent way.

18. It is proposed to rename the Table 1 Fields 17 and 18 currently referring to mark to market only in order to correctly reflect the description, where it is permissible to use different valuation models.

19. Within the commodities derivatives section 2g a similar issue arises with the current Table 2 Fields 52 and 53 where the format in ITS 1247/2012 differs from the specified content of the field in RTS 148/2013. It is therefore proposed to adapt the format according to the name of the fields.

20. The general clause of Article 4(3)(c) of ITS 1247/2012 establishes the following principle: for cases where a derivative does not fall into a specific derivative class or type, counterparties need to agree on the derivative class and type the derivative contract most closely resembles. In light of this general clause, it is proposed to remove the "other" category from the derivative type and derivative class descriptions in Articles 4(3)(a) and 4(3)(b) since it is not consistent with the principle enshrined in Article 4(3)(c).

21. It is proposed to clarify how the mark to market value (current Table 1 field 17) should be calculated and reported. It is also proposed to recognise market practice in how different types of derivative contracts are valued and to allow for more than one way of calculating the mark to market value depending on the type of derivative contract:

- For futures and options the mark to market valuation should be calculated using the size of the contract and the current market price (or model price, when appropriate) . This is generally expected to be a positive number.

- For CFDs, Forwards, Forward Rate Agreements, Swaps and other derivative types the value reported should represent the replacement cost of the contract, taking into account the delivery of the underlying. For a majority of these products, the initial value would be typically close to zero, when conducted at market rates. Subsequent values would then be positive if the value of the trade had moved in favour of the reporting counterparty since execution and negative if it had moved against the reporting counterparty. Under this approach, the value reported by the first counterparty should be approximately equal to the value reported by the second counterparty multiplied by minus one, with any differences being attributable to differences in the specific valuation methodology.

22. For cleared trades, this calculation should be based on the CCP's settlement price.

23. An alternative approach would be adopt the replacement cost approach for all derivative contracts, although ESMA understands that this may pose challenges for some of them. ESMA would welcome respondents' views on the merits of either approach.

24. In performing the above calculations, no account should be taken of any cash flows that may have been posted/received in the form of variation margin or, generally, occurred as part of a mark to market process, operated by a CCP or bilaterally.

25. It is proposed that a more comprehensive description of the Buy/Sell indicator in the current Table 1 Field 13 in the case of swaps or other derivative contracts will be included in the articulated text of the RTS rather than providing only one example within the description of that field. ESMA considers this to be a clarification rather than introducing a new requirement, as "TR Question 24" of the EMIR Q&As already deals with this issue.

26. It is proposed to introduce other minor clarifications which are included in the table of fields in Annexes IV and V of this Consultation Paper.

Q1: Do you envisage any difficulties with removing the 'other' category from derivative class and type descriptions in Articles 4(3)(a) and 4(3)(b) of ITS 1247/2012? If so, what additional derivative class(es) and type(s) would need to be included? Please elaborate.

Q2: Do you think the clarifications introduced in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Q3: What difficulties do you anticipate with the approaches for the population of the mark to market valuation described in paragraphs 21 or 19 respectively? Please elaborate and specify for each type of contract what would be the most practical and industry consistent way to populate this field in line with either of the approaches set out in paragraphs 21 and 23.

<u>Adaptations</u>

27. A series of adaptations of the Technical Standards are proposed. These cover two areas:

- Transposition of essential clarifications within certain Q&A's into the Technical Standards;

- Adapting existing fields to needs that have become evident since the reporting start date.

28. The ITS specifies that a number of fields containing dates should use the ISO 8601 standard. However, there are still some ambiguities over the exact format to be used and this causes issues with the reconciliation of reports and the analysis of them by NCAs

and other authorities. It is therefore proposed to standardise using one particular format for dates as specified in the Annex of the ITS (Annex 5).

29. To avoid any misuse of Interim Entity Identifier, BIC or Client codes, ESMA assessed the necessity of allowing all of those code types in all relevant fields. According to the assessment, in certain instances, a private individual could not be identified in a particular field and therefore it is proposed to delete the possibility of using a client code in that field. As LEIs, fulfilling the ROC principles and the ISO 17442 standard are already in place, there is no need to provide the possibility of using less robust identifiers like BICs or Interim Entity Identifiers any longer and therefore these are proposed to be deleted as well.

30. Many TRs currently allow only one character for the current Table 1 Field 6 "Corporate Sector of the Counterparty" as implied by the Technical Standards. This leads to a need for priorisation in the case where the counterparty meets more than one of the possible options, for example for investment firms also acting as credit institutions. Instead of setting a list of priorities, ESMA proposes to prescribe the allowance of more than one valid character within this field regardless of the sequence. It is proposed to eliminate the possibility of leaving this field blank for financial and non-financial counterparties since ESMA does not expect this information to be included in the LEI reference data.

31. Further to allowing more than one character in the current Table 1 Field 6, it is proposed to expand the scope of this field to also Non-Financials populating the corporate sector, please see the relevant paragraph 46 in the "Introductions" section of this Consultation Paper.

32. In addition to proposing to change the name of the field Table 1 field 7 to "Nature of the Reporting Counterparty", it is also proposed that the values will be extended by also allowing the value "C" where the Reporting Counterparty is a CCP and "O" where the Reporting Counterparty is an entity referred to Article 1(5) of EMRI. This adaption is proposed since neither of the two correspond to the definition of a Financial Counterparty according to Article 2 (8) EMIR, nor to the definition of a Non-Financial Counterparty in accordance with Article 2 (9) EMIR.

33. Currently the flag indicating whether the other Counterparty is within the EEA or not (Table 1 field 14) is used by TRs to identify the need for a second report or not and hence whether to attempt to reconcile the report. There is some inconsistency regarding countries, which are part of the EEA but which have not yet implemented EMIR. As this information can be derived from the proposed new "Country of the other Counterparty" field (see below paragraph 45), there is no need for such a flag anymore and it is therefore proposed to delete it from the table of fields.

34. It is proposed to amend and rename the current Table 2 Field 14 "Notional amount" and introduce a new field on the notional . To this purpose, two fields on the notional are introduced:

- The first one is named "Original notional" and reflects the reference amount from which the contractual payments are determined;

- The second one is named "Actual notional" and reflects the current reference amount from which the contractual payments are determined if the terms of the initial contract have changed.

35. The current Table 2 Field 2 provides the possibility to report AII codes. As this field is currently limited to 12 characters, according to the current guidance on populating the AII, only the product code, one of the 6 components used for the construction of any given AII code, shall be populated. This guidance has been given due to the length of this field originally specified in the Commission Implementing Regulation (EU) No 1247/2012. Where AII codes are reported, ESMA also intends to require the MIC of the trading venue that allocated the AII and therefore has to extend the length of the field to allow up to 16 characters. This will allow for the possibility of the actual venue of execution (current Table 2 Field 10) having a different value, for example 'XOFF' in case a given ETD was traded off-exchange.

36. The current Table 2 Field 9 "Transaction Reference Number" was intended to mirror the equivalent field in a transaction report created according to Article 25 MiFID. As this logic has been amended further to ESMA clarification of ETDs reporting, it now conflicts with the concept of Transaction Reference Number within MiFID transaction reporting. For the avoidance of confusion and in order to better reflect the purpose of this field, it is proposed to rename the field to "Report Tracking Number" while maintaining its population logic, i.e. unique code assigned to the execution and common among a group of reports related to the same execution.

37. There have been many questions from the market regarding the UPI. As there is currently no UPI endorsed in Europe and ESMA does not have grounds to believe that future endorsed UPI will cover all the information as set out in the descriptions of section 2e to 2h in RTS and ITS, it is proposed that there is no further need to keep the clarification that those sections can be left blank if a UPI is used and therefore this text will be deleted.

38. There is also a need for more precision in the definition of the format for time periods as used within the current Table 2 Fields 36 and 37 as the values being reported are not consistent. It is proposed that the ITS will define a specific way of populating days, weeks, month and years in combination with the multiplier, e.g. "every 10 days" will be displayed as "10D" or "every 7 years" will be displayed "7Y".

39. With regards to the "Action type" field in the current Table 2 there is no clear definition of when a modification rather than an amendment should be reported or when the "Other" value should be used. Furthermore, there is some uncertainty regarding "Error" and "Cancel" codes. For instance, ESMA has already clarified that when termination takes place at the original date, there is no need for a report stating the termination of the contract at the original date, which leads to confusion regarding the description of the

Action type "Cancel". Therefore, it is proposed that the description and content of that field should be adapted to clarify the use of the different values.

40. For the purposes of Article 9 (1) EMIR, a termination is assumed to be reported through the initial report, when taking place at the maturity date identified in the initial report and early termination shall not be reported as a modification to the initial report but will include the action type "Cancel".

41. For more convenience, it is proposed that reports containing incorrect data should be corrected using a new action type code "R" instead of the current approach of cancelling them by using the code "E" and resubmitting a new report by using "N". This will reduce the number of reports and the effort that has to be made to correct an erroneous report while at the same time distinguishing between a change to the contract terms and a correction to a report which does not involve a change to the contract terms.

42. Some reports, particularly of ETDs, require that a report with the action type "N" is reported followed by an update with the action type "Z". This would apply, for example, when the trade was included in a position (typically against a CCP) on the day of trade. To avoid the need for counterparties to report essentially the same detail twice, it is proposed to include a new action type "P" that will be treated as being a combination of an "N" and a "Z" report, thus requiring the submission of only one report for this type of trades.

Q4: Do you think the adaptations illustrated in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Introductions

43. One important clarification issued after the implementation of EMIR relates to the possibility of reporting at position level under certain conditions. Naturally, subsequent modifications, exposure and valuation updates would as well be submitted at the position level. This has raised for competent authorities a practical need to differentiate between reports being done at trade level and those done at the position level. It is, therefore, proposed to add a new Field 74 Table 2 to differentiate between the two.

44. Some derivative contracts require negative values to be expressed. To accommodate those instances, it is proposed that the population of negative prices or values, indicated by a "-", e.g. "-1.5", shall be allowed in certain fields.

45. Practical experience with reports has shown the need to identify the country of domicile of the other Counterparty. This is necessary in order to make such reports available to the relevant national competent authority for the other Counterparty. It is proposed that a new field should be created containing the country code of the main residence of the other Counterparty. It would identify the country of the main residence of the given other Counterparty.

46. As previously mentioned in the "Adaptions" section, the field "Corporate sector of the Reporting Counterparty" will be expanded to include Non-Financials. Non-Financials as defined in Art. 2(9) EMIR will also be required to provide their area of commercial activity by using an already existing and commonly used identifier across Europe. ESMA does not intend to create any new taxonomy but use the *"Nomenclature statistique des activités économiques dans la Communauté européenne",* the Statistical Classification of Economic Activities in the European Community (commonly referred to as NACE as defined by REGULATION (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006). ESMA proposes to only use the main categories, i.e. the most significant digit of the code, to classify the Non-Financial sector.

47. Currently, the Technical Standards include both instrument identification and classification within the same field. For products where an ISIN or an AII is available they are reported in the "Product ID 1" field in combination with a CFI in Product ID 2. For instances where there is no such code, an "E" taxonomy, which is a classification of instruments, is used within the same fields. For the time being there is no endorsed UPI, and from a realistic perspective due to the huge number of derivatives for which there is neither an ISIN nor an AII, such a code could only be a classification of OTC derivatives.

48. For a clear distinction between product identifiers, which allow a unique identification of a given product and product classifiers, ESMA proposes to split those two into separate data fields.

49. The Underlying field (current Table 2 Field 4) presently provides only for ISIN, LEI, UPI, 'B' (for a basket) or 'I' (for an index), assuming that the Interim entity identifier is no longer permitted as discussed above. These codes only reflect derivatives where the underlying is a listed instrument, a firm eligible for a LEI or a high level indication for Baskets or Indices. In many cases, this information is not specific enough to be useful to competent authorities. It is therefore proposed to expand the range of values for this field to provide more detail:

- The field should allow for ISO 3166 country codes, to adequately reflect instruments, e.g. CDS, where the underlying is a sovereign.

- Equally, the identification of Baskets or Indices should be more granular to allow national competent authorities to perform a more accurate assessment of data. Indices must always be identified with ISINs where available; otherwise, the full name of the index as assigned by the index provider should be indicated. For baskets composed, among others, of financial instruments traded on a trading venue, it is proposed to identify each such individual financial instrument with a view to align this reporting requirement with the upcoming MiFIR transaction reporting requirements.

50. It is proposed to include a dedicated section in Table 2 to allow for accurate description of the key elements of products within Credit asset class. These include seniority, coupon, last lifecycle event, index factor, etc.

51. As previously mentioned in the "Adaptations" section (see paragraph 34 above), it is proposed to introduce a new field for the notional amount of the current Table 2 Field 14. The current description of this field says that it shall be the original value of the contract, but ESMA receives a lot of questions of how to populate this field, e.g. for redeeming contracts. Therefore ESMA proposes to introduce a separate field for the actual notional to trace the amount for redeeming derivative contracts in relation to the original notional.

52. Current Table 1 Field 25 "Value of collateral" field currently includes the value of all collateral and is therefore populated with the sum of any initial margin and any variation margin posted as specified in the ESMA Q&A "TR Answer 3a". Considering that the exchange of both initial and variation margins are required under EMIR, initial margin and variation margin shall indeed be reported. It is nonetheless proposed to differentiate between the two since they mitigate risks of different nature; the distinction between initial and variation margin would indeed allow for better monitoring of the different risks linked to derivatives exposures. To this purpose it is proposed to replace the "value of collateral field" with two fields for the "initial margin posted" and the "variation margin posted".

53. Furthermore, discussions with prudential regulators show that information on collateral received is crucial to ensure the proper monitoring of exposures. To this purpose it is proposed to introduce two additional fields for the "initial margin received" and the "variation margin received".

54. In the context of reporting, variation margin means margins collected or paid out to reflect current exposures resulting from actual changes in market price. Initial margin means margins collected by the counterparty to cover potential future exposure to the other counterparty providing the margin in the interval between the last margin collection and the liquidation of positions following a default of the other counterparty.

55. The current EMIR requirements include the general obligation according to which counterparties need to agree the report's contents before submitting it to TRs. This obligation stems from the requirement of Article 9(1) of EMIR: 'counterparties and CCPs shall ensure that the details of their derivative contracts are reported without duplication'. According to this rule the existing technical standards prescribe that the Unique Trade Identifier must be agreed with the other counterparty (see Table 2, field 8 of the RTS). In light of the low pairing rates of the TR reconciliation process, ESMA considers that an additional prescriptive rule should be included to account for the cases where counterparties fail to agree on the responsibility to generate a UTI. On this basis, it is proposed to introduce Article 6 of the Draft Implementing Technical Standards. The Article prescribes which reporting entity is responsible for the creation and transmission of the UTI in the absence of agreement between counterparties.

Q5: Do you think the introduction of new values and fields adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Q6: In your view, which of the reportable fields should permit for negative values as per paragraph 40? Please explain.

Q7: Do you anticipate any difficulties with populating the corporate sector of the reporting counterparty field for non-financials as described in paragraph 42? Please elaborate.

Q8: Do you envisage any difficulties with the approach described in paragraph 45 for the identification of indices and baskets? Please elaborate and specify what would be the most practical and industry consistent way to identify indices and baskets.

Q9: Do you think the introduction of the dedicated section on Credit Derivatives will allow to adequately reflect details of the relevant contracts? Please elaborate.

Q10: The current approach to reporting means that strategies such as straddles cannot usually be reported on a single report but instead have to be decomposed and reported as multiple derivative contracts. This is believed to cause difficulties reconciling the reports with firms' internal systems and also difficulties in reporting valuations where the market price may reflect the strategy rather than the individual components. Would it be valuable to allow for strategies to be reported directly as single reports? If so, how should this be achieved? For example, would additional values in the Option Type field (Current Table 2 Field 55) achieve this or would other changes also be needed? What sorts of strategies could and should be identified in this sort of way?

Q11: Do you think that clarifying notional in the following way would add clarity and would be sufficient to report the main types of derivatives:

56. In the case of swaps, futures and forwards traded in monetary units, original notional shall be defined as the reference amount from which contractual payments are determined in derivatives markets;

57. In the case of options, contracts for difference and commodity derivatives designated in units such as barrels or tons, original notional shall be defined as the resulting amount of the derivative's underlying assets at the applicable price at the date of conclusion of the contract;

58. In the case of contracts where the notional is calculated using the price of the underlying asset and the price will only be available at the time of settlement, the original notional shall be defined by using the end of day settlement price of the underlying asset at the date of conclusion of the contract;

59. In the case of contracts where the notional, due to the characteristics of the contract, varies over time, the original notional shall be the one valid on the date of conclusion of the contract.

Please elaborate.

3 Annexes

3.1 Annex I

Summary of questions

Q1: Do you envisage any difficulties with removing the 'other' category from derivative class and type descriptions in Articles 4(3)(a) and 4(3)(b) of ITS 1247/2012? If so, what additional derivative class(es) and type(s) would need to be included? Please elaborate.

Q2: Do you think the clarifications introduced in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Q3: What difficulties do you anticipate with the approaches for the population of the mark to market valuation described in paragraphs 21 or 19 respectively? Please elaborate and specify for each type of contract what would be the most practical and industry consistent way to populate this field in line with either of the approaches set out in paragraphs 21 and 23.

Q4: Do you think the adaptations illustrated in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Q5: Do you think the introduction of new values and fields adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Q6: In your view, which of the reportable fields should permit for negative values as per paragraph 40? Please explain.

Q7: Do you anticipate any difficulties with populating the corporate sector of the reporting counterparty field for non-financials as described in paragraph 42? Please elaborate.

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reconciling the reports with firms' internal systems and also difficulties in reporting valuations where the market price may reflect the strategy rather than the individual components. Would it be valuable to allow for strategies to be reported directly as single reports? If so, how should this be achieved? For example, would additional values in the Option Type field (Current Table 2 Field 55) achieve this or would other changes also be needed? What sorts of strategies could and should be identified in this sort of way?

Q11: Do you think that clarifying notional in the following way would add clarity and would be sufficient to report the main types of derivatives:

60. In the case of swaps, futures and forwards traded in monetary units, original notional shall be defined as the reference amount from which contractual payments are determined in derivatives markets;

61. In the case of options, contracts for difference and commodity derivatives designated in units such as barrels or tons, original notional shall be defined as the resulting amount of the derivative's underlying assets at the applicable price at the date of conclusion of the contract;

62. In the case of contracts where the notional is calculated using the price of the underlying asset and the price will only be available at the time of settlement, the original notional shall be defined by using the end of day settlement price of the underlying asset at the date of conclusion of the contract;

63. In the case of contracts where the notional, due to the characteristics of the contract, varies over time, the original notional shall be the one valid on the date of conclusion of the contract.

Please elaborate.

3.2 Annex II

Legislative mandate to develop draft technical standards

<u>Article 9(5)</u>

ESMA shall develop draft regulatory technical standards specifying the details and type of the reports for the different class of derivatives.

<u>Article 9(6)</u>

ESMA shall develop draft implementing technical standards specifying:

> (a) the format and frequency of the reports for different classes of derivatives;
>
> (b) the date by which derivative contracts are to be reported, including any phase-in for contracts entered into before the reporting obligation applies.

3.3 Annex III

Cost-benefit analysis

ESMA's policy choices in this review are of a pure technical nature and do not contain issues of a political nature.

In most circumstances, ESMA's options are limited to the approach it took to drafting these particular regulatory and implementing technical standards and the need to ensure proper clarity, consistency or reporting and uniformity of formats.

The main policy decisions have already been analyses and published by the European Commission taken under the primary legislation, i.e. 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.

The impact of such policy decisions has already been taken into account when drafting the technical standards on reporting to trade repositories, including the ones being amended, and may be found under the following link:

http://www.esma.europa.eu/system/files/2012-379.pdf

The cost-benefit analysis of the proposed amendments will be based on the evidence and feedback received in the course of this consultation process.

3.4 Annex IV

Draft regulatory technical standards on trade repositories

COMMISSION DELEGATED REGULATION (EU) No …/…

of [ ]

Amending Commission Delegated Regulation (EU) No 148/2013 of 19 December supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 648/2012 of 4 July 2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories[1] and in particular Article 9(5) thereof,

Whereas,

(1) Commission Delegated Regulation (EU) No 148/2012 of 19 December 2012 [2] supplementing Regulation (EU) No 648/2012 of the European Parliament and of the

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[1] OJ L 201, 27.7.2012.

Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories by requiring reporting of a clearing as a modification of the existing contract does not acknowledge the qualification of a central counterparty as a counterparty to a contract;

(2) In order to properly monitor concentration of exposures and systemic risk, it is crucial to ensure complete information on exposure and collateral exchanged between the two counterparties is submitted to trade repositories. Therefore, it is equally important to require reporting of posted and received initial and variation margins.

(3) Commission Delegated Regulation (EU) No 148/2012 should therefore be amended accordingly.

(4) This Regulation is based on draft regulatory technical standards submitted by the European Securities and Markets Authority (hereinafter ESMA) to the Commission.

(5) In accordance with Article 10 of Regulation (EU) No 1095/2010, of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority European Securities and Markets Authority)(5), ESMA has conducted open public consultations on such draft regulatory technical standards, analysed the potential related costs and benefits and requested the opinion of the ESMA Securities and Markets Stakeholder Group established in accordance with Article 37 of that Regulation.

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[2] OJ L 52, 23.2.2013.

HAS ADOPTED THIS REGULATION

Article 1

Amendments to Commission Delegated Regulation (EU) No 148/2013

Commission Delegated Regulation (EU) No 148/2013 is hereby amended as follows:

(1) Article 2(1) is replaced by the following:

'1.   Where an existing contract is subsequently cleared by a CCP, clearing should be reported in a manner that the contractual positions before and after clearing are correctly represented. In the case when the contract is concluded on a trading venue and it is cleared on the day of execution, it is sufficient to report it in its cleared form.'

(2) Article 3 is amended as follows:

(a) the first paragraph is replaced by the following:

'1.   The data on collateral required under Table 1 of the Annex shall include all posted and received collateral.';

(b) the second paragraph is replaced by the following:

'2.   Where a counterparty does not collateralize on a transaction level basis, counterparties shall report to a trade repository collateral posted and received on a portfolio basis.';

(c) the third paragraph is replaced by the following:

'3.   Where the collateral related to a contract is reported on a portfolio basis, the reporting counterparty shall report to the trade repository a code identifying the portfolio related to the reported contract.'.

(3) The Annex on Details to be reported to trade repositories of Commission Delegated Regulation (EU) No 148/2013 is replaced with the Annex on Details to be reported to trade repositories of this Regulation.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, […]   [For the Commission

                                          The President]

                                          [On behalf of the President]

ANNEX

Details to be reported to trade repositories

Table 1

Counterparty Data

	Field	Details to be reported
	Parties to the contract	
1	Reporting timestamp	Date and time of reporting to the trade repository
2	Reporting Counterparty ID	Unique code identifying the reporting counterparty
3	ID of the other Counterparty	Unique code identifying the other counterparty of the contract. This field shall be filled from the perspective of the reporting counterparty. In case of a private individual a client code shall be used in a consistent manner.
4	Country of the other Counterparty	The country code of the domicile of the other Counterparty shall be filled
5	Name of the reporting counterparty	Corporate name of the reporting counterparty. This field shall be left blank in case the counterparty ID already contains this information.
6	Domicile of the reporting counterparty	Information on the registered office, consisting of the full address, city and country of the reporting counterparty. This field shall be left blank in the case that the counterparty ID already implies this information.
7	Corporate sector of the reporting counterparty	Nature of the reporting counterparty's company activities. This field shall contain all necessary codes applying to the Reporting Counterparty irrespective of the sequence.
8	Nature of the reporting counterparty	Indicate if the reporting counterparty is a CCP, a financial, non-financial counterparty or other type of counterparty in

	Field	Details to be reported
		accordance with points 1, 8 and 9 of Article 2 or point 5 of Article 1 of Regulation (EU) No 648/2012.
9	Broker ID	In the case a broker acts as intermediary for the reporting counterparty without becoming a counterparty himself, the reporting counterparty shall identify this broker by an unique code
10	Report submitting entity ID	In the case where the reporting counterparty has delegated the submission of the report to a third party or to the other counterparty, this entity has to be identified in this field by an unique code. Otherwise this field shall be left blank.
11	Clearing member ID	In the case where the reporting counterparty is not a clearing member itself and where the trade is cleared, the responsible clearing member shall be identified in this field by an unique code
12	Beneficiary ID	The party subject to the rights and obligations arising from the contract. Where the transaction is executed via a structure, such as a trust or fund, representing a number of beneficiaries, the beneficiary should be identified as that structure. If the beneficiary of the contract is not a counterparty to this contract, the reporting counterparty has to identify this beneficiary by an unique code or, in case of a private individuals, by a client code used in a consistent manner as assigned by the legal entity used by the private individual.
13	Trading capacity	Identifies whether the reporting counterparty has concluded the contract as principal on own account (on own behalf or behalf of a client) or as agent for the account of and on behalf of a client

	Field	Details to be reported
14	Counterparty side	Identifies whether the reporting counterparty is a buyer or a seller
15	Directly linked to commercial activity or treasury financing	Information on whether the contract is objectively measurable as directly linked to the reporting counterparty's commercial or treasury financing activity, as referred to in Art. 10(3) of Regulation (EU) No 648/2012. This field shall be left blank in the case where the reporting counterparty is a financial counterparty, as referred to in Article 2 (8) Regulation (EU) No 648/2012.
16	Clearing threshold	Information whether the reporting counterparty is above the clearing threshold referred to in Art. 10(3) of Regulation (EU) No 648/2012. This field shall be left blank in case the reporting counterparty is a financial counterparty, as referred to in Art. 2 (8) Regulation (EU) No 648/2012.
17	Value of contract	Mark to market valuation of the contract, or mark to model valuation where applicable under Article 11(2) of Regulation (EU) No 648/2012. The CCP's valuation to be used for a cleared trade
18	Currency of the value	The currency used for the valuation of the contract
19	Valuation date	Date of the last mark to market or mark to model valuation
20	Valuation time	Time of the last mark to market or mark to model valuation
21	Valuation type	Indicate whether valuation was performed mark to market, mark to model or provided by the CCP
22	Collateralisation	Whether collateralisation was performed
23	Collateral portfolio	Whether the collateralisation was performed on a portfolio basis.

	Field	Details to be reported
		Portfolio means the collateral calculated on the basis of net positions resulting from a set of contracts, rather than per trade.
24	Collateral portfolio code	If collateral is reported on a portfolio basis, the portfolio should be identified by a unique code determined by the reporting counterparty
25	Initial margin posted	Value of the initial margin posted by the reporting counterparty to the other counterparty. Where initial margin is posted on a portfolio basis, this field should include the overall value of initial margin posted for the portfolio.
26	Currency of the initial margin posted	Specify the currency of the initial margin posted
27	Variation margin posted	Value of the variation margin posted, including cash settled, by the reporting counterparty to the other counterparty. Where variation margin is posted on a portfolio basis, this field should include the overall value of variation margin posted for the portfolio.
28	Currency of the variation margins posted	Specify the currency of variation margin posted
29	Initial margin received	Value of the initial margin received by the reporting counterparty from the other counterparty. Where initial margin is received on a portfolio basis, this field should include the overall value of initial margin received for the portfolio.
30	Currency of the initial margin received	Specify the currency of the initial margin received
31	Variation margin	Value of the variation margin received, including cash

	Field	**Details to be reported**
	received	settled, by the reporting counterparty from the other counterparty. Where variation margin is received on a portfolio basis, this field should include the overall value of variation margin received for the portfolio.
32	Currency of the variation margins received	Specify the currency of the variation margin received

Table 2

Common Data

	Field	Details to be reported
	Section 2a - Contract type	
1	Contract type	Each reported contract shall be classified according to its type
2	Asset class	Each reported contract shall be classified according to the asset class it is based on
	Section 2b – Product identification	
3	Product classification type	The type of relevant product classification
4	Product classification	For products identified through ISIN or AII, CFI code shall be specified. For products for which ISIN or AII are not available, endorsed UPI shall be specified.
5	Product identification type	The type of relevant product identification
6	Product identification	The product shall be identified through ISIN or AII. AII shall be used if a product is traded on a trading venue classified as AII in the MiFID Data Base published on ESMA web site.
7	Underlying identification type	The type of relevant underlying identifier
8	Underlying identifier	The underlying shall be identified by using a unique identification for this underlying based on its type. In case of baskets composed, among others, of financial

	Field	Details to be reported
		instruments traded on a trading venue, only financial instruments traded on a trading venue shall be specified.
9	Notional currency 1	The currency of the original and actual notional amount. In the case of an interest rate derivative contract, this will be the notional currency of leg 1.
10	Notional currency 2	The other currency of the notional amount. In the case of an interest rate derivative contract, this will be the notional currency of leg 2.
11	Deliverable currency	The currency to be delivered
	Section 2b - Details on the transaction	
12	Trade ID	A Unique Trade ID agreed with the other counterparty
13	Report tracking number	A unique number for the group of reports which relate to the same execution
14	Venue of execution	The venue of execution shall be identified by a unique code for this venue. In case of a contract concluded OTC, it has to be identified whether the respective instrument is admitted to trading but traded OTC or not admitted to trading and traded OTC
15	Compression	Identify whether the contract results from a compression operation
16	Price / rate	The price per derivative excluding, where applicable, commission and accrued interest
17	Price notation type	The manner in which the price is expressed
18	Currency of price	The currency in which the Price / rate is denominated

	Field	Details to be reported
19	Original notional	The reference amount from which contractual payments are determined
20	Actual notional	The reference amount from which contractual payments are determined when there is a change to the terms of the original contract
21	Price multiplier	The number of units of the financial instruments which are contained in a trading lot; for example, the number of derivatives represented by the contract
22	Quantity	Number of contracts included in the report
23	Up-front payment	Amount of any up-front payment the reporting counterparty made or received
24	Delivery type	Indicates whether the contract is settled physically or in cash
25	Execution timestamp	As defined in Article 1(2)
26	Effective date	Date when obligations under the contract come into effect
27	Maturity date	Original date of expiry of the reported contract. An early termination shall not be reported in this field.
28	Termination date	Termination date in the case of an early termination of the reported contract. If not different from maturity date, this field shall be left blank.
29	Settlement date	Date of settlement of the underlying. If more than one, further fields may be used.
30	Master Agreement type	Reference to any master agreement, if existent (e.g. ISDA Master Agreement; Master Power Purchase and Sale Agreement; International ForEx Master Agreement;

	Field	Details to be reported
		European Master Agreement or any local Master Agreements).
32	Master Agreement version	Reference to the year of the master agreement version used for the reported trade, if applicable (e.g. 1992, 2002, etc.)
	Section 2c - Risk mitigation / Reporting	
33	Confirmation timestamp	Date and time of the confirmation, as defined under Commission Delegated Regulation (EU) No 149/2013, indicating time zone in which the confirmation has taken place
34	Confirmation means	Whether the contract was electronically confirmed, non-electronically confirmed or remains unconfirmed
	Section 2d - Clearing	
35	Clearing obligation	Indicates, whether the reported contract belongs to a class of OTC derivatives that has been declared subject to the clearing obligation and both counterparties to the contract are subject to the clearing obligation under Regulation (EU) No 648/2012, as of the time of execution of the contract
36	Cleared	Indicates, whether clearing has taken place
37	Clearing timestamp	Time and date when clearing took place
38	CCP	In the case of a contract that has been cleared, the unique code for the CCP that has cleared the contract
39	Intragroup	Indicates whether the contract was entered into as an intragroup transaction, defined in Article 3 of Regulation

	Field	Details to be reported
		(EU) No 648/2012
	Section 2e - Interest Rates	
40	Fixed rate of leg 1	An indication of the fixed rate leg 1 used, if applicable
41	Fixed rate of leg 2	An indication of the fixed rate leg 2 used, if applicable
42	Fixed rate day count	The actual number of days in the relevant fixed rate payer calculation period, if applicable
43	Fixed rate payment frequency	Frequency of payments for the fixed rate leg, if applicable
44	Floating rate payment frequency	Frequency of payments for the floating rate leg, if applicable
45	Floating rate reset frequency	Frequency of floating rate leg resets, if applicable
46	Floating rate of leg 1	An indication of the interest rates used which are reset at predetermined intervals by reference to a market reference rate, if applicable
47	Floating rate of leg 2	An indication of the interest rates used which are reset at predetermined intervals by reference to a market reference rate, if applicable
	Section 2f – Foreign Exchange	
48	Delivery currency 2	The cross currency, if different from the currency of delivery
49	Exchange rate 1	The contractual rate of exchange of the currencies
50	Forward exchange rate	Forward exchange rate on value date

	Field	Details to be reported
51	Exchange rate basis	Quote base for exchange rate
	Section 2g - Commodities	
	General	
52	Commodity base	Indicates the type of commodity underlying the contract
53	Commodity details	Details of the particular commodity beyond field 52
	Energy	Information to be reported according to Regulation (EU) No 1227/2011, if applicable
54	Delivery point or zone	Delivery point(s) of market area(s)
55	Interconnection Point	Identification of the border(s) or border point(s) of a transportation contract
56	Load type	Repeatable section of fields 57 - 64 to identify the product delivery profile which correspond to the delivery periods of a day
57a	Load delivery intervals	The time interval for each block or shape
58	Delivery start date and time	Start date and time of delivery
59	Delivery end date and time	End date and time of delivery
60	Duration	The duration of the delivery period
61	Days of the week	The days of the week of the delivery
62	Delivery capacity	Delivery capacity for each delivery interval specified in field 57
63	Quantity Unit	Daily or hourly quantity in MWh or kWh/d which

		Field	Details to be reported
			corresponds to the underlying commodity
64		Price/time interval quantities	If applicable, price per quantity per delivery time interval
		Section 2h - Options	
65		Option type	Indicates whether the contract is a call or a put
66		Option style (exercise)	Indicates whether the option may be exercised only at a fixed date (European, and Asian style), a series of pre-specified dates (Bermudan) or at any time during the life of the contract (American style)
67		Strike price (cap/floor rate)	The strike price of the option.
		Section 2i – Credit derivatives	
68		Seniority	Information on the seniority in case of contract on index or on a single name entity
69		Coupon	The fixed coupon of the contract in percentage
70		Date of last lifecycle event	The date on which the last lifecycle event took place
71		Series	The series number of the composition of the index
72		Index factor	The factor to apply to the Actual Notional (Field 14b) to adjust it to all the previous credit events in that Index series. The figure varies between 0 and 100.
		Section 2i - Modifications to the contract	

	Field	Details to be reported
73	Action type	Whether the report contains: — a derivative contract for the first time, in which case it will be identified as 'new'; — a modification to the terms or details of a previously reported derivative contract, but not a correction of a report, in which case it will be identified as 'modify'. This includes an update to a previous report that is showing a position in order to reflect new trades included in that position.; — a cancellation of a wrongly submitted entire report in case the contract never came into existence or was not subject to EMIR reporting requirements but was reported to a Trade Repository by mistake, in which case, it will be identified as 'error'; — an early termination of an existing contract, in which case it will be identified as 'cancel'; - a previously submitted report contains erroneous data fields, in which case the report correcting the erroneous data fields of the previous report shall be identified as 'correction'; — a compression of the reported contract, in which case it will be identified as 'compression'; — an update of a contract valuation or collateral, in which case it will be identified as 'valuation update'; — a derivative contract that is to be reported as a new trade and also included in a separate position report on the same day, in which case it will be identified as a 'position component'. This value will be equivalent to reporting a new trade followed by an update to that report showing it as compressed.
74	Level	Indication whether the report is done at trade or position

	Field	Details to be reported
		level

3.5 Annex V

Draft implementing technical standards on trade repositories

COMMISSION IMPLEMENTING REGULATION (EU) No …/…

of [   ]

Amending Commission Implementing Regulation (EU) No 1247/2012 of 19 December laying down implementing technical standards with regards to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 648/2012 of 4 July 2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories[3] and in particular Article 9(6) thereof,

Whereas,

(1) Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012[4] laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 had to provide for the possibility of using interim entity identifiers while the legal entity identifier was not yet available;

(2) Specifying the counterparty side to a swap derivative contract requires specific rules due to the particular nature of such contracts;

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[3] OJ L 201, 27.7.2012.
[4] OJ L 352, 21.12.2012.

(3) Consistent approach needs to be followed by the reporting counterparties when describing whether and what collateralisation was performed for a give contract or portfolio;

(4) Accurate classification of derivative contracts and subsequent precise identification of derivative products is essential for efficient data use and in support for the Financial Stability Board initiative on trade repositories data aggregation;

(5) Ability of the two counterparties to agree on a unique trade ID within the provided reporting timeline is detrimental to accurate identification of individual trade reports. To this extent, there is a need for providing a specific hierarchy for assigning a trade ID to be followed by the counterparties in case they are not able to agree otherwise.

(6) Commission Implementing Regulation (EU) No 1247/2012 should therefore be amended accordingly.

(7) This Regulation is based on draft implementing technical standards submitted by ESMA to the Commission.

(8) In accordance with Article 15 of Regulation (EU) No 1095/2010, of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority European Securities and Markets Authority)(5), ESMA has conducted open public consultations on such draft regulatory technical standards, analysed the potential related costs and benefits and requested the opinion of the ESMA Securities and Markets Stakeholder Group established in accordance with Article 37 of that Regulation.

HAS ADOPTED THIS REGULATION

Article 1

Amendments to Commission Implementing Regulation (EU) No 1247/2012

Commission Implementing Regulation (EU) No 1247/2012 is hereby amended as follows:

(1) Article 3(2) is amended as follows:

(a) second paragraph is replaced by the following:

'2. Where a broking entity is not eligible to obtain legal entity identifier, a code allowing the unique identification of the broking entity at a national level shall be used.';

(b) third paragraph is deleted.

(2) The following Articles are inserted:

'*Article 3a*

Counterparty side

The counterparty side to the derivative counteract shall be specified in accordance with the following rules:

(a) in the case of an Equity Swap, the buyer shall be the counterparty that gets the risk of price movement of the underlying paying the fixed rate and receiving the equity amount;

(b) in the case of an Interest Swap, the buyer shall be the counterparty paying the fixed rate. The seller shall be the counterparty receiving the fixed rate;

(c) in the case of a Debt Swap, the buyer shall be the counterparty that gets the risk of the price movement of the bond. The seller shall be the counterparty paying the Bond Performance Amount Payer and receiving the fixed rate;

(d) in the case of an Foreign Currency Swap or Forward, the seller shall be the counterparty delivering the currency which is first when sorted alphabetically by ISO 4217 standard;

(e) in the case of a Dividend Swap, the buyer shall be the counterparty receiving the equivalent actual dividend payments. The seller is the counterparty paying the Dividend and receiving the fixed rate;

(f) in the case of a Credit Default Swap, the buyer shall be the counterparty buying the protection. The seller is the counterparty selling the protection.

Article 3b

Collateralisation

The collateralisation of the derivative contract shall be specified in accordance with the following rules:

(a) uncollateralised – when the reporting counterparty to such derivative contract is not posting any collateral (neither initial margin nor variation margin) at any time;

(b) partially collateralised – when the agreement between the counterparties states that either one or both counterparties will regularly post variation margin and either they do not exchange initial margin at all or only the reporting counterparty receives initial margin;

(c) one-way collateralised – when the agreement between the counterparties states that only the reporting counterparty to such derivative contract agrees to post initial margin, regularly post variation margin or both with respect to the derivative contract;

(c) fully collateralised – when the agreement between the counterparties states that initial margin must be posted and variation margin must regularly be posted by both counterparties.'

(3) Article 4 is replaced by the following:

'*Article 4*

Identification of derivatives

       1.   A report shall specify a derivative contract according to the following:

(a) the derivative class shall be specified as one of the following:

      (i)   commodities;

      (ii)   credit;

      (iii)   foreign exchange;

      (iv)   equity;

      (v)   interest rate.

(b) the derivative type shall be specified as one of the following:

      (i)   contract for difference;

 (ii) forward rate agreement;

 (iii) forwards;

 (iv) futures;

 (v) options;

 (vi) swaps.

(c) In the case of derivate contract not falling into a specific derivative class or derivative type, the report shall be made on the basis of the derivative class and derivative type that the counterparties agree the derivative contract most closely resembles.

 2. Where available, a report shall identify a derivative product through ISO 6166 ISIN code or Alternative Instrument Identifier code.

 3. A report shall classify a derivative product using ISO 10692 CFI code for products identified through ISO 6166 ISIN code or Alternative Instrument Identifier code.

 4. Derivative products for which ISO 6166 ISIN code or Alternative Instrument Identifier code are not available shall be classified through a code which is:

(a) unique;

(b) neutral;

(c) reliable;

(d) open source;

(e) scalable;

(f) accessible

(g) available at a reasonable cost basis;

(h) subject to an appropriate governance framework.'

(4) The following Article is inserted:

'Article 4a

Unique Trade Identifier

1. A derivative contract report shall be identified through a unique trade identifier agreed by the counterparties.

2. Where counterparties fail to agree on generating a unique trade identifier to be assigned to a derivative contract report, the following hierarchy for generation shall be followed:

   (a) for centrally executed and cleared trades the unique trade identifier shall be generated either by the execution venue for its member or at the point of clearing by the CCP for the clearing member. Subsequently, the unique trade identifier should be generated by the clearing member for its counterparty;

   (b) for centrally confirmed and cleared trades the unique trade identifier shall be generated at the point of clearing by the CCP for the clearing member;

   (c) for centrally confirmed but not cleared trades the unique trade identifier shall be generated at the point of confirmation by the confirmation platform;

   (d) for other trades, the following hierarchy shall be followed:

      (i) financial counterparty generating the unique trade identifier for their non-financial counterparty;

      (ii) non-financial counterparty above the clearing threshold generating the unique trade identifier for their non-financial counterparty below the clearing threshold;

      (iii) within the same group of entities the seller generates the unique trade identifier.'.

(5) The Annex of Commission Implementing Regulation (EU) No 1247/2014 is replaced with the Annex of this Regulation.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, […]   [For the Commission

The President]

[On behalf of the President]

ANNEX

Table 1

Counterparty Data

	Field	Format
	Parties to the contract	
1	Reporting timestamp	ISO 8601 date in the format and UTC time format, i.e. YYYY-MM-DDThh:mm:ssZ
2	Reporting Counterparty ID	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code. In the case of Reporting Counterparty not being eligible for an Legal Entity Identifier, another code (up to 50 alphanumerical digits) which allows the unique identification of the Reporting Counterparty at a national level.
3	ID of the other Counterparty	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code. In the case of Reporting Counterparty not being eligible for an Legal Entity Identifier another code (50 alphanumerical digits) which allows the unique identification of the Reporting Counterparty at a national level. Client code (50 alphanumerical digits).
4	Country of the other Counterparty	2 character ISO 3166 country code
5	Name of the reporting counterparty	100 alphanumerical characters
6	Domicile of the reporting counterparty	500 alphanumerical digits or blank if the reporting party is identified using a Legal Entity Identifier (LEI)
7	Corporate sector of the reporting counterparty	Taxonomy for Financial Counterparties : A = Assurance undertaking authorised in accordance with

Field	Format
	Directive 2002/83/EC
	C = Credit institution authorised in accordance with Directive 2013/36/EU
	F = Investment firm authorised in accordance with Directive 2004/39/EC
	I = Insurance undertaking authorised in accordance with Directive 73/239/EEC
	L = Alternative investment fund managed by AIFMs authorised or registered in accordance with Directive 2011/61/EU
	O = Institution for occupational retirement provision within the meaning of Article 6(a) of Directive 2003/41/EC
	R = Reinsurance undertaking authorised in accordance with Directive 2005/68/EC
	U = UCITS and its management company, authorised in accordance with Directive 2009/65/EC
	Taxonomy for Non-Financials as defined in Regulation (EC) No 1893/2006 establishing NACE using only the main categories:
	1 = Agriculture, forestry and fishing
	2 = Mining and quarrying
	3 =Manufacturing
	4 = Electricity, gas, steam and air conditioning supply
	5 = Water supply, sewerage, waste management and remediation activities
	6 = Construction
	7 = Wholesale and retail trade, repair of motor vehicles and motorcycles
	8 = Transportation and storage
	9 = Accommodation and food service activities

	Field	Format
		10 = Information and communication
		11 = Real estate activities
		12 = Professional, scientific and technical activities
		13 = Administrative and support service activities
		14 = Public administration and defence; compulsory social security
		15 = Education
		16 = Human health and social work activities
		17 = Arts, entertainment and recreation
		18 = Other service activities
		19 = Activities of households as employers; undifferentiated goods – and services –producing activities of households for own use
		20 = Activities of extraterritorial organisations and bodies
		Blank in the case of CCPs
8	Nature of the reporting counterparty	F = Financial Counterparty
		N = Non-Financial Counterparty
		C = Central Counterparty
		O = Other
9	Broker ID	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code In the case of broker not being eligible for a Legal Entity Identifier another code (50 alphanumerical digits) which allows the unique identification of the broker at a national level
10	Report submitting entity ID	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code)
11	Clearing member ID	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code
12	Beneficiary ID	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical

	Field	Format
		character code or 50 alphanumerical character client code in the case where the client is not being eligible for a Legal Entity Identifier
13	Trading capacity	P = Principal A = Agent
14	Counterparty side	B = Buyer S = Seller Populated in accordance with Article 1(2)
15	Directly linked to commercial activity or treasury financing	Y = Yes N = No
16	Clearing threshold	Y = Above the threshold N = Below the threshold
17	Value of contract	Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.
18	Currency of the value	ISO 4217 Currency Code, 3 alphabetical characters
19	Valuation date	ISO 8601 date in the format YYYY-MM-DD
20	Valuation time	UTC time in the format hh:mm:ssZ
21	Valuation type	M = Mark to market O = Mark to model C = CCP's valuation.
22	Collateralisation	U = uncollateralised PC = partially collateralised

	Field	Format
		OC = one way collateralised
		FC = fully collateralised
23	Collateral portfolio	Y = Yes
		N = No
24	Collateral portfolio code	Up to 52 alphanumerical characters including four special characters : . - _.
		Special characters are not allowed at the beginning and at the end of the code. No space allowed.
25	Initial margin posted	Up to 20 numerical characters including decimals.
		At least one character before and one character after the decimal mark should be populated.
		The decimal mark is not counted as a numerical character.
26	Currency of the initial margin posted	ISO 4217 Currency Code, 3 alphabetical characters
27	Variation margin posted	Up to 20 numerical characters including decimals.
		At least one character before and one character after the decimal mark should be populated.
		The decimal mark is not counted as a numerical character.
28	Currency of the variation margins posted	ISO 4217 Currency Code, 3 alphabetical characters
29	Initial margin received	Up to 20 numerical characters including decimals.
		At least one character before and one character after the decimal mark should be populated.
		The decimal mark is not counted as a numerical character.
30	Currency of the initial	ISO 4217 Currency Code, 3 alphabetical characters

	Field	Format
	margin received	
31	Variation margin received	Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character.
32	Currency of the variation margins received	ISO 4217 Currency Code, 3 alphabetical characters

64. Table 2

65.

66. Common Data

	Field	Format	Applicable types of derivative contracts
	Section 2a - Contract type		**All contracts**
1	Contract type	CD = Contracts for difference FR = Forward rate agreements FU = Futures FW = Forwards OP = Option SW = Swap	
2	Asset class	CO = Commodity CR = Credit CU = Currency EQ = Equity IR = Interest Rate	
	Section 2b – Product identification		**All contracts**
3	Product classification type	C = CFI U = UPI	
4	Product classification	ISO 10692 CFI, 6 characters alphabetical code Endorsed UPI	
5	Product identification type	Specify the applicable identification:	

	Field	Format	Applicable types of derivative contracts
		I = ISIN A = AII	
6	Product identification	For product identifier type I: ISO 6166 ISIN 12 character alphanumerical code For product identifier type A: the 4 character MIC Code of the trading venue assigning the AII concatenated with up to 12 characters product code defined by the trading venue. The other AII components are not to be included. No special characters shall be added between the MIC code and the product code.	
7	Underlying identification type	I = ISIN A = AII L = LEI S = Sovereign U = UPI B = Basket X = Index	
8	Underlying identification	For underlying identification type I: ISO 61666 ISIN 12 character alphanumerical code For underlying identification type A: complete AII For underlying identification type L: ISO 17442 Legal Entity Identifier 20 alphanumerical character code	

	Field	Format	Applicable types of derivative contracts
		For underlying identification type S: ISO 3166 2 character country code	
		For underlying identification type U: UPI	
		For underlying identification type B: all individual components identification through ISO 61666 ISIN or complete AII	
		For underlying identification type X: ISO 6166 ISIN if available, otherwise full name of the index as assigned by the index provider	
9	Notional currency 1	ISO 4217 Currency Code, 3 alphabetical characters	
10	Notional currency 2	ISO 4217 Currency Code, 3 alphabetical characters	
11	Deliverable currency	ISO 4217 Currency Code, 3 alphabetical characters	
	Section 2b - Details on the transaction		**All contracts**
12	Trade ID	Up to 52 alphanumerical character code including four special characters : . - _. Special characters are not allowed at the beginning and at the end of the code. No space allowed.	
13	Report tracking number	An alphanumeric field up to 40 characters	
14	Venue of execution	ISO 10383 Market Identifier Code (MIC), 4 digits alphabetical.	

	Field	Format	Applicable types of derivative contracts
		Where segmental MICs exist for a trading venue, the segmental MIC shall be used.	
		For trading venues within the EEA, MIC's listed in the publicly available MiFID Data Base published on ESMA web site should be used.	
		Where relevant, XOFF for listed derivatives that are traded off-exchange or XXXX for OTC derivatives.	
		For trading venues outside the EEA, generic reference NEEA.	
15	Compression	Y = contract results from compression N = contract does not result from compression	
16	Price / rate	Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
17	Price notation type	U = Units P = Percentage Y = Yield	
18	Currency of price	ISO 4217 Currency Code, 3 alphabetic	

	Field	Format	Applicable types of derivative contracts
		characters	
19	Original notional	Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
20	Actual notional	Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
21	Price multiplier	Up to 10 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character.	
22	Quantity	Up to 10 numerical characters including	

	Field	Format	Applicable types of derivative contracts
		decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character.	
23	Up-front payment	Up to 10 numerical characters including decimals. The negative symbol to be used to indicate that the payment was made, not received. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
24	Delivery type	C = Cash P = Physical O = Optional for counterparty or when determined by a third party	
25	Execution timestamp	ISO 8601 date in the UTC time format YYYY-MM-DDThh:mm:ssZ	
26	Effective date	ISO 8601 date in the format YYYY-MM-DD	
27	Maturity date	ISO 8601 date in the format YYYY-MM-	

	Field	Format	Applicable types of derivative contracts
		DD	
28	Termination date	ISO 8601 date in the format YYYY-MM-DD	
29	Settlement date	ISO 8601 date in the format YYYY-MM-DD	
30	Master Agreement type	Free Text, field of up to 50 characters, identifying the name of the Master Agreement used, if any	
32	Master Agreement version	ISO 8601 date in the format YYYY	
	Section 2c - Risk mitigation / Reporting		**All contracts**
33	Confirmation timestamp	ISO 8601 date in the UTC time format YYYY-MM-DDThh:mm:ssZ	
34	Confirmation means	Y = Non-electronically confirmed N = Non-confirmed E = Electronically confirmed	
	Section 2d - Clearing		**All contracts**
35	Clearing obligation	Y = Yes N = No	
36	Cleared	Y = Yes N = No	
37	Clearing timestamp	ISO 8601 date in the UTC time format YYYY-MM-DDThh:mm:ssZ	

	Field	Format	Applicable types of derivative contracts
38	CCP	Legal Entity Identifier (LEI) 20 alphanumerical character code	
39	Intragroup	Y = Yes N = No	
	Section 2e - Interest Rates		**Interest rate derivatives**
40	Fixed rate of leg 1	Up to 10 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
41	Fixed rate of leg 2	Up to 10 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
42	Fixed rate day count	Nominator/Denominator where both, Nominator and Denominator are numerical characters or alphabetic	

	Field	Format	Applicable types of derivative contracts
		expression 'Actual', e.g. 30/360 or Actual/365	
43	Fixed rate payment frequency	An integer multiplier of a time period describing how often the counterparties exchange payments, whereby the following abbreviations apply: Y = Year M = Month W = Week D = Day For example 5Y, 3M or 10D.	
44	Floating rate payment frequency	An integer multiplier of a time period describing how often the counterparties exchange payments, whereby the following abbreviations apply: Y = Year M = Month W = Week D = Day For example 5Y, 3M or 10D.	
45	Floating rate reset frequency	An integer multiplier of a time period describing how often the counterparties reset the floating rate , whereby the following abbreviations apply: Y = Year M = Month W = Week	

	Field	Format	Applicable types of derivative contracts
		D = Day For example 5Y, 3M or 10D.	
46	Floating rate of leg 1	The name of the floating rate index separating the reference period and the index name by '' / '', e.g. 3M/Euribor.	
47	Floating rate of leg 2	The name of the floating rate index separating the reference period and the index name by '' / '', e.g. 3M/Euribor	
	Section 2f – Foreign Exchange		**Currency derivatives**
48	Delivery currency 2	ISO 4217 Currency Code, 3 alphabetical character code	
49	Exchange rate 1	Up to 10 numerical digits including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
50	Forward exchange rate	Up to 10 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a	

	Field	Format	Applicable types of derivative contracts
		numerical character. The negative symbol, if populated, is not counted as a numerical character.	
51	Exchange rate basis	ISO 4217 currency codes, separated by '' / '', e.g. EUR/USD, USD/EUR	
	Section 2g - Commodities		**Commodity derivatives**
	General		
52	Commodity base	AG = Agricultural EN = Energy FR = Freights ME = Metals IN = Index EV = Environmental EX = Exotic or otherwise doesn't fit into any of the other categories	
53	Commodity details	<u>Agricultural</u> GO = Grains oilseeds DA = Dairy LI = Livestock FO = Forestry SO = Softs <u>Freights</u> DR = Dry WT = Wet <u>Energy</u>	

	Field	Format	Applicable types of derivative contracts
		OI = Oil	
		NG = Natural gas	
		CO = Coal	
		EL = Electricity	
		IE = Inter-energy	
		<u>Metals</u>	
		PR = Precious	
		NP = Non-precious	
		<u>Environmental</u>	
		WE = Weather	
		EM = Emissions	
		<u>Other</u>	
		OT = does not fit into any of the other categories.	
	Energy		
54	Delivery point or zone	EIC code, 16 character alphanumeric code	
55	Interconnection Point	EIC code, 16 character alphanumeric code	
56	Load type	Repeatable section of fields 57-64 to identify the product delivery profile; BL = Base Load PL = Peak Load OP = Off-Peak BH = Hour/Block Hours SH = Shaped	

	Field	Format	Applicable types of derivative contracts
		GD = Gas Day OT = Other	
57	Load delivery intervals	hh:mmZ	
58	Delivery start date and time	ISO 8601 date in theUTC time format YYYY-MM-DDThh:mm:ssZ	
59	Delivery end date and time	ISO 8601 date in the UTS time format YYYY-MM-DDThh:mm:ssZ	
61	Days of the week	WD = Weekdays WN = Weekend MO = Monday TU = Tuesday WE = Wednesday TH = Thursday FR = Friday SA = Saturday SU = Sunday Multiple values separated by '' / '' are permitted	
62	Delivery capacity	Up to 20 numerical digits including decimals At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character.	

	Field	Format	Applicable types of derivative contracts
		The negative symbol, if populated, is not counted as a numerical character.	
63	Quantity Unit	KW KWh/h KWh/d MW MWh/h MWh/d GW GWh/h GWh/d Therm/d KTherm/d MTherm/d cm/d mcm/d	
64	Price/time interval quantities	Up to 20 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character.	
	Section 2h - Options		**Contracts that**

	Field	Format	Applicable types of derivative contracts
			contain an option
65	Option type	P = Put C = Call	
66	Option style (exercise)	A = American B = Bermudan E = European S = Asian More than one value is allowed	
67	Strike price (cap/floor rate)	Up to 10 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
	Section 2i – Credit derivatives		
68	Seniority	Senior - such as Senior Unsecured Debt (Corporate/Financial), Foreign Currency Sovereign Debt (Government), etc. Subordinated – such as Subordinated or Lower Tier 2 Debt (Banks), Junior Subordinated or Upper Tier 2 Debt (Banks), etc.	

	Field	Format	Applicable types of derivative contracts
		Other – such as Preference Shares or Tier 1 Capital (Banks) or other credit derivatives	
69	Coupon	Up to 10 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
70	Date of last lifecycle event	ISO 8601 date in the format YYYY-MM-DD	
71	Series	Integer field	
72	Index factor	Up to 10 numerical characters including decimals. At least one character before and one character after the decimal mark should be populated. The decimal mark is not counted as a numerical character. The negative symbol, if populated, is not counted as a numerical character.	
	Section 2i - Modifications to the contract		

	Field	Format	Applicable types of derivative contracts
73	Action type	N = New M = Modify E = Error C = Cancel R = Correction Z = Compression V = Valuation update P = Position component	
74	Level	T = Trade O = Position	