COMMISSION IMPLEMENTING REGULATION (EU) No 1247/2012

of 19 December 2012

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 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 the opinion of the European Central Bank (¹),

Having regard to 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 (²) and in particular Article 9(6) thereof,

Whereas:

(1) To avoid inconsistencies, all data sent to trade repositories under Article 9 of Regulation (EU) No 648/2012 should follow the same rules, standards and formats for all trade repositories, all counterparties and all types of derivatives. A unique data set should therefore be used for describing a derivatives trade.

(2) Since OTC derivatives are typically neither uniquely identifiable by existing codes which are widely used in financial markets, such as the International Securities Identification Numbers (ISIN), nor describable by using the ISO Classification of Financial Instruments (CFI) code, a new and universal method of identification has to be developed. If a unique product identifier is available and follows the principles of uniqueness, neutrality, reliability, open source, scalability, accessibility, has a reasonable cost basis, is offered under an appropriate governance framework and is adopted for use in the Union, it should be used. If a unique product identifier meeting these requirements is not available, an interim taxonomy should be used.

(3) The underlying should be identified by using a single identifier, however there is currently no market wide standardised code to identify the underlying within a basket. Counterparties should therefore be required to indicate at least that the underlying is a basket and use ISINs for standardised indices where possible.

(4) To ensure consistency, all parties to a derivatives contract should be identified by a unique code. A global legal entity identifier or an interim entity identifier, to be defined under a governance framework which is compatible with the FSB recommendations on data requirements and is adopted for use in the Union, should be used to identify all financial and non-financial counterparties, brokers, central counterparties, and beneficiaries once available, in particular to ensure consistency with the Committee on Payment and Settlement Systems (CPSS) and International Organisation of Securities Commissions (IOSCO) report on OTC Derivatives Data Reporting and Aggregation Requirements that describes legal entity identifiers as a tool for data aggregation. In the case of agency trades, the beneficiaries should be identified as the individual or entity on whose behalf the contract was concluded.

(5) The approach used in third countries and also taken by trade repositories themselves as they start their businesses should be taken into account. Therefore, to ensure a cost-effective solution for counterparties and to mitigate operational risk for trade repositories, the reporting start date should include phase-in dates for different derivative classes, beginning with the most standardised classes and subsequently extending to the other classes. The derivative contracts which were entered into before, on or after the date of entry into force of Regulation (EU) No 648/2012, that are not outstanding on or after the reporting start date, are not of major relevance for regulatory purposes. They must however be reported under Article 9(1)(a) of Regulation (EU) No 648/2012. To ensure an efficient and proportionate reporting regime in those cases and taking into account the difficulties in reconstructing data of terminated contracts, a longer deadline should be provided for such reporting.

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

(7) 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

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(¹) Not yet published in the Official Journal.
(²) OJ L 201, 27.7.2012.

Authority) [1] ESMA has conducted open public consultations on such draft implementing 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

Format of derivative contract reports

The information contained in a report under Article 9 of Regulation (EU) No 648/2012 shall be provided in the format specified in the Annex to this Regulation.

Article 2

Frequency of derivative contract reports

Where provided for in Article 11(2) of Regulation (EU) No 648/2012, mark to market or mark to model valuations of contracts reported to a trade repository shall be done on a daily basis. Any other reporting elements as provided for in the Annex to this Regulation and the Annex to the delegated act with regard to regulatory technical standards specifying the minimum details of the data to be reported to trade repositories pursuant to Article 9(5) of Regulation (EU) No 648/2012 shall be reported as they occur and taking into account the time limit foreseen under Article 9 of Regulation (EU) No 648/2012, notably as regards the conclusion, modification or termination of a contract.

Article 3

Identification of counterparties and other entities

1.   A report shall use a legal entity identifier to identify:

(a) a beneficiary which is a legal person;

(b) a broking entity;

(c) a CCP;

(d) a clearing member which is a legal person;

(e) a counterparty which is a legal entity;

(f) a submitting entity.

2.   Where a legal entity identifier is not available, the report shall include an interim entity identifier as defined at the Union level 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.

[1] OJ L 331, 15.12.2010, p.84.

3.   Where neither a legal entity identifier nor an interim entity identifier is available, a report shall use a Business Identifier Code in accordance with ISO 9362 where available.

Article 4

Identification of Derivatives

1.   A report shall identify a derivative contract using a unique product identifier 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.

2.   Where a unique product identifier does not exist, a report shall identify a derivative contract by using the combination of the assigned ISO 6166 ISIN code or Alternative Instrument Identifier code with the corresponding ISO 10962 CFI code.

3.   Where the combination referred to in paragraph 2 is not available, the type of derivative shall be identified on the following basis:

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

  (i) commodities;

  (ii) credit;

  (iii) foreign exchange;

  (iv) equity;

  (v) interest rate;

  (vi) other.

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

  (i) contracts for difference;

  (ii) forward rate agreements

  (iii) forwards;

  (iv) futures;

  (v) options;

  (vi) swaps;

  (vii) other.

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

Article 5

Reporting start date

1.   Credit derivative and interest rate derivative contracts shall be reported:

(a) by 1 July 2013, where a trade repository for that particular derivative class has been registered under Article 55 of Regulation (EU) No 648/2012 before 1 April 2013;

(b) 90 days after the registration of a trade repository for a particular derivative class under Article 55 of Regulation (EU) No 648/2012, where there is no trade repository registered for that particular derivative class before or on 1 April 2013;;

(c) by 1 July 2015, where there is no trade repository registered for that particular derivative class under Article 55 of Regulation (EU) No 648/2012 by 1 July 2015. The reporting obligation shall commence on this date and contracts shall be reported to ESMA in accordance with Article 9(3) of that Regulation until a trade repository is registered for that particular derivative class.

2.   Derivative contracts not referred to in paragraph 1 shall be reported:

(a) by 1 January 2014, where a trade repository for that particular derivative class has been registered under Article 55 of Regulation (EU) No 648/2012 before 1 October 2013;

(b) 90 days after the registration of a trade repository for a particular derivative class under Article 55 of Regulation (EU) No 648/2012, where there is no trade repository registered for that particular derivative class before or on 1 October 2013;

(c) by 1 July 2015, where there is no trade repository registered for that particular derivative class under Article 55 of Regulation (EU) No 648/2012 by 1 July 2015. The reporting obligation shall commence on this date and contracts shall be reported to ESMA in accordance with Article 9(3) of that Regulation until a trade repository is registered for that particular derivative class.

3.   Those derivative contracts which were outstanding on 16 August 2012 and are still outstanding on the reporting start date shall be reported to a trade repository within 90 days of the reporting start date for a particular derivative class.

4.   Those derivative contracts which:

(a) were entered into before 16 August 2012 and are still outstanding on 16 August 2012: or

(b) were entered into on or after 16 August 2012,

and that are not outstanding on or after the reporting start date shall be reported to a trade repository within 3 years of the reporting start date for a particular derivative class.

5.   The reporting start date shall be extended by 180 days for the reporting of information referred to in Article 3 of the delegated act with regard to regulatory technical standards specifying the minimum details of the data to be reported to trade repositories pursuant to Article 9(5) of Regulation (EU) No 648/2012.

Article 6

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, 19 December 2012.

For the Commission
The President
José Manuel BARROSO

ANNEX

Table 1

Counterparty Data

	Field	Format
	Parties to the contract	
1	Reporting timestamp	ISO 8601 date format / UTC time format.
2	Counterparty ID	Legal Entity Identifier (LEI) (20 alphanumerical digits), interim entity identifier (20 alphanumerical digits), BIC (11 alphanumerical digits) or a client code (50 alphanumerical digits).
3	ID of the other Counterparty	Legal Entity Identifier (LEI) (20 alphanumerical digits), interim entity identifier (20 alphanumerical digits), BIC (11 alphanumerical digits) or a client code (50 alphanumerical digits).
4	Name of the counterparty	100 alphanumerical digits or blank in case of coverage by Legal Entity Identifier (LEI).
5	Domicile of the counterparty	500 alphanumerical digits or blank in case of coverage by Legal Entity Identifier (LEI).
6	Corporate sector of the counterparty	Taxonomy: A = Assurance undertaking authorised in accordance with Directive 2002/83/EC; C = Credit institution authorised in accordance with Directive 2006/48/EC; F = Investment firm 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; or blank in case of coverage by Legal Entity Identifier (LEI) or in case of non-financial counterparties.
7	Financial or non-financial nature of the counterparty	F=Financial Counterparty, N=Non-Financial Counterparty.
8	Broker ID	Legal Entity Identifier (LEI) (20 alphanumerical digits), interim entity identifier (20 alphanumerical digits), BIC (11 alphanumerical digits) or a client code (50 alphanumerical digits).

	Field	Format
	Parties to the contract	
9	Reporting entity ID	Legal Entity Identifier (LEI) (20 alphanumerical digits), interim entity identifier (20 alphanumerical digits), BIC (11 alphanumerical digits) or a client code (50 alphanumerical digits).
10	Clearing member ID	Legal Entity Identifier (LEI) (20 alphanumerical digits), interim entity identifier (20 alphanumerical digits), BIC (11 alphanumerical digits) or a client code (50 alphanumerical digits).
11	Beneficiary ID	Legal Entity Identifier (LEI) (20 alphanumerical digits), interim entity identifier (20 alphanumerical digits), BIC (11 alphanumerical digits) or a client code (50 alphanumerical digits).
12	Trading capacity	P=Principal, A=Agent.
13	Counterparty side	B=Buyer, S=Seller.
14	Trade with non-EEA counterparty	Y=Yes, N=No.
15	Directly linked to commercial activity or treasury financing	Y=Yes, N=No.
16	Clearing threshold	Y=Above, N=Below.
17	Mark to market value of contract	Up to 20 numerical digits in the format xxxx,yyyyy.
18	Currency of mark to market value of the contract	ISO 4217 Currency Code, 3 alphabetical digits.
19	Valuation date	ISO 8601 date format.
20	Valuation time	UTC time format.
21	Valuation type	M=mark to market / O=mark to model.
22	Collateralisation	U=uncollateralised, PC= partially collateralised, OC=one way collateralised or FC=fully collateralised.
23	Collateral portfolio	Y=Yes, N=No.
24	Collateral portfolio code	Up to 10 numerical digits.
25	Value of the collateral	Specify the value the total amount of collateral posted; up to 20 numerical digits in the format xxxx,yyyyy.

	Field	Format
	Parties to the contract	
26	Currency of the collateral value	Specify the currency of field 25; ISO 4217 Currency Code, 3 alphabetical digits.

Table 2

Common Data

	Field	Format	Applicable types of derivative contract
	Section 2a - Contract type		All contracts
1	Taxonomy used	Identify the taxonomy used: U = Product Identifier [endorsed in Europe] I = ISIN/AII + CFI E = Interim taxonomy	
2	Product ID 1	For taxonomy = U: Product Identifier (UPI), to be defined For taxonomy = I: ISIN or AII, 12 digits alphanumerical code For taxonomy = E: Derivative class: CO = Commodity CR = Credit CU = Currency EQ = Equity IR = Interest Rate OT = Other	
3	Product ID 2	For taxonomy = U Blank For taxonomy = I CFI, 6 characters alphabetical code For taxonomy = E: Derivative type: CD = Contracts for difference FR = Forward rate agreements FU = Futures FW = Forwards OP = Option SW = Swap OT = Other	

	Field	Format	Applicable types of derivative contract
4	Underlying	ISIN (12 alphanumerical digits); LEI (20 alphanumerical digits); Interim entity identifier (20 alphanumerical digits); UPI (to be defined); B = Basket; I = Index.	
5	Notional currency 1	ISO 4217 Currency Code, 3 alphabetical digits.	
6	Notional currency 2	ISO 4217 Currency Code, 3 alphabetical digits.	
7	Deliverable currency	ISO 4217 Currency Code, 3 alphabetical digits.	
	Section 2b - Details on the transaction		All contracts
8	Trade ID	Up to 52 alphanumerical digits.	
9	Transaction reference number	An alphanumeric field up to 40 characters	
10	Venue of execution	ISO 10383 Market Identifier Code (MIC), 4 digits alphabetical. Where relevant, XOFF for listed derivatives that are traded off-exchange or XXXX for OTC derivatives.	
11	Compression	Y = if the contract results from compression; N= if the contract does not result from compression.	
12	Price / rate	Up to 20 numerical digits in the format xxxx,yyyyy.	
13	Price notation	E.g. ISO 4217 Currency Code, 3 alphabetical digits, percentage.	
14	Notional amount	Up to 20 numerical digits in the format xxxx,yyyyy.	
15	Price multiplier	Up to 10 numerical digits.	
16	Quantity	Up to 10 numerical digits.	
17	Up-front payment	Up to 10 numerical digits in the format xxxx,yyyyy for payments made by the reporting counterparty and in the format xxxx,yyyyy for payments received by the reporting counterparty.	
18	Delivery type	C=Cash, P=Physical, O=Optional for counterparty.	
19	Execution timestamp	ISO 8601 date format / UTC time format.	
20	Effective date	ISO 8601 date format.	
21	Maturity date	ISO 8601 date format.	

	Field	Format	Applicable types of derivative contract
22	Termination date	ISO 8601 date format.	
23	Settlement date	ISO 8601 date format.	
24	Master Agreement type	Free Text, field of up to 50 characters, identifying the name of the Master Agreement used, if any.	
25	Master Agreement version	Year, xxxx.	
	Section 2c - Risk mitigation / Reporting		All contracts
26	Confirmation timestamp	ISO 8601 date format, UTC time format.	
27	Confirmation means	Y=Non-electronically confirmed, N=Non-confirmed, E=Electronically confirmed.	
	Section 2d - Clearing		All contracts
28	Clearing obligation	Y=Yes, N=No.	
29	Cleared	Y=Yes, N=No.	
30	Clearing timestamp	ISO 8601 date format / UTC time format.	
31	CCP ID	Legal Entity Identifier (LEI) (20 alphanumerical digits) or, if not available, interim entity identifier (20 alphanumerical digits) or, if not available, BIC (11 alphanumerical digits).	
32	Intragroup	Y=Yes, N=No.	
	Section 2e - Interest Rates		Interest rate derivatives
33	Fixed rate of leg 1	Numerical digits in the format xxxx,yyyyy.	
34	Fixed rate of leg 2	Numerical digits in the format xxxx,yyyyy.	
35	Fixed rate day count	Actual/365, 30B/360 or Other.	
36	Fixed leg payment frequency	An integer multiplier of a time period describing how often the counterparties exchange payments, e.g. 10D, 3M, 5Y.	
37	Floating rate payment frequency	An integer multiplier of a time period describing how often the counterparties exchange payments, e.g. 10D, 3M, 5Y.	
38	Floating rate reset frequency	D = An integer multiplier of a time period describing how often the counterparties exchange payments, e.g. 10D, 3M, 5Y.	
39	Floating rate of leg 1	The name of the floating rate index, e.g. 3M Euribor.	

	Field	Format	Applicable types of derivative contract
40	Floating rate of leg 2	The name of the floating rate index, e.g. 3M Euribor.	
	Section 2f – Foreign Exchange		Currency derivatives
41	Currency 2	ISO 4217 Currency Code, 3 alphabetical digits.	
42	Exchange rate 1	Up to 10 numerical digits in the format xxxx,yyyyy.	
43	Forward exchange rate	Up to 10 numerical digits in the format xxxx,yyyyy.	
44	Exchange rate basis	E.g. EUR/USD or USD/EUR.	
	Section 2g - Commodities	If a UPI is reported and contains all the information below, this is not required unless to be reported according to Regulation (EU) No 1227/2011.	Commodity derivatives
	General		
45	Commodity base	AG = Agricultural EN = Energy FR = Freights ME = Metals IN = Index EV = Environmental EX = Exotic	
46	Commodity details	*Agricultural* GO = Grains oilseeds DA = Dairy LI = Livestock FO = Forestry SO = Softs *Energy* OI = Oil NG = Natural gas CO = Coal EL = Electricity IE = Inter-energy *Metals* PR = Precious NP = Non-precious *Environmental* WE = Weather EM = Emissions	

	Field	Format	Applicable types of derivative contract
	Energy		
47	Delivery point or zone	EIC code, 16 character alphanumeric code.	
48	Interconnection Point	Free text, field of up to 50 characters.	
49	Load type	Repeatable section of fields 50-54 to identify the product delivery profile which correspond to the delivery periods of a day; BL = Base Load PL = Peak Load OP = Off-Peak BH = Block Hours OT = Other	
50	Delivery start date and time	ISO 8601 date format / UTC time format.	
51	Delivery end date and time	ISO 8601 date format / UTC time format.	
52	Contract capacity	Free text, field of up to 50 characters.	
53	Quantity Unit	10 numerical digits in the format xxxx,yyyyy.	
54	Price/time interval quantities	10 numerical digits in the format xxxx,yyyyy.	
	Section 2h - Options		Contracts that contain an option
55	Option type	P=Put, C=Call.	
56	Option style (exercise)	A=American, B=Bermudan, E=European, S=Asian.	
57	Strike price (cap/floor rate)	Up to 10 Numerical digits in the format xxxx,yyyyy.	
	Section 2i - Modifications to the contract		All contracts
58	Action type	N = New M = Modify E = Error, C = Cancel, Z = Compression, V = Valuation update, O = Other.	
59	Details of action type	Free text, field of up to 50 characters.	