

**TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE
REGULATION) (EU EXIT) (No 4) INSTRUMENT 2019**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”), being an appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The FCA and the Bank of England are the appropriate regulators for the EU Regulations under European Market Infrastructure Regulations that are specified in Part 5 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. In accordance with regulation 3(2)(b), the Bank of England has given consent to the modifications in Annex A of this instrument.
- E. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- F. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

Modifications

- G. Annex A of Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 2) Instrument 2019 is deleted.
- H. The FCA amends the following EU Regulation in accordance with Annex A of this instrument.

(1)	(2)
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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	Annex A
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Commencement

- I. Paragraph G of this instrument comes into force immediately prior to exit day as defined in the European Union (Withdrawal) Act 2018.
- J. Paragraph H of this instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018.

Citation

- K. This instrument may be cited as the Technical Standards (European Market Infrastructure Regulations) (EU Exit) (No 4) Instrument 2019.

By order of the Board
9 April 2019

In this instrument, underlining indicates new text and striking through indicates deleted text.

Annex A

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)~~

Article -1

Definitions

In this Regulation, ‘exit day’ has the meaning given in the European Union (Withdrawal) Act 2018.

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~~ Regulation (EU) No 148/2013 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.

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Article 4

Specification, identification, and classification of derivatives

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5. The derivative shall be identified in Field 6 of Table 2 of the Annex using the following, where available:
- (a) an ISO 6166 International Securities Identification Number (ISIN) code or an Alternative Instrument Identifier code (AII), as applicable, until 3 January 2018 ~~the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014 of the European Parliament and of the Council;~~
 - (b) an ISIN from ~~the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014~~ 3 January 2018.

Where an AII code is used, the complete AII code shall be used.

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Article 4b

Venue of execution

The venue of execution of the derivative contract shall be identified in Field 15 of Table 2 of the Annex ~~as follows:~~ using the ISO 10383 Market Identifier Code (MIC).

- (a) ~~until the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014:~~
 - (i) ~~for a venue of execution inside the Union, the ISO 10383 Market Identifier Code (MIC) published on ESMA's website in the register set up on the basis of information provided by competent authorities pursuant to Article 13(2) of Commission Regulation (EC) No 1287/2006;~~
 - (ii) ~~for a venue of execution outside the Union, the ISO 10383 MIC included in the list of MIC codes maintained and updated by ISO and published at ISO web site;~~

- (b) ~~from the date of application of the delegated act adopted by the Commission pursuant to Article 27(3) of Regulation (EU) No 600/2014, the ISO 10383 MIC.~~

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. The following derivative contracts which are not outstanding on the commencement date for reporting for a particular derivative class shall be reported to a trade repository within five years of that date:
 - (a) derivative contracts that were entered into before 16 August 2012 and were still outstanding on 16 August 2012;
 - (b) derivative contracts that were entered into on or after 16 August 2012.

5. The reporting start date shall be extended by 180 days for the reporting of information referred to in Article 3 of Regulation (EU) No 148/2013 ~~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

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

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ANNEX

Table 1

Counterparty Data

	Field	Format
	Parties to the contract	
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6	Corporate sector of the reporting counterparty	<p>Taxonomy for Financial Counterparties:</p> <p>A = Assurance undertaking authorised in accordance with Directive 2009/138/EC of the European Parliament and of the Council</p> <p>C = Credit institution <u>which is a CRR firm (within the definition in Article 4(1)(2A) of the Capital Requirements Regulation) authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council</u></p> <p>F = Investment firm <u>within the meaning given in Article 2(1A) of the MIFIR which:</u></p> <ul style="list-style-type: none"> <u>(i) has its registered office or head office in the United Kingdom;</u> <u>(ii) has permission under Part 4A of the FSMA to carry on regulated activities relating to investment services and activities (as defined in Article 2(1)(2) of the MIFIR) in the United Kingdom;</u> <u>(iii) would require authorisation under Directive 2014/65/EU (as it had effect immediately before exit day) if it had its registered office (or if it does not have a registered office, its head offices) in an EEA state; and</u> <u>(iv) is not a firm which has permission under Part 4A of the FSMA to carry on regulated activities as an exempt investment firm, within the meaning of regulation 8 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017; authorised in accordance with Directive 2004/39/EC of the European Parliament and of the Council</u> <p>I = Insurance undertaking authorised in accordance with Directive 2009/138/EC as defined in section 417 of the FSMA</p>

		<p>L = <u>AIF (within the definition in regulation 3 of the Alternative Investment Fund Managers Regulations 2013) Alternative investment fund managed by Alternative Investment Fund Managers (AIFMs) (within the definition in regulation 4 of those Regulations) authorised or registered in accordance with those Regulations authorised or registered in accordance with Directive 2011/61/EU of the European Parliament and of the Council</u></p> <p>O = Institution for occupational retirement provision <u>within the meaning of section 1(1) of the Pension Schemes Act 1993</u> within the meaning of Article 6(a) of Directive 2003/41/EC of the European Parliament and of the Council</p> <p>R = Reinsurance undertaking <u>as defined in section 417 of the FSMA</u> authorised in accordance with Directive 2009/138/EC</p> <p>U = <u>Undertakings for the Collective Investment in Transferable Securities (UCITS) UK UCITS (within the definition in section 237(3) of the FSMA) and its management company (within the definition in section 237(2) of the FSMA), authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council</u></p> <p>Taxonomy for Non-Financial Counterparties. The following categories correspond to the main sections of Statistical classification of economic activities in the European Community (NACE) as defined in Regulation (EC) No 1893/2006 of the European Parliament and of the Council <u>(as it had effect immediately before exit day)</u></p> <ul style="list-style-type: none"> 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 10 = Information and communication 11 = Financial and insurance activities 12 = Real estate activities 13 = Professional, scientific and technical activities 14 = Administrative and support service activities
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		<p>15 = Public administration and defence; compulsory social security</p> <p>16 = Education</p> <p>17 = Human health and social work activities</p> <p>18 = Arts, entertainment and recreation</p> <p>19 = Other service activities</p> <p>20 = Activities of households as employers; undifferentiated goods — and services — producing activities of households for own use</p> <p>21 = Activities of extraterritorial organisations and bodies</p> <p>Where more than one activity is reported, list the codes in order of the relative importance of the corresponding activities, separating them with a “-”.</p> <p>Leave blank in the case of CCPs and other type of counterparties in accordance with Article 1(5) of Regulation (EU) No 648/2012.</p>
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Table 2
Common Data

	Field	Format	Applicable types of derivative contracts
	Section 2a — Contract type		All contracts
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15	Venue of execution	ISO 10383 Market Identifier Code (MIC), 4 alphanumerical characters, in accordance with Article 4(b).	