

## **10.9 Annex IX – RTS on operational standards for aggregation and comparison of data and on terms and conditions for granting access to data**

### **Article 1**

Amendments to Delegated Regulation (EU) No 151/2013

(1) Article 2 is replaced as follows:

#### **Granting access to details of derivatives**

1. A trade repository shall provide the entities listed in Article 81(3) of Regulation (EU) No 648/2012 with direct and immediate access, including where delegation under Article 28 of Regulation (EU) No 1095/2010 exists, to details of derivatives contracts in accordance with paragraph 2 and Articles 2 and 3 of this Regulation.

For the purposes of the first subparagraph, a trade repository shall use an XML format and a template developed in accordance with ISO 20022 methodology.

2. A trade repository shall ensure that the details of transaction data on derivatives made accessible to the entities listed in Article 81(3) of Regulation (EU) No 648/2012 in accordance with Article 2 and pursuant to the timelines provided in Article 4 include the following data:

(a) the reports of derivatives reported in accordance with Tables 1, 2 and 3 of the Annex to Delegated Regulation (EU) [PO please insert reference to “Annex IV - Draft RTS on details of the reports to be reported to TRs under EMIR” under Annex IV of the present document], including the latest trade states of outstanding derivatives referred to in Article 1(4) of that Regulation,

(b) the relevant details of derivative reports rejected or warned by the trade repository during the previous working day and the reasons for their rejection as specified in RTS on under Article 78(10) EMIR.

(c) the reconciliation status of all derivatives for which the trade repository has carried out the reconciliation process in accordance with Article 3 of [PO please insert reference to “Annex VIII – RTS on procedures for ensuring data quality” under Annex VIII of this document].



3. A trade repository shall provide the entities that have several responsibilities or mandates under Article 81(3) of Regulation (EU) No 648/2012 with a single access point to the derivatives covered by those responsibilities and mandates.

4. A trade repository shall provide ESMA with access to all transaction data for derivatives to exercise competences in accordance with its responsibilities and mandates.

5. A trade repository shall provide the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Systemic Risk Board (ESRB) with access to all transaction data for derivatives.

6. A trade repository shall provide the Authority for the Cooperation of Energy Regulators (ACER) with access to all transaction data on derivatives where the underlying is an energy.

7. A trade repository shall provide an authority which supervises trading venues with access to all transaction data for derivatives executed on those trading venues.

8. A trade repository shall provide a supervisory authority designated pursuant to Article 4 of Directive 2004/25/EC with access to all transaction data on derivatives where the underlying is a security issued by a company that meets one or more of the following conditions:

(a) the company is admitted to trading on a regulated market established within the Member State of that authority and the takeover bids on the securities of that company fall under that authority's supervisory responsibilities and mandates;

(b) the company has its registered office or head office in the Member State of that authority and the takeover bids on the securities of that company fall under that authority's supervisory responsibilities and mandates;

(c) the company is an offeror as defined in Article 2(1)(c) of Directive 2004/25/EC for the companies as referred to in points (a) and (b) and the consideration it offers includes securities.

9. A trade repository shall provide an authority referred to in Article 81(3)(j) of Regulation (EU) No 648/2012 with access to all transaction data on derivatives for markets, contracts, underlyings, benchmarks and counterparties that fall under the supervisory responsibilities and mandates of that authority.

10. A trade repository shall provide a member of the ESCB whose Member State's currency is the euro with access to:

(a) all transaction data on derivatives where the reference entity of the derivative is established within the Member State of that ESCB member or within a Member State whose currency is the euro and falls within the scope of the member according to that member's supervisory responsibilities and mandates, or where the reference obligation is sovereign



debt of the Member State of that ESCB member or of a Member State whose currency is the euro;

(b) position data for derivatives contracts in euro.

11. A trade repository shall provide an authority listed in Article 81(3) of Regulation (EU) No 648/2012 that monitors systemic risks to financial stability and whose Member State's currency is the euro, with access to all transaction data on derivatives concluded on trading venues or by CCPs and counterparties that fall under the responsibilities and mandates of that authority when monitoring systemic risks to financial stability in the euro area.

12. A trade repository shall provide a member of the ESCB whose Member State's currency is not the euro with access to:

(a) all transaction level data on derivatives where the reference entity of the derivative is established within the Member State of that ESCB member and falls within the scope of the member according to that member's supervisory responsibilities and mandates, or where the reference obligation is sovereign debt of the Member State of that ESCB member;

(b) position data for derivatives in the currency issued by that member of the ESCB.

13. A trade repository shall provide an authority listed in Article 81(3) of Regulation (EU) No 648/2012 that monitors systemic risks to financial stability and whose Member State's currency is not the euro, with access to all transaction data on derivatives concluded on trading venues or by CCPs and counterparties that fall under the responsibilities and mandates of that authority when monitoring systemic risks to financial stability in a Member State whose currency is not the euro.

14. A trade repository shall provide the ECB, when carrying out its tasks within the single supervisory mechanism under Council Regulation (EU) No 1024/2013, with access to all transaction data on derivatives concluded by any counterparty which, within the single supervisory mechanism, is subject to the ECB's supervision pursuant to Council Regulation (EU) No 1024/2013 ( 1 ).

15. A trade repository shall provide a competent authority listed in points (o) and (p) of Article 81(3) of Regulation (EU) No 648/2012 with access to all transaction data on derivatives concluded by all counterparties that fall under the responsibilities and mandates of that authority.

16. A trade repository shall provide a resolution authority as referred to in point (m) of Article 81(3) of Regulation (EU) No 648/2012 with access to all transaction data on derivatives concluded by counterparties that fall under the responsibilities and mandates of that authority.

17. A trade repository shall provide the SRB with access to all transaction data on derivatives concluded by counterparties that fall under the scope of Regulation (EU) No 806/2014.

18. A trade repository shall provide an authority supervising a central counterparty (CCP), and the relevant member of the European System of Central Banks (ESCB) overseeing that CCP, where applicable, with access to all transaction data on derivatives cleared by that CCP.

(2) Article 3 is replaced as follows:

### **Article 3**

#### **Third country authorities**

1. In relation to a relevant authority of a third country that has entered into an international agreement with the Union as referred to in Article 75 of Regulation (EU) No 648/2012, a trade repository shall provide access to the data, taking account of the third country authority's mandate and responsibilities and in line with the provisions of the relevant international agreement.

2. In relation to a relevant authority of a third country that has entered into a cooperation arrangement with ESMA as referred to in Article 76 of Regulation (EU) No 648/2012, a trade repository shall provide access to the data, taking account of the third country authority's mandate and responsibilities and in line with the provisions of the relevant cooperation arrangement.

3. In relation to a relevant authority of a third country for which the Commission has adopted an implementing act determining that the legal framework fulfils the conditions provided in Article 76a(2) of Regulation (EU) No 648/2012, a trade repository shall provide access to the data, taking account of the third country authority's mandate and responsibilities.

(3) Article 4 is replaced as follows:

### **Article 4**

#### **Operational standards for aggregation and comparison of data and on access to data**

1. A trade repository shall record information regarding the access to data given to the entities listed in Article 81(3) of Regulation (EU) No 648/2012.

2. The information referred to in paragraph 1 shall include:



(a) the scope of data accessed;

(b) a reference to the legal provisions granting access to such data under Regulation (EU) No 648/2012 and this Regulation.

3. A trade repository shall establish and maintain the necessary technical arrangements to enable the entities listed in Article 81(3) of Regulation (EU) No 648/2012 to connect using a secure machine-to-machine interface in order to submit data requests and to receive data.

For the purposes of the first subparagraph, a trade repository shall use the SSH File Transfer Protocol. The trade repository shall use standardised XML messages developed in accordance with the ISO 20022 methodology to communicate through that interface. A trade repository may in addition, after agreement with the entity concerned, set up a connection using another mutually agreed protocol.

4. A trade repository shall establish and maintain the necessary technical arrangements to enable the entities listed in Article 81(3) of Regulation (EU) No 648/2012 to establish predefined periodic requests to access details of derivatives contracts, as determined in paragraph 4, necessary for those entities to fulfil their responsibilities and mandates.

5. Upon request, a trade repository shall provide the entities listed in Article 81(3) of Regulation (EU) No 648/2012 with access to details of derivatives contracts according to any combination of the following fields as referred to in the Annex to Implementing Regulation (EU) No [PO please insert reference to “Annex V - Draft ITS on standards, formats, frequency and methods and arrangements for reporting to TRs under EMIR” under Annex V of the present document]:

(a) reporting timestamp;

(b) counterparty 1;

(c) counterparty 2;

(d) entity responsible for reporting

(e) corporate sector of the counterparty 1;

(f) nature of the counterparty 1;

(g) broker ID;

(h) report submitting entity ID;

(i) beneficiary 1 identifier type;

(j) asset class;



- (k) product classification
  - (l) contract type;
  - (m) ISIN
  - (n) Unique Product Identifier (UPI);
  - (o) underlying identification;
  - (p) venue of execution;
  - (r) execution timestamp;
  - (s) effective date
  - (t) valuation timestamp
  - (u) expiration date;
  - (v) early termination date;
  - (w) CCP;
  - (x) clearing member;
  - (y) level;
  - (z) action type;
- and
- (aa) event type.

6. A trade repository shall establish and maintain the technical capability to provide direct and immediate access to details of derivatives contracts necessary for the entities listed in Article 81(3) of Regulation (EU) No 648/2012 to fulfil their mandates and responsibilities. That access shall be provided as follows:

(a) where an entity listed in Article 81(3) of Regulation (EU) No 648/2012 requests access to details of outstanding derivatives or of derivatives which have either matured or for which reports with action types 'E', 'C' or 'P' as referred to in field 149 in Table 2 of the Annex to Implementing Regulation (EU) No [PO please insert reference to "Annex V - Draft ITS on standards, formats, frequency and methods and arrangements for reporting to TRs under EMIR" under Annex V of the present document] were made or were subject to a report with Action type [Revive] not followed by a report Action type "E" or "C" not more than one year before the date on which the request was submitted, a trade repository shall fulfil that

request no later than 12:00 Universal Coordinated Time on the first calendar day following the day on which the request to access is submitted.

(b) where an entity listed in Article 81(3) of Regulation (EU) No 648/2012 requests access to details of derivatives which have either matured or for which reports with action types 'E', 'C' or 'P' as referred to in field 149 in Table 2 of the Annex to Implementing Regulation (EU) No [PO please insert reference to "Annex V - Draft ITS on standards, formats, frequency and methods and arrangements for reporting to TRs under EMIR" under Annex V of the present document] were made or were subject to a report with Action type [Revive] not followed by a report Action type "E" or "C" more than one year before the date on which the request was submitted, a trade repository shall fulfil that request no later than three working days after the request to access is submitted.

(c) where a request to access data by an entity listed in Article 81(3) of Regulation (EU) No 648/2012 relates to derivatives falling under both points (a) and (b), the trade repository shall provide details of those derivatives no later than three working days after that request to access is submitted.

7. A trade repository shall confirm receipt and verify the correctness and completeness of any request to access data submitted by the entities listed in Article 81(3) of Regulation (EU) No 648/2012. It shall notify those entities of the result of that verification no later than sixty minutes after the submission of the request.

8. A trade repository shall use electronic signature and data encryption protocols to ensure the confidentiality, integrity, and protection of the data made available to the entities listed in Article 81(3) of Regulation (EU) No 648/2012.

(4) Article 5 is replaced as follows:

## **Article 5**

### **Granting access to details of derivatives transactions.**

1. A trade repository shall:

(a) designate a person or persons responsible for liaising with the entities listed in Article 81(3) of Regulation (EU) 648/2012;

(b) publish on its website the instructions that the entities listed in Article 81(3) of Regulation (EU) 648/2012 are to follow to access details of derivatives transactions;

(c) provide the entities listed in Article 81(3) of Regulation (EU) 648/2012 with a form as referred to in paragraph 2;

(d) grant access to details of derivatives transactions by the entities listed in Article 81(3) of Regulation (EU) 648/2012 only based on information contained in the form provided;

(e) set up the technical arrangements necessary for the entities listed in entities listed in Article 81(3) of Regulation (EU) 648/2012 to access derivatives transactions' details in accordance with paragraph 2.

(f) grant the entities listed in Article 81(3) of Regulation (EU) 648/2012 with direct and immediate access to details of derivatives transactions within thirty calendar days after that entity submitted a request for setting up such access;

2. A trade repository shall prepare a form to be used by the entities listed in Article 81(3) of Regulation (EU) 648/2012 when submitting a request for granting access to details of derivatives transactions. That form that shall contain the following entries:

(a) the name of the entity;

(b) the contact person at the entity;

(c) the entity's legal responsibilities and mandates;

(d) a list of authorised users of the requested details of derivatives;

(e) credentials for a secure SSH FTP connection;

(f) any other technical information relevant to the entity's access to details of derivatives.

(g) whether the entity is competent for counterparties in its Member State, the euro area or the Union;

(h) the types of counterparties for which the entity is competent as per the classification in Table 1 of Annex I to [PO please insert reference to "Annex V - Draft ITS on standards, formats, frequency and methods and arrangements for reporting to TRs under EMIR" under Annex V of the present document];

(i) the types derivatives transactions that are supervised by the entity;

(l) the trading venues that are supervised by the entity, if any;

(m) the CCPs that are supervised or overseen by the entity, if any;

(n) the currency that is issued by the entity, if any;

(o) the benchmarks used in the Union, the administrator of which the entity is competent for, if any."





## **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.