
Status: Point in time view as at 01/11/2017.

Changes to legislation: Commission Implementing Regulation (EU) No 1247/2012, Introductory Text is up to date with all changes known to be in force on or before 29 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)EUR 2012 No. 1247 may be subject to amendment by EU Exit Instruments made by both the Financial Conduct Authority and the Bank of England under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 5. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details)

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)

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.

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- (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 Authority)⁽³⁾ 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:

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(1) Not yet published in the Official Journal

(2) OJ L 201, 27.7.2012.

(3) OJ L 331, 15.12.2010, p.84.

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