

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 (Text with EEA relevance)

TITLE VII

REQUIREMENTS FOR TRADE REPOSITORIES

Article 78

General requirements

1 A trade repository shall have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility and adequate internal control mechanisms, including sound administrative and accounting procedures, which prevent any disclosure of confidential information.

2 A trade repository shall maintain and operate effective written organisational and administrative arrangements to identify and manage any potential conflicts of interest concerning its managers, employees, or any person directly or indirectly linked to them by close links.

3 A trade repository shall establish adequate policies and procedures sufficient to ensure its compliance, including of its managers and employees, with all the provisions of this Regulation.

4 A trade repository shall maintain and operate an adequate organisational structure to ensure continuity and orderly functioning of the trade repository in the performance of its services and activities. It shall employ appropriate and proportionate systems, resources and procedures.

5 Where a trade repository offers ancillary services such as trade confirmation, trade matching, credit event servicing, portfolio reconciliation or portfolio compression services, the trade repository shall maintain those ancillary services operationally separate from the trade repository's function of centrally collecting and maintaining records of derivatives.

6 The senior management and members of the board of a trade repository shall be of sufficiently good repute and experience so as to ensure the sound and prudent management of the trade repository.

7 A trade repository shall have objective, non-discriminatory and publicly disclosed requirements for access by undertakings subject to the reporting obligation under Article 9. A trade repository shall grant service providers non-discriminatory access to information maintained by the trade repository, on condition that the relevant counterparties have provided their consent. Criteria that restrict access shall only be permitted to the extent that their objective is to control the risk to the data maintained by a trade repository.

8 A trade repository shall publicly disclose the prices and fees associated with services provided under this Regulation. It shall disclose the prices and fees of each service provided separately, including discounts and rebates and the conditions to benefit from those reductions. It shall allow reporting entities to access specific services separately. The prices and fees charged by a trade repository shall be cost-related.

Changes to legislation: Regulation (EU) No 648/2012 of the European Parliament and of the Council, TITLE VII is up to date with all changes known to be in force on or before 06 June 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) [View outstanding changes](#)

- [^{F19} A trade repository must establish the following procedures and policies—
- a procedures for the effective reconciliation of data between trade repositories;
 - b procedures to verify the completeness and correctness of the data reported;
 - c policies for the orderly transfer of data to other trade repositories where requested by the counterparties or CCPs referred to in Article 9 or where otherwise necessary.
- 10 The FCA may make rules applying to trade repositories relating to—
- a procedures described in paragraph 9(a) and (b),
 - b procedures to be applied to verify compliance by counterparties and CCPs with the reporting obligation under Article 9, and
 - c policies described in paragraph 9(c).]

Textual Amendments

F1 [Art. 78\(9\)\(10\)](#) inserted (1.7.2021) by [Financial Services Act 2021 \(c. 22\)](#), **ss. 40(3)**, [49\(5\)](#) (with [s. 40\(5\)](#)); [S.I. 2021/739](#), [reg. 3\(v\)](#)

Modifications etc. (not altering text)

C1 [Arts. 78-80](#) modified (30.1.2024 for specified purposes) by [The Securitisation Regulations 2024 \(S.I. 2024/102\)](#), [regs. 2\(1\)\(e\)\(2\)](#), **14(4)** (with [Sch. 3](#))

Article 79

Operational reliability

1 A trade repository shall identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures. Such systems shall be reliable and secure and have adequate capacity to handle the information received.

2 A trade repository shall establish, implement and maintain an adequate business continuity policy and disaster recovery plan aiming at ensuring the maintenance of its functions, the timely recovery of operations and the fulfilment of the trade repository's obligations. Such a plan shall at least provide for the establishment of backup facilities.

3 A trade repository from which registration has been withdrawn shall ensure orderly substitution including the transfer of data to other trade repositories and the redirection of reporting flows to other trade repositories.

Modifications etc. (not altering text)

C1 [Arts. 78-80](#) modified (30.1.2024 for specified purposes) by [The Securitisation Regulations 2024 \(S.I. 2024/102\)](#), [regs. 2\(1\)\(e\)\(2\)](#), **14(4)** (with [Sch. 3](#))

Article 80

Safeguarding and recording

1 A trade repository shall ensure the confidentiality, integrity and protection of the information received under Article 9.

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2 A trade repository may only use the data it receives under this Regulation for commercial purposes if the relevant counterparties have provided their consent.

3 A trade repository shall promptly record the information received under Article 9 and shall maintain it for at least 10 years following the termination of the relevant contracts. It shall employ timely and efficient record keeping procedures to document changes to recorded information.

4 A trade repository shall calculate the positions by class of derivatives and by reporting entity based on the details of the derivative contracts reported in accordance with Article 9.

5 A trade repository shall allow the parties to a contract to access and correct the information on that contract in a timely manner.

[^{F2}5a Upon request, a trade repository shall provide counterparties that are not required to report the details of their OTC derivative contracts pursuant to Article 9(1a) to (1d) and counterparties and CCPs which have delegated their reporting obligation pursuant to Article 9(1f) with access to the information reported on their behalf.]

6 A trade repository shall take all reasonable steps to prevent any misuse of the information maintained in its systems.

A natural person who has a close link with a trade repository or a legal person that has a parent undertaking or a subsidiary relationship with the trade repository shall not use confidential information recorded in a trade repository for commercial purposes.

Textual Amendments

F2 Inserted by [Regulation \(EU\) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation \(EU\) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories \(Text with EEA relevance\).](#)

Modifications etc. (not altering text)

C1 [Arts. 78-80 modified \(30.1.2024 for specified purposes\) by The Securitisation Regulations 2024 \(S.I. 2024/102\), regs. 2\(1\)\(e\)\(2\), 14\(4\) \(with Sch. 3\)](#)

Article 81

Transparency and data availability

1 A trade repository shall regularly, and in an easily accessible way, publish aggregate positions by class of derivatives on the contracts reported to it.

2 A trade repository shall collect and maintain data and shall ensure that the entities referred to in paragraph 3 have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.

[^{F3}3 A trade repository shall make the necessary information available to the following entities to enable them to fulfil their respective responsibilities and mandates:

- [^{F4}a the FCA;
- b the Bank of England;
- c the Pensions Regulator;]

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- [^{F5}d) the relevant authorities of a third country where the third country is recognised by regulations made by the Treasury as one in which the arrangements for trade repositories are equivalent to those in the United Kingdom (in accordance with paragraph 1 of Article 75);
- e) the relevant authorities of a third country that has entered into a cooperation arrangement with the FCA as referred to in Article 76;]
- [^{F6}f) the relevant authorities of a third country in respect of which the Treasury has made regulations under Article 76a;]
- [^{F7}g) the body known as the Panel on Takeovers and Mergers;
- h) the PRA.]

[^{F8}A trade repository shall transmit data to competent authorities in accordance with the requirements under Article 26 of Regulation (EU) No 600/2014 ⁽¹⁾ .]]

^{F9}4

- [^{F10}5 [^{F11}The FCA may make] technical standards specifying the following:
 - a the information to be published or made available in accordance with paragraphs 1 and 3;
 - b the frequency of publication of the information referred to in paragraph 1;
 - c the operational standards required to aggregate and compare data across trade repositories and for the entities referred to in paragraph 3 to access that information;
 - d the terms and conditions, the arrangements and the required documentation under which trade repositories grant access to the entities referred to in paragraph 3.

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^{F12} ...

^{F12} ...]

Textual Amendments

- F3** Substituted by Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (Text with EEA relevance).
- F4** Art. 81(3)(a)-(c) substituted for Art. 81(3)(a)-(q) (31.12.2020) by The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1318), regs. 1(3), **3(a)** (as amended by S.I. 2019/1416, regs. 1(2), 8(a) and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Art. 81(3)(d)(e) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(15)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Art. 81(3)(f) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/1416), regs. 1(3), **33(a)** (with savings in S.I. 2019/680, **reg. 11** as amended by S.I. 2020/628, regs. 1(3), **13(2)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F7** Art. 81(3)(g)(h) inserted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2020 (S.I. 2020/646), regs. 1(3), **30** (as amended by S.I. 2020/1385, regs. 1(4), **69(3)**) (with savings in S.I. 2019/680, **reg. 11** as amended by S.I. 2020/646, **reg. 12**)

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- F8** Inserted by Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (Text with EEA relevance).
- F9** Art. 81(4) omitted (31.12.2020) by virtue of The Trade Repositories (Amendment and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1318), regs. 1(3), **3(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Substituted by Regulation (EU) 2019/834 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (Text with EEA relevance).
- F11** Words in Art. 81(5) substituted (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/1416), regs. 1(3), **33(b)(i)** (with savings in S.I. 2019/680, **reg. 11** as amended by S.I. 2020/628, regs. 1(3), **13(2)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F12** Words in Art. 81(5) omitted (31.12.2020) by virtue of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/1416), regs. 1(3), **33(b)(ii)** (with savings in S.I. 2019/680, **reg. 11** as amended by S.I. 2020/628, regs. 1(3), **13(2)**); 2020 c. 1, **Sch. 5 para. 1(1)**

^{F13}Article 82

Exercise of the delegation

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Textual Amendments

- F13** Art. 82 omitted (31.12.2020) by virtue of The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **56(16)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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- (1) [^{F3} [^{F8} Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).]]

Textual Amendments

- F3** Substituted by Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (Text with EEA relevance).
- F8** Inserted by Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (Text with EEA relevance).

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 1](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Art. 2(30)-(33) inserted by [S.I. 2018/1184 reg. 7](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1184, reg. 7 substituted (1.3.2019) by The Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019 (S.I. 2019/405), regs. 1(2), 9)
- Art. 4(1)(a)(v) words substituted by [S.I. 2019/335 reg. 14\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 14(2)(a) substituted (30.10.2019) by S.I. 2019/1416, regs. 1(2), 14(a))
- Art. 4(1)(a)(iv) words substituted by [S.I. 2019/335 reg. 14\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 14(2)(a) substituted (30.10.2019) by S.I. 2019/1416, regs. 1(2), 14(a))
- Art. 4(1)(b)(ii) words substituted by [S.I. 2019/335 reg. 14\(2\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 14(2)(b) omitted (30.10.2019) by virtue of S.I. 2019/1416, regs. 1(2), 14(b))
- Art. 4(1)(b)(ii) words substituted by [S.I. 2019/335 reg. 14\(2\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 14(2)(b) omitted (30.10.2019) by virtue of S.I. 2019/1416, regs. 1(2), 14(b))
- Art. 10(1)(a) word omitted by [S.I. 2019/335 reg. 20\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 20(2) substituted (30.10.2019) by S.I. 2019/1416, regs. 1(2), 17(a))
- Art. 10(1)(a) words omitted by [S.I. 2019/335 reg. 20\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 20(2) substituted (30.10.2019) by S.I. 2019/1416, regs. 1(2), 17(a))
- Art. 25(6A) inserted by [S.I. 2018/1184 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8 omitted (25.6.2020) by virtue of S.I. 2020/646, regs. 1(2)(c), 4(3))
- Art. 25(7)(c) words substituted by [S.I. 2018/1184 reg. 8\(10\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8 omitted (25.6.2020) by virtue of S.I. 2020/646, regs. 1(2)(c), 4(3))