

Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Text with EEA relevance)

CHAPTER IV

**RECORD KEEPING**

**(Article 29 of Regulation (EU) No 648/2012)**

*Article 12*

**General requirements**

1 A CCP shall keep records in a durable medium that allows information to be provided to the competent authorities, ESMA and relevant European System of Central Banks (ESCB) members, and in such a form and manner that the following conditions are met:

- a each key stage of the processing by the CCP may be reconstituted;
- b the original content of a record before any corrections or other amendments may be recorded, traced and retrieved;
- c measures to prevent unauthorised alteration of records are in place;
- d security and confidentiality of the data recorded are ensured through appropriate measures;
- e a mechanism for identifying and correcting errors is incorporated in the record keeping system;
- f the timely recovery of the records in the case of a system failure is ensured within the record keeping system.

2 Where records or information are less than six months old, they shall be provided to the authorities listed in paragraph 1 as soon as possible and at the latest by the end of the following business day following a request from the relevant authority.

3 Where records or information are older than six months, shall be provided to the authorities listed in paragraph 1 as soon as possible and within five business days following a request from the relevant authority.

4 Where the records processed by the CCP contain personal data CCPs shall have regard to their obligations under Directive 95/46/EC of the European Parliament and of the Council<sup>(1)</sup> and Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>(2)</sup>.

5 Where a CCP maintains records outside the Union, it shall ensure that the competent authority, ESMA and the relevant members of the ESCB are able to access the records to the same extent and within the same periods as if they were maintained within the Union.

6 Each CCP shall name the relevant persons who can, within the delay established in paragraphs 2 and 3 for the provision of the relevant records, explain the content of its records to the competent authorities.

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7 All records required to be kept by a CCP under this Regulation shall be open to inspection by the competent authority. A CCP shall provide the competent authority with a direct data feed to the records required under Articles 13 and 14, when requested.

### Article 13

#### Transaction records

1 A CCP shall maintain records of all transactions in all contracts it clears and shall ensure that its records include all information necessary to conduct a comprehensive and accurate reconstruction of the clearing process for each contract and that each record on each transaction is uniquely identifiable and searchable at least by all fields concerning the CCP, interoperable CCP, clearing member, client, if known to the CCP, and financial instrument.

2 In relation to every transaction received for clearing, a CCP shall, immediately upon receiving the relevant information, make and keep updated a record of the following details:

- a the price, rate or spread and quantity;
- b the clearing capacity, which identifies whether the transaction was a buy or sale from the perspective of the CCP recording;
- c the instrument identification;
- d the identification of the clearing member;
- e the identification of the venue where the contract was concluded;
- f the date and time of interposition of the CCP;
- g the date and time of termination of the contract;
- h the terms and modality of settlement;
- i the date and time of settlement or of buy-in of the transaction and to the extent they are applicable of the following details:
  - (i) the day and the time at which the contract was originally concluded;
  - (ii) the original terms and parties of the contract;
  - (iii) the identification of the interoperable CCP clearing one leg of the transaction, where applicable;
  - (iv) the identity of the client, including any indirect client, where known to the CCP, and in case of a give-up, the identification of the party that transferred the contract.

### Article 14

#### Position records

1 A CCP shall maintain records of positions held by each clearing member. Separate records shall be held for each account kept in accordance with Article 39 of Regulation (EU) No 648/2012 and the CCP shall ensure that its records include all information necessary to conduct a comprehensive and accurate reconstruction of the transactions that established the position and that each record is identifiable and searchable at least by all fields concerning the CCP, interoperable CCP, clearing member, client, if known to the CCP, and financial instrument.

2 At the end of each business day a CCP shall make a record in relation to each position including the following details, to the extent they are linked to the position in question:

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- a the identification of the clearing member, of the client, if known to the CCP, and of any interoperable CCP maintaining such position, where applicable;
- b the sign of the position;
- c the daily calculation of the value of the position with records of the prices at which the contracts are valued, and of any other relevant information.

3 A CCP shall make, and keep updated, a record of the amounts of margins, default fund contributions and other financial resources referred to in Article 43 of Regulation (EU) No 648/2012, called by the CCP and the corresponding amount actually posted by the clearing member at the end of day and changes to that amount that may occur intraday, with respect to each single clearing member and client account if known to the CCP.

## Article 15

### Business records

1 A CCP shall maintain adequate and orderly records of activities related to its business and internal organisation.

2 The records referred to in paragraph 1 shall be made each time a material change in the relevant documents occurs and shall include at least:

- a the organisational charts for the board and relevant committees, clearing unit, risk management unit, and all other relevant units or divisions;
- b the identities of the shareholders or members, whether direct or indirect, natural or legal persons, that have qualifying holdings and the amounts of those holdings;
- c the documents attesting the policies, procedures and processes required under Chapter III and Article 29;
- d the minutes of board meetings and, if applicable, of meetings of sub-committees of the board and of senior management committees;
- e the minutes of meetings of the risk committee;
- f the minutes of consultation groups with clearing members and clients, if any;
- g internal and external audit reports, risk management reports, compliance reports, and reports by consultant companies, including management responses;
- h the business continuity policy and disaster recovery plan, required under Article 17;
- i the liquidity plan and the daily liquidity reports, required under Article 32;
- j records reflecting all assets and liabilities and capital accounts as required under Article 16 of Regulation (EU) No 648/2012;
- k complaints received, with information on the complainant's name, address, and account number; the date the complaint was received; the name of all persons identified in the complaint; a description of the nature of the complaint; the disposition of the complaint, and the date the complaint was resolved;
- l records of any interruption of services or dysfunction, including a detailed report on the timing, effects and remedial actions;
- m records of the results of the back and stress tests performed;
- n written communications with competent authorities, ESMA and the relevant members of the ESCB;
- o legal opinions received in accordance with Chapter III;
- p where applicable, documentation regarding interoperability arrangements with other CCPs;
- q the information under Article 10(1)(b)(vii) and (1)(d);

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r the relevant documents describing the development of new business initiatives.

### Article 16

#### Records of data reported to a trade repository

A CCP shall identify and retain all information and data required to be reported in accordance with Article 9 of Regulation (EU) No 648/2012, along with a record of the date and time the transaction is reported.

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- (1) OJ L 281, 23.11.1995, p. 31.
- (2) OJ L 8, 12.1.2001, p. 1.

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