

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)

CHAPTER VII

RELATIONSHIP WITH THIRD COUNTRIES

Article 19

Equivalence and recognition of trade repositories

- 1 The Commission may adopt implementing acts determining that the legal and supervisory arrangements of a third country ensure that:
- a trade repositories authorised in that third country comply with legally binding requirements which are equivalent to those laid down in this Regulation;
 - b effective supervision of trade repositories and effective enforcement of their obligations takes place in that third country on an ongoing basis;
 - c guarantees of professional secrecy exist, including the protection of business secrets shared with third parties by the authorities, and those guarantees are at least equivalent to those laid down in this Regulation; and
 - d trade repositories authorised in that third country are subject to a legally binding and enforceable obligation to give direct and immediate access to the data to the entities referred to in Article 12(2).

The implementing act referred to in the first subparagraph shall also specify the relevant third-country authorities that are entitled to access the data on SFTs held in trade repositories established in the Union.

The implementing act referred to in the first subparagraph of this paragraph shall be adopted in accordance with the examination procedure referred to in Article 31(2).

2 Where trade repositories authorised in a third country are not subject to a legally binding and enforceable obligation under the law of that third country to give direct and immediate access to the data to the entities referred to in Article 12(2), the Commission shall submit recommendations to the Council for the negotiation of international agreements with that third country regarding mutual access to, and exchange of, information on SFTs held in trade repositories which are established in that third country, in order to ensure that all of the entities referred to in Article 12(2) have direct and immediate access to all of the information needed for the exercise of their duties.

3 A trade repository established in a third country may provide its services and activities to entities established in the Union for the purposes of Article 4 only after its recognition by ESMA in accordance with the requirements laid down in paragraph 4 of this Article.

4 A trade repository referred to in paragraph 3 shall submit to ESMA either of the following:

- a an application for recognition;

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- b an application for extension of the registration for the purposes of Article 4 of this Regulation in the case of a trade repository already recognised in accordance with Regulation (EU) No 648/2012.

5 An application as referred to in paragraph 4 shall be accompanied by all necessary information, including at least the information necessary to verify that the trade repository is authorised and subject to effective supervision in a third country which satisfies all of the following criteria:

- a the Commission has determined, by means of an implementing act pursuant to paragraph 1, that the third country has an equivalent and enforceable regulatory and supervisory framework;
- b the relevant authorities of the third country have entered into cooperation arrangements with ESMA specifying at least:
 - (i) a mechanism for the exchange of information between ESMA and any other Union authority that exercises responsibilities as a result of any delegation of tasks pursuant to Article 9(1) on the one hand and the relevant competent authorities of the third country concerned on the other; and
 - (ii) procedures concerning the coordination of supervisory activities.

ESMA shall apply Regulation (EC) No 45/2001 with regard to the transfer of personal data to a third country.

6 Within 30 working days of receipt of the application, ESMA shall assess whether the application is complete. If ESMA determines that the application is not complete, it shall set a deadline by which the applicant trade repository is to provide additional information.

7 Within 180 working days of the submission of a complete application, ESMA shall inform the applicant trade repository in writing with a fully reasoned explanation whether the recognition has been granted or refused.

8 ESMA shall publish on its website a list of the trade repositories recognised in accordance with this Article.

Article 20

Indirect access to data between authorities

ESMA may conclude cooperation arrangements with relevant authorities of third countries that need to fulfil their respective responsibilities and mandates regarding mutual exchange of information on SFTs made available to ESMA by Union trade repositories in accordance with Article 12(2) and on SFT data collected and maintained by third-country authorities, provided that guarantees of professional secrecy exist, including with regard to the protection of business secrets shared by the authorities with third parties.

Article 21

Equivalence of reporting

1 The Commission may adopt implementing acts determining that the legal, supervisory and enforcement arrangements of a third country:

- a are equivalent to the requirements laid down in Article 4;

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- b ensure protection of professional secrecy equivalent to that laid down in this Regulation;
- c are being effectively applied and enforced in an equitable and non-distortive manner in order to ensure effective supervision and enforcement in that third country; and
- d ensure that the entities referred to in Article 12(2) have either direct access to the details on SFT data pursuant to Article 19(1) or indirect access to the details on SFTs pursuant to Article 20.

2 Where the Commission has adopted an implementing act on equivalence with regard to a third country, as referred to in paragraph 1 of this Article, counterparties entering into a transaction subject to this Regulation shall be deemed to have fulfilled the requirements laid down in Article 4 where at least one of the counterparties is established in that third country and the counterparties have complied with the relevant obligations of that third country in relation to that transaction.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 31(2).

The Commission shall, in cooperation with ESMA, monitor the effective implementation by third countries for which an implementing act on equivalence has been adopted of the requirements equivalent to those laid down in Article 4 and report regularly to the European Parliament and to the Council. Where the report reveals an insufficient or inconsistent application of the equivalent requirements by third-country authorities, the Commission shall consider, within 30 calendar days of the presentation of the report, whether to withdraw the recognition as equivalent of the third-country legal framework in question.

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulation power to modify conferred by [2023 c. 29 s. 3 Sch. 1 Pt. 1](#)
- 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(1)(b) substituted by [S.I. 2019/542 reg. 6\(a\)\(i\)](#)
- Art. 2(1)(c) words substituted by [S.I. 2019/542 reg. 6\(a\)\(ii\)](#)
- Art. 2(2)(a) substituted by [S.I. 2019/542 reg. 6\(b\)](#)
- Art. 3(3)(a)-(g) substituted for Art. 3(3)(a)-(h) by [S.I. 2019/542 reg. 7\(a\)](#)
- Art. 3(3)(a) words substituted in earlier amending provision [S.I. 2019/542, reg. 7\(a\)](#) by [S.I. 2020/1301 reg. 3Sch. para. 30\(a\)](#)
- Art. 3(3)(g) words inserted in earlier affecting provision [S.I. 2019/542, reg. 7\(a\)](#) by [S.I. 2020/646 reg. 8](#)
- Art. 3(3)(g) words substituted in earlier amending provision [S.I. 2019/542, reg. 7\(a\)](#) by [S.I. 2020/1385 reg. 56\(2\)](#)
- Art. 3(3)(h) inserted by [S.I. 2020/1385 reg. 75](#)
- Art. 3(12) words substituted by [S.I. 2019/542 reg. 7\(b\)](#)
- Art. 3(13) words substituted by [S.I. 2019/542 reg. 7\(c\)](#)
- Art. 3(14) words substituted by [S.I. 2019/542 reg. 7\(d\)](#)
- Art. 3(16) words substituted by [S.I. 2019/542 reg. 7\(e\)](#)
- Art. 3(19)-(32) inserted by [S.I. 2019/542 reg. 7\(f\)](#)
- Art. 3(30)(32) words substituted in earlier amending provision [S.I. 2019/542, reg. 7\(f\)](#) by [S.I. 2020/1301 reg. 3Sch. para. 30\(f\)](#)
- Art. 4(5)(5a) substituted for Art. 4(5) by [S.I. 2019/542 reg. 8\(a\)](#)
- Art. 1010a10b substituted for Art. 10 by [S.I. 2019/542 reg. 13](#)
- Art. 12(2)(b) substituted by [S.I. 2019/542 reg. 15\(a\)\(i\)](#)
- Art. 12(2)(c) substituted by [S.I. 2019/542 reg. 15\(a\)\(ii\)](#)
- Art. 12(2)(d) substituted by [S.I. 2019/542 reg. 15\(a\)\(iii\)](#)
- Art. 12(2)(e) omitted by [S.I. 2019/542 reg. 15\(a\)\(iv\)](#)
- Art. 12(2)(e) substituted for Art. 12(2)(h) by [S.I. 2019/542 reg. 15\(a\)\(vi\)](#)
- Art. 12(2)(f) omitted by [S.I. 2019/542 reg. 15\(a\)\(iv\)](#)
- Art. 12(2)(g) words substituted by [S.I. 2019/542 reg. 15\(a\)\(v\)](#)
- Art. 12(2)(i)-(m) omitted by [S.I. 2019/542 reg. 15\(a\)\(vii\)](#)
- Art. 13(1)(a) words substituted by [S.I. 2019/542 reg. 16\(a\)\(i\)](#)
- Art. 13(1)(b) words substituted by [S.I. 2019/542 reg. 16\(a\)\(ii\)](#)
- Art. 19(1)(a) words inserted by [S.I. 2019/542 reg. 21\(b\)\(ii\)](#)
- Art. 19(1)(d) omitted by [S.I. 2019/542 reg. 21\(b\)\(iii\)](#)
- Art. 19(5)(a) word substituted by [S.I. 2019/542 reg. 21\(d\)\(i\)](#)
- Art. 19(5)(b)(i) words omitted by [S.I. 2019/542 reg. 21\(d\)\(ii\)](#)