Commission Delegated Regulation (EU) 2017/1800 of 29 June 2017 amending Delegated Regulation (EU) No 151/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2017/1800

of 29 June 2017

amending Delegated Regulation (EU) No 151/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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[(1)], and in particular Article 81(5) thereof,

Whereas:

(1) The application of Commission Delegated Regulation (EU) No 151/2013[(2)] has demonstrated that the lack of specific standards for data access and data aggregation and comparison leads to structural deficiencies. The lack of standardised data, uniform functionality, and a standardised message format has impeded the direct and immediate access to data and, consequently, prevented the entities referred to in Article 81(3) of Regulation (EU) No 648/2012 from effectively assessing systemic risk and thereby fulfilling their respective responsibilities and mandates.

(2) In order to remedy those impediments, it is necessary to amend Delegated Regulation (EU) No 151/2013 by further specifying the operational standards required to aggregate and compare data across trade repositories so as to ensure that the entities referred to in Article 81(3) of Regulation (EU) No 648/2012 are able to access the information necessary to fulfil their respective responsibilities and mandates.

(3) In order to enable the effective and efficient comparison and aggregation of data across trade repositories, XML format templates and XML messages developed in accordance with ISO 20022 methodology should be used for access to data and for communication between the entities referred to in Article 81(3) of Regulation (EU) No 648/2012 and the trade repositories. This should not exclude the possibility that trade repositories and the relevant entities may agree amongst themselves to provide access or to communicate using a different format in addition to XML.

(4) The XML format templates should be used to provide data to the relevant entities in a manner which facilitates its aggregation, while the XML messages should be used to streamline the data-exchange process between the trade repositories and the relevant entities. Delegated Regulation (EU) No 151/2013 does not exclude the additional

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1800. (See end of Document for details)*

separate use of non-XML format templates, such as comma separated values (csv) or text (txt) files, to the extent that they allow the relevant entities to fulfil their responsibilities and mandates. Trade repositories should therefore be permitted to continue to use those formats in addition to, but never as a substitute for, the use of the XML format templates. At a minimum, XML format templates and XML messages based on the ISO 20022 methodology should be used for all output reports and exchanges to ensure comparability and aggregation of data across trade repositories.

(5) Entities listed in Article 81(3) of Regulation (EU) No 648/2012 are able to delegate tasks and responsibilities to ESMA under Article 28 of Regulation (EU) No 1095/2010[3], including access to data reported to trade repositories. The use of such delegation should not in any way affect the obligation of trade repositories to grant entities listed in Article 81(3) of Regulation (EU) No 648/2012 direct and immediate access to the that data.

(6) In order to ensure confidentiality, any type of data exchange between trade repositories and the relevant entities should be carried out through a secure machine-to-machine connection and by using data encryption protocols. To ensure minimum common standards, an SSH File Transfer Protocol (SFTP) should be used between the trade repositories and the entities listed in Article 81(3) of Regulation (EU) No 648/2012. This should not exclude the possibility that trade repositories and the relevant entities may agree amongst themselves to establish secure machine-to-machine connection using an additional, separate channel to the SFTP. Trade repositories should therefore be permitted to continue to use other secure machine-to-machine connections in addition to, but never as a substitute for, the use of SFTP.

(7) Data concerning the latest trade state of derivatives contracts with open interest is essential for monitoring financial stability and systemic risk. Therefore, the relevant entities should have access to that data.

(8) It is essential to facilitate the direct and immediate access to specific datasets and thus to establish a set of combinable ad-hoc requests referring to the parties to the trade, the economic terms, the derivatives contract classification and identification, the time horizon of execution, reporting and maturity, as well as the business and life-cycle events.

(9) The deadlines by which data is provided to the relevant entities by trade repositories should be harmonised to improve the direct and immediate access to trade repository data and allow the relevant entities and the trade repositories to improve the scheduling of their internal data processes.

(10) Therefore, Delegated Regulation (EU) No 151/2013 should be amended in order to further specify and improve the operational framework for accessing, aggregating, and comparing data across trade repositories.

(11) The application of the provisions laid down in this Delegated Regulation should be deferred in order to facilitate the adaptations of systems by trade repositories to the specifications laid down in this Delegated Regulation.

(12) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority to the Commission.

(13) In accordance with Article 10 of Regulation (EU) No 1095/2010, ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based and analysed the potential related costs and benefits. These public consultations allowed ESMA to obtain views of the relevant authorities and the members of the European System of Central Banks (ESCB) which were presented by the ECB. In addition, ESMA requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) No 151/2013

1 Article 4 is amended as follows:

a Paragraph 1 is replaced by the following:

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 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. A trade repository may in addition, after agreement with the entity concerned, provide access to details of derivatives contracts in another mutually agreed format.

b Paragraph 2 is deleted.

2 In Article 5, the following paragraphs 3 to 9 are added:

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 In accordance with Articles 2 and 3 of this Regulation, a trade repository shall provide the entities listed in Article 81(3) of Regulation (EU) No 648/2012 with access to the following information:

a all reports on derivatives contracts;

b the latest trade states of derivatives contracts that have not matured or which have not been the subject of a report with Action type “E”, “C”, “P” or “Z” as referred to in field 93 in Table 2 of the Annex to Commission Implementing Regulation (EU) No 1247/2012[(4)].

5 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