***Changes to legislation:*** *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2016/1712. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2016 No. 1712 may be subject to amendment by EU Exit Instruments made by 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. 3. 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) View outstanding changes*

# Commission Delegated Regulation (EU) 2016/1712 of 7 June 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms with regard to regulatory technical standards specifying a minimum set of the information on financial contracts that should be contained in the detailed records and the circumstances in which the requirement should be imposed (Text with EEA relevance)

## COMMISSION DELEGATED REGULATION (EU) 2016/1712

## of 7 June 2016

## supplementing Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms with regard to regulatory technical standards specifying a minimum set of the information on financial contracts that should be contained in the detailed records and the circumstances in which the requirement should be imposed

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council[(1)], and in particular Article 71(8) thereof,

Whereas:

(1) In order to ensure that competent authorities and resolution authorities may easily access data on financial contracts, as defined in Article 2(1)(100) of Directive 2014/59/EU, where the applicable resolution plan or the group resolution plan foresees the taking of resolution actions in relation to an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, those authorities should require institutions or entities to maintain on an on-going basis a minimum set of information on such contracts. That should be without prejudice to the possibility of competent authorities or resolution authorities to require additional information to be kept in detailed records of financial contracts and to impose such requirements on other institutions or entities referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU when it is needed to ensure comprehensive and effective planning.

(2) The minimum set of information to be maintained in detailed records of financial contracts by the relevant institutions or entities should be clearly determined. That should be without prejudice to the discretion of competent authorities and resolution

**Changes to legislation:** *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2016/1712. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2016 No. 1712 may be subject to amendment by EU Exit Instruments made by 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. 3. 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) View outstanding changes*

authorities to use it as a template or to prescribe the format in which the requested information should be provided within the timeframe set in the request.

(3) For the avoidance of doubt, the requirement imposed on the relevant institutions or entities to maintain detailed records of financial contracts should not affect the right of the competent authorities and the resolution authorities to request necessary information from trade repositories in accordance with Article 81 of Regulation (EU) No 648/2012 of the European Parliament and of the Council[(2)] and Article 71(7) of Directive 2014/59/EU.

(4) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.

(5) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[(3)],

HAS ADOPTED THIS REGULATION:

*Article 1*

**Requirement to maintain detailed records of financial contracts**

1 An institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU shall be required by the competent authority or resolution authority to maintain detailed records of financial contracts where the resolution plan or the group resolution plan foresees the taking of resolution actions in relation to the institution or entity concerned in the event the conditions for resolution are met.

2 Where necessary to ensure comprehensive and effective planning, competent authorities and resolution authorities may impose the requirements referred to in paragraph 1 on institutions or entities referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU which are not covered by paragraph 1 of this Article.

*Article 2*

**Minimum set of information on financial contracts to be kept in the detailed records**

1 An institution or entity which is required to maintain detailed records of financial contracts under Article 1 shall retain on an ongoing basis the minimum set of information listed in the Annex for each financial contract in its records.

2 The institution or entity referred to in paragraph 1 shall, at the request of the competent authority or resolution authority, make available and transmit the requested information on the financial contracts, to the requesting authority within the timeframe set in the request.

3 Where an information field listed in the Annex is not applicable to a certain type of financial contract and the institution or entity referred to in paragraph 1 can demonstrate this to the competent authority or resolution authority, the information relevant to that field shall be excluded from the requirement under Article 1.

***Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2016/1712. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2016 No. 1712 may be subject to amendment by EU Exit Instruments made by 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. 3. 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) View outstanding changes*

*Article 3*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 June 2016.

*For the Commission*

*The President*

Jean-Claude JUNCKER

**Changes to legislation:** *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2016/1712. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2016 No. 1712 may be subject to amendment by EU Exit Instruments made by 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. 3. 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) View outstanding changes*

ANNEX

THE MINIMUM SET OF THE INFORMATION ON FINANCIAL CONTRACTS TO BE INCLUDED IN THE DETAILED RECORDS

| | **Field** | **Description of information to be maintained in detailed records of financial contracts** |
|---|---|---|
| Section 1 — Parties to the financial contract | | |
| 1 | Record keeping timestamp | Date and time of record entry. |
| 2 | Type of ID of the reporting counterparty | Type of code used to identify the reporting counterparty. |
| 3 | Reporting Counterparty ID | Unique code (Legal Entity Identifier (LEI), where available) identifying the reporting counterparty. |
| 4 | Type of ID of the other counterparty | Type of code used to identify the other counterparty. |
| 5 | ID of the other counterparty | Unique code (LEI, where available) identifying the other counterparty of the financial contract. This field shall be filled from the perspective of the reporting counterparty. In the case of an individual, a client code shall be used in a consistent manner. |
| 6 | Name of the reporting counterparty | Corporate name of the reporting counterparty. This field can be left blank where LEI is used to identify the reporting counterparty. |
| 7 | Domicile of the reporting counterparty | Information on the registered office, consisting of full address, city and country of the reporting counterparty. This field can be left blank where LEI is used to identify the reporting counterparty. |
| 8 | Country of the other Counterparty | The country code of the country where the registered office of the other counterparty is located or, if the other counterparty is a natural person, of the country of residence. |

***Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2016/1712. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2016 No. 1712 may be subject to amendment by EU Exit Instruments made by 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. 3. 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) View outstanding changes*

| | | |
|---|---|---|
| 9 | Governing law | Identify the law governing the financial contract. |
| 10 | Contractual recognition — Write down and conversion powers (only for contracts governed by third country law subject to the requirement of the contractual term under the first subparagraph of Article 55(1) of Directive 2014/59/EU) | The contractual term required under Article 55(1) of Directive 2014/59/EU.<br>When such contractual term is included in a master agreement and applies to all trades governed by that master agreement, it can be recorded at the master agreement level. |
| 11 | Contractual recognition — Suspension of termination rights (only for contracts governed by third country law) | The contractual term by which the creditor or party to the agreement creating the liability recognises the power of the resolution authority of a Member State to suspend termination rights.<br>Where such contractual term is included in a master agreement and applies to all trades governed by that master agreement, it can be recorded at the master agreement level. |
| 12 | Contractual recognition — Resolution powers (only for contracts governed by third country law) | The contractual term, if any, by which the creditor or party to the agreement creating the liability recognises the power of a Member State resolution authority to apply resolution powers other than those identified in fields 10 and 11.<br>Where such contractual term is included in a master agreement and applies to all trades governed by that master agreement, it can be recorded at the master agreement level. |
| 13 | Core business lines | Identify which core business line or core business lines the financial contract relates to, if any. |
| 14 | Value of the contract | Mark-to-market valuation of the financial contract, or mark-to-model valuation used in application of Article |