Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 148/2013. 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 2013 No. 148 may be subject to amendment by EU Exit Instruments made by both the Financial Conduct Authority and 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. 5. 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) No 148/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) No 148/2013

of 19 December 2012

supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to the opinion of the European Central Bank[(1)],

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[(2)], and in particular Article 9(5) thereof,

Whereas:

(1) In order to allow flexibility, a counterparty should be able to delegate the reporting of a contract to the other counterparty or to a third party. Counterparties should also be able to agree to delegate reporting to a common third entity including a central counterparty (CCP), the latter submitting one report, including the relevant table of fields, to the trade repository. In these circumstances and in order to ensure data quality, the report should indicate that it is made on behalf of both counterparties and contain the full set of details that would have been reported had the contract been reported separately.

(2) To avoid inconsistencies in the Common Data tables, each counterparty to a derivative contract should ensure that the Common Data reported is agreed between both parties to the trade. A unique trade identifier will help with the reconciliation of the data in the case that the counterparties are reporting to different trade repositories.

(3) To avoid duplicate reporting and to reduce the reporting burden, where one counterparty or CCP reports on behalf of both counterparties, the counterparty or CCP should be able to send one report to the trade repository containing the relevant information.

(4) Valuation of derivative contracts is essential to allow regulators to fulfil their mandates, in particular when it comes to financial stability. The mark to market or mark to model value of a contract indicates the sign and size of the exposures related to that contract, and complements the information on the original value specified in the contract.

Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 148/2013. 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 2013 No. 148 may be subject to amendment by EU Exit Instruments made by both the Financial Conduct Authority and 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. 5. 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*

(5) Gathering information on the collateral pertaining to a particular contract is essential to ensuring the proper monitoring of exposures. To enable this, counterparties that collateralise their transactions should report such collateralisation details on a transaction level basis. Where collateral is calculated on the basis of net positions resulting from a set of contracts, and is therefore not posted on a transaction level basis but on a portfolio basis, counterparties should be able to report the portfolio using a unique code or numbering system as determined by the counterparty. That unique code should identify the specific portfolio over which the collateral is exchanged where the counterparty has more than one portfolio and should also ensure that a derivative contract can be linked to a particular portfolio over which collateral is being held.

(6) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission and it reflects the relevance of the role of trade repositories to improve transparency of markets towards the public and regulators, the data to be reported to, collected by and made available by trade repositories depending on derivative class and the nature of the trade.

(7) ESMA has consulted the relevant authorities and the members of the European System of Central Banks (ESCB) before submitting the draft regulatory technical standards on which this Regulation is based. In accordance with Article 10 of Regulation (EU) No 1095/2010, of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)[(3)], ESMA has also conducted open public consultations on such draft regulatory technical standards, analysed the potential related costs and benefits and requested the opinion of the ESMA Securities and Markets Stakeholder Group established in accordance with Article 37 of that Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Details to set out in reports pursuant to Article 9(1) and (3) of Regulation (EU) No 648/2012

1 Reports to a trade repository shall include:

a the details set out in Table 1 of the Annex which contains information relating to the counterparties to a contract;

b the information set out in Table 2 of the Annex which contains details pertaining to the derivative contract concluded between the two counterparties.

[F1 2 The details and information referred to in paragraph 1 shall be reported within a single report.

By way of derogation from the first subparagraph, the details and information referred to in paragraph 1 shall be reported in separate reports where the following conditions apply:

a the derivative contract is composed of a combination of derivative contracts;

b the fields in the Tables of the Annex do not allow for the effective reporting of the details and information of the derivative contract referred to in point (a).

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Counterparties to a derivative contract composed of a combination of derivative contracts shall agree, before the reporting deadline, on the number of separate reports to be sent to a trade repository in relation to that derivative contract.

The reporting counterparty shall link the separate reports by an identifier that is unique at the level of the counterparty to the group of transaction reports, in accordance with field 14 in Table 2 of the Annex.**]**

3 Where one report is made on behalf of both counterparties, it shall contain the information set out in Table 1 of the Annex in relation to each of the counterparties. The information set out in Table 2 of the Annex shall be submitted only once.

4 Where one report is made on behalf of both counterparties it shall indicate this fact, as set out in field 9 of Table 1 of the Annex.

5 Where one counterparty reports the details of a contract to a trade repository on behalf of the other counterparty, or a third entity reports a contract to a trade repository on behalf of one or both counterparties, the details reported shall include the full set of details that would have been reported had the contracts been reported to the trade repository by each counterparty separately.

6 Where a derivative contract includes features typical of more than one underlying asset as specified in Table 2 of the Annex, a report shall indicate the asset class that the counterparties agree the contract most closely resembles before the report is sent to a trade repository.

Textual Amendments

F1 Substituted by Commission Delegated Regulation (EU) 2017/104 of 19 October 2016 amending Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (Text with EEA relevance).

[F1 Article 2

Cleared trades

1 Where a derivative contract whose details have already been reported pursuant to Article 9 of Regulation (EU) No 648/2012 is subsequently cleared by a CCP, that contract shall be reported as terminated by specifying in field 93 in Table 2 of the Annex the action type 'Early Termination', and new contracts resulting from clearing shall be reported.

2 Where a contract is both concluded on a trading venue and cleared on the same day, only the contracts resulting from clearing shall be reported.

Textual Amendments

F1 Substituted by Commission Delegated Regulation (EU) 2017/104 of 19 October 2016 amending Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (Text with EEA relevance).

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Article 3

Reporting of exposures

1 The data on collateral required in accordance with Table 1 of the Annex shall include all posted and received collateral in accordance with fields 21 to 35 in Table 1 of the Annex.

2 Where a counterparty does not collateralise on a transaction level basis, counterparties shall report to a trade repository collateral posted and received on a portfolio basis in accordance with fields 21 to 35 in Table 1 of the Annex.

3 Where the collateral related to a contract is reported on a portfolio basis, the reporting counterparty shall report to the trade repository a code identifying the portfolio related to the reported contract in accordance with field 23 in Table 1 of the Annex.

4 Non-financial counterparties other than those referred to in Article 10 of Regulation (EU) No 648/2012 shall not be required to report collateral, mark-to-market, or mark-to-model valuations of the contracts set out in Table 1 of the Annex to this Regulation.

5 For contracts cleared by a CCP, the counterparty shall report the valuation of the contract provided by the CCP in accordance with fields 17 to 20 in Table 1 of the Annex.

6 For contracts not cleared by a CCP, the counterparty shall report, in accordance with fields 17 to 20 in Table 1 of the Annex to this Regulation, the valuation of the contract performed in accordance with the methodology defined in International Financial Reporting Standard 13 Fair Value Measurement as adopted by the Union and referred to in the Annex to Commission Regulation (EC) No 1126/2008[(4)].**]**

Textual Amendments

F1 Substituted by Commission Delegated Regulation (EU) 2017/104 of 19 October 2016 amending Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (Text with EEA relevance).

[F2 Article 3a

Notional amount

1 The notional amount of a derivative contract referred to in field 20 in Table 2 of the Annex shall be specified as follows:

a in the case of swaps, futures and forwards traded in monetary units, the reference amount from which contractual payments are determined in derivatives markets;

b in the case of options, calculated using the strike price;

c in the case of financial contracts for difference and derivative contracts relating to commodities designated in units such as barrels or tons, the resulting amount of the quantity at the relevant price set in the contract;

d in the case of derivative contracts where the notional amount is calculated using the price of the underlying asset and such price is only available at the time of settlement, the end of day price of the underlying asset at the date of conclusion of the contract.

***Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 148/2013. 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 2013 No. 148 may be subject to amendment by EU Exit Instruments made by both the Financial Conduct Authority and 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. 5. 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*

2 The initial report of a derivative contract whose notional amount varies over time shall specify the notional amount as applicable at the date of conclusion of the derivative contract.**]**

Textual Amendments

F2 Inserted by Commission Delegated Regulation (EU) 2017/104 of 19 October 2016 amending Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (Text with EEA relevance).

[F1 Article 4

Reporting log

Modifications to the data registered in trade repositories shall be kept in a log identifying the person or persons that requested the modification, including the trade repository itself if applicable, the reason or reasons for such modification, a date and timestamp and a clear description of the changes, including the old and new contents of the relevant data as set out in field 93 in Table 2 of the Annex.**]**

Textual Amendments

F1 Substituted by Commission Delegated Regulation (EU) 2017/104 of 19 October 2016 amending Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (Text with EEA relevance).

Article 5

Entry into force

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.