



European Securities and  
Markets Authority

## **Supplement to the Final report**

**Technical advice on third country regulatory equivalence under EMIR**

**Singapore**





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## **Key to the references and terms used in this technical advice**

CPSS: Committee on Payment and Settlement Systems.

EMIR: Regulation (EU) No. 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories.

ESAs: European Supervisory Authorities, i.e. ESMA, EBA and EIOPA.

ESCB: European System of Central Banks.

ESMA: European Securities and Markets Authority.

ESRB: European Systemic Risk Board.

FMI: Financial Market Infrastructure.

IOSCO: International Organization of Securities Commissions.

ITS: Implementing Technical Standard, EU.

LEI: Legal Entity Identifier.

LTR: Licensed Trade Repository, Singapore.

MAS: Market Authority of Singapore.

NCA: National Competent Authority from the EU.

RTS: Regulatory Technical Standard, EU.

SF(A)A: Securities and Futures (Amendment) Act, Singapore.

SF(CG)R: Corporate Governance of Approved Exchanges, Approved Clearing Houses, Licensed Trade Repositories and Approved Holding Companies) Regulations, Singapore.

SFA: Securities and Futures Act, Singapore.

TR: Trade Repository.

UPI: Unique Product Identifier

UTI: Unique Trade Identifier



## Executive summary

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1. The European Commission mandated ESMA on 11 October 2012 to provide it with technical advice on the equivalence between the Singaporean regulatory regime and different aspects of the EU regulatory regime under Regulation (EC) No. 648/2012 of the European Parliament and the Council on OTC derivatives, central counterparties (CCPs) and trade repositories (TRs).
  2. The specific area of concern of this mandate was the recognition of third country CCPs. On 13 June 2012 the European Commission mandated ESMA in addition to provide it with technical advice on the equivalence between the Singaporean regulatory regime on a second aspect of the EU regulatory regime under EMIR: the recognition of third country TRs.
  3. **The Technical Advice related to a comparison of the two CCP regimes was delivered in the Final report (ESMA/2013/1161 of 1 September 2013). This supplement to the Final report sets out ESMA's advice to the European Commission in respect of the equivalence between the Singaporean regulatory regime and the EU regulatory regime under EMIR in respect of the recognition of third country TRs.**
  4. The equivalence assessment conducted by ESMA follows an objective-based approach, where the capability of the regime in the third country to meet the objectives of the EU Regulation is assessed from a holistic perspective. The analysis of the differences and similarities has been conducted as factually as possible. The advice to the Commission has been based on that factual assessment but has also taken into account the analysis of the consequences for the stability and protection of EU entities and investors that an equivalence decision would have in those specific areas where the legally binding requirements are not considered equivalent.
  5. The European Commission is expected to use ESMA's technical advice to prepare possible implementing acts concerning the equivalence between the legal and supervisory framework of Singapore under EMIR. Where the European Commission adopts such an implementing act then ESMA may recognise a TR authorised in that third country. ESMA's conclusions in respect of this technical advice should not be seen to prejudice any final decision of the European Commission or of ESMA.
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## **Introduction**

1. The European Commission mandated ESMA on 11 October 2012 to provide it with technical advice on the equivalence between a number of regulatory regimes and specific aspects of the EU regulatory regime under EMIR for Singapore this mandate only covered the recognition of third country CCPs. On 13 June 2012 the European Commission mandated ESMA in addition to provide it with technical advice on the equivalence between the Singaporean regulatory regime on a second aspect of the EU regulatory regime under EMIR: the recognition of third country TRs.
2. The mandate on equivalence for Singapore covers: (i) the recognition of third country CCPs; and (ii) the recognition of third country TRs. The Technical Advice related to CCP was delivered in the Final report (ESMA/2013/1161 of 1 September 2013). This supplement to the final report sets out ESMA's advice to the European Commission in respect of the equivalence between the Singaporean regulatory regime and the EU regulatory regime under EMIR in respect of the second area listed above.
3. ESMA has liaised with its counterpart (MAS) in Singapore and has exchanged materials and views on the key areas of the analysis. However, the views expressed in this report are those of ESMA and ESMA alone is responsible for the accuracy and conclusions of this advice. ESMA has decided not to launch a public consultation on this advice. Besides the much reduced timeframe for ESMA to produce it, the advice is not about a policy option or a legislative measure that could be subject to improvement or reconsideration due to market participants' views or comments. It is a factual comparison of the respective rules of a foreign jurisdiction with the EU regime and an advice on how to incorporate these differences in a possible equivalence decision. ESMA is aware of the effects that such a decision by the Commission could have on market participants, but considers that the key element of this advice is of a factual nature, not a policy one.

## **Purpose and use of the European Commission's equivalence decision**

4. According to Article 75(1) of EMIR, the European Commission may adopt an implementing act determining that the legal and supervisory arrangements of a third country ensure that TRs, which are established or authorised in a specific third country, comply with legally binding requirements which are equivalent to the requirements laid down in EMIR.
5. TRs authorised in a third country that intend to provide services and activities to entities established in the EU for the purpose of the reporting obligation, must be recognised by ESMA. Such recognition also requires an implementing act of the Commission under Article 75(1) of EMIR determining that the legal and supervisory regime in the country in which the TR is authorised ensures that TRs authorised there comply with legally binding requirements which are equivalent to those of EMIR, that those TRs are subject to effective on-going supervision and enforcement in the third country, and guarantees of professional secrecy exist that are at least equivalent to those of EMIR.
6. The adoption of an implementing act by the European Commission is required to enable a third country TRs to apply to ESMA for recognition. However ESMA reiterates that this technical advice should not be seen to prejudge the European Commission's final decision on equivalence. Furthermore, a determination of equivalence by the European Commission is just one of a number of criteria that have to be met in order for ESMA to recognise a third country TR so that they may operate in the EU for regulatory purposes. Positive technical advice or a positive equivalence determination by the European Commission should not be understood as meaning that a third country TR will automatically be grant-



ed recognition by ESMA. Only if all the other conditions set out in Articles 75 of EMIR are met, can a third country TR be granted recognition<sup>1</sup>.

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<sup>1</sup> One of these requirements is that ESMA has established cooperation arrangements with the relevant competent authorities of the third country. ESMA is currently in discussions with the jurisdictions subject to this technical advice regarding such cooperation arrangements.



## Technical advice on TRs

### Part I – Effective on-going supervision and enforcement and professional secrecy

#### *Supervision and Enforcement*

7. Regulation and supervision of FMIs are entrusted to the MAS. The MAS is Singapore's central bank and unified financial sector regulator. It is legally and institutionally independent of the executive and legislative branches of the government and accountable to the public.
8. The MAS' responsibilities with respect to securities regulation are clearly stated in the applicable legislation and rules in the SFA of 2001 and related regulations. It has the duty to foster a sound and progressive financial sector and is to conduct integrated supervision of financial services and financial stability surveillance. The MAS has both prudential and conduct of business responsibility for financial market infrastructures.
9. MAS' regulatory powers also include powers to impose restrictions (including access restrictions), conditions and directions and remove chief executive officers and directors, approve substantial shareholders and other controllers and conduct inspections of the operations. On-site-inspections are conducted once a year and key risk areas and market control operations are inspected. Besides MAS leverages on the work done by external auditors, internal auditors and compliance units. Finally MAS maintains an on-going dialogue with the risk management units on day-to-day risk monitoring and new business integration for example.
10. The Singapore regulatory regime governing OTC derivatives, CCP requirements and derivatives reporting to trade repositories has recently been reviewed. The changes are set out in SF(A)A, which was passed by Parliament on 15 November 2012 and gazetted on 26 December 2012. The SF(A)A represents the first of a two-phase review of the SFA, Chapter 289 of Singapore that implementing policy proposals to regulate, inter alia, OTC derivatives, in line with recommendations by the G20 and the Financial Stability Board.
11. The SF(A)A introduced:
  - (a) a new licensing regime for the regulation of trade repositories as licensed trade repositories or licensed foreign trade repositories;
  - (b) a new authorisation/recognition regime for all persons operating clearing facilities to be regulated as ACH or RCH. This regime will replace the existing regulatory regime governing clearing facilities for futures contracts under the SFA, and the regulatory regime governing clearing facilities for OTC commodity derivatives under the Commodity Trading Act, Chapter 48A of Singapore;
  - (c) mandatory reporting of prescribed OTC derivatives contracts by financial institutions and large non-financial entities to a Licensed TR; and
  - (d) mandatory clearing of prescribed OTC derivatives contracts through a CCP.
12. The MAS has:
  - (a) registration powers of TRs (s46e of the SFA);
  - (b) recognition powers of foreign TRs (s46e of the SFA);
  - (c) revocation powers of the above licences (s46H SFA) or dismissing TR staff (s46Z SFA);



- (d) the power to require and receive TR assistance, including access to all books and records<sup>2</sup> (s46N SFA) and issue general or specific directions to TRs, including recognised ones (s46ZK SFA; s150 SFA);
- (e) sanctioning powers (ss46P, 46U(13) AND (14), 46V(14), 46Y(8), 46Z(10), 46ZI, 46ZJ(2), 46ZK(4) and 335 SFA);
- (f) emergency powers (s46Y SFA);

#### *Guarantees of professional secrecy*

13. ESMA identified, in close cooperation with the MAS, provisions on professional secrecy applicable to employees of MAS and data received or accessed in TRs and when sharing data received from other (e.g. non-Singaporean) regulators.
14. S14(1) of the MAS Act provides that no person who is or has been a director, officer, employee, consultant or agent of the MAS shall disclose to any person any information relating to the affairs of the MAS, or any person, acquired in the performance of his/her duties.
15. S3(1) of the Statutory Bodies and Government Companies (Protection of Secrecy) Act also provides that no person that is or has been a member or an officer, employee or agent of a specific organisation shall, without the authority of that organisation, disclose to any person any secret or confidential document or information which he/she has obtained or to which he/her has access by virtue of his/her position.

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<sup>2</sup> MAS declared that it intends to “place reliance on the home regulator in ensuring that the licensed foreign TR complies with its obligations”.



## **Part II – Legally binding requirements which are equivalent to those of Title VII of EMIR**

### *Jurisdictional level requirements*

16. ESMA has undertaken a comparative analysis of the legally binding requirements which are applicable, at a jurisdictional level, to TRs in Singapore and the corresponding legally binding requirements for TRs under EMIR. The substantive analysis is set out in Annex I.
17. Singaporean rules have been approved on TR requirements but not yet on reporting to TRs and this is reflected in the mandate of the European Commission which does not cover the reporting obligation and thus this analysis. ESMA has however analysed, with the cooperation of the MAS, the proposed rules on reporting and some preliminary views are included in that regard, hopefully assisting in international convergence.
18. As set out in the detailed analysis included in Annex I, there are a number of areas where the legally binding requirements which are applicable, at a jurisdictional level, to TRs in Singapore are not equivalent or broadly equivalent to the legally binding requirements for TRs under EMIR.
19. It should however be noted that ESMA's detailed analysis has been restricted to reviewing primary and secondary legislation, rules and regulations promulgated under primary and secondary legislation and legally binding documentation issued by MAS. This is in line with the mandate given to ESMA by the European Commission.

### *Other legal and supervisory arrangements*

20. In addition to the legally binding requirements which are applicable, at a jurisdictional level, to TRs in Singapore, internal policies, procedures, or rules that some TRs authorised in Singapore might, on an individual basis, have adopted, could constitute legally binding requirements for the purposes of Article 77 of EMIR where (a) such internal policies, procedures or rules cannot be changed without the approval or non-objection of MAS; and (b) any departure by the TR from, or failure to implement, such internal policies, procedures, rules, models and methodologies can give rise to possible enforcement action.

### *Reporting obligation*

21. The mandate from the European Commission does not cover the assessment of equivalence between Article 9 (Reporting obligation) and the third country regime for the purpose of disapplying EMIR and applying the third country regime, in accordance with Article 13. However, in this respect we signal that Singapore has drafted proposed rules on reporting (Second Schedule of Draft Securities and Futures Regulations 2013). These proposed rules have been analysed and compared with the correspondent EMIR requirement, for any future use the European Commission might consider. The analysis between EMIR and Singapore proposed rules on reporting is included in Annex II.
22. It should also be noted that banking confidentiality provisions in Singapore allow the reporting of clients' data by banks only if clients signed their consent. Although this matter is not relevant for the purpose of recognising TRs, it would have serious consequences in the context of Article 13, i.e. the disapplication of the reporting obligation under Article 9 of EMIR. MAS is considering ways to address



this issue, including making legislative changes to allow client identity of OTC derivatives to be reported without breaching domestic confidentiality provisions.



## **Conclusions**

- 23. ESMA advises the Commission to consider that TRs authorised in Singapore are subject to effective supervision and enforcement on an on-going basis.**
- 24. ESMA also advises the Commission to consider that the legal and supervisory arrangements of Singapore ensure that TRs authorised in Singapore comply with legally binding requirements which are equivalent to the requirements laid down in Title VII of EMIR, but only in respect of specific TRs that have adopted internal policies, procedures and rules that constitute legally binding requirements ensuring the following:**
  - (a) operational separation of ancillary services;**
  - (b) business continuity, in particular the existence of a second backup site;**
  - (c) position calculation by TRs;**
  - (d) no duplication of reports: require TR users to match data and the TR to validate reports upon receipt;**
  - (e) deadline to report: TR to be ready to receive reports one day after the execution of the contracts, at the latest;**
  - (f) disclosure to the public and to relevant authorities in a similar manner as prescribed under EMIR and relevant technical standards.**
- 25. On this basis, therefore, ESMA would only grant recognition to TRs authorised in Singapore which have in fact adopted internal policies, procedures or rules which, on a holistic basis, incorporate provisions that are broadly equivalent to the legally binding requirements for TRs under EMIR and where ESMA has assessed that the relevant internal policies, procedures, or rules do constitute a legally binding instrument.**



**Annex I - Legally binding requirements which are equivalent to those of Title VII of EMIR (TR Requirements)**

Description of EU Rules	Description of the corresponding [SFA/SFR] provisions	Assessment of Equivalence
<p>The senior management<sup>i</sup> and members of the board<sup>ii</sup> of a trade repository must be of sufficiently good repute and experience so as to ensure the sound and prudent management of the trade repository (EMIR, Art. 78(6)).</p>	<p>“A licensed trade repository (“LTR”) shall ensure that it appoints or employs fit and proper persons as its chairman, chief executive officer, directors and key management officers.”[Section 46I of Part IIA of SFA]</p> <p>LTRs are required to seek MAS’ approval before appointing a person as its chairman, chief executive officer or director. [Section 46V of Part IIA of SFA]</p> <p>In determining whether to approve or refuse appoint of a chairman, chief executive officer, director or senior management, MAS will consider whether the person is fit and proper to be appointed and whether the person is qualified for the position. [Regulation 22 of Securities and Futures (Trade Repositories) Regulations(“SF(TR)R”)]</p> <p>The draft Securities and Futures (Corporate Governance of Approved Exchanges, Approved Clearing Houses, Licensed Trade Repositories and Approved Holding Companies) Regulations (“SF(CG)R”) require –</p> <ul style="list-style-type: none"> <li>- The Nominating Committee of an LTR to identify the candidates and review all nominations for the appointment of (a) each director; (b) each member of each board committee (including Executive Committee, if any); and (c) the chief executive officer, deputy chief executive</li> </ul>	<p><b>Equivalent</b></p>



	<p>officer, chief financial officer, chief risk officer and chief regulatory officer. [Regulation 10 (1) of the proposed SF(CG)R];</p> <ul style="list-style-type: none"> <li>- The Nominating Committee shall consider if the candidate the candidate or nominee is a fit and proper person for the office and is qualified for the office, taking into account the candidate's or nominee's track record, age, experience, capabilities, skills and such other relevant factors as may be determined by the Nominating Committee. [Regulation 10 (3)(b) of the proposed SF(CG)R];</li> <li>- the set up of a Risk Management Committee (Board committee) to be responsible for overseeing the establishment and operation of an independent risk management system for managing risks on an enterprise-wide basis; and the adequacy of the risk management function of the LTR, including ensuring that it is sufficiently resourced to monitor risk by the various risk categories and that it has appropriate independent reporting lines. [Regulation 15A of the proposed SF(CG)R].</li> </ul>	
<p>A trade repository must have robust governance arrangements, including a clear organizational structure with well defined, transparent and consistent lines of responsibility.<sup>iii</sup></p>	<p>“An LTR is required to maintain governance arrangements that are adequate for the LTR to be operated in a safe and efficient manner”. [section 46I(i) of Part IIA of SFA]</p> <p>The Corporate Governance Regulations set out requirements on LTRs with regard to the composition of the board, independence of directors and formation of board committees.</p> <ul style="list-style-type: none"> <li>- Independence of directors: An independent</li> </ul>	<p><b>Equivalent</b></p>



	<p>director means a director who is independent from any management and business relationship with the LTR, and independent from any substantial shareholder of the LTR. [Regulation 3 of the proposed SF(CG)R];</p> <ul style="list-style-type: none"> <li>- Formation of board committees: An LTR is required to have a Nominating Committee, Remuneration Committee, Audit Committee and Risk Management Committee. [Regulation 8 of the proposed SF(CG)R] ;</li> <li>- Composition of board and board committees: The composition of the board and board committees has to meet various independence requirements. [Regulation 11 of the proposed SF(CG)R].</li> </ul>	
<p>A trade repository must have adequate internal control mechanisms, including sound administrative and accounting procedures, which prevent any disclosure of confidential information EMIR, Art. 78(1).</p>	<p><u>User and transaction information confidentiality</u> An LTR is required to maintain confidentiality of all user and transaction that are reported to the LTR or any of its officers or employees. [Section 46O of Part IIA of SFA]</p> <p><u>Systems and controls</u> An LTR is required to ensure that the systems and controls concerning the assessment and management of risks to the LTR are adequate and appropriate for the scale and nature of its operations. [Section 46J – Part IIA of SFA];</p> <p>An LTR is also required to have adequate arrangements, processes, mechanisms or services to collect and maintain information on transactions reported to the LTR.[Section 46J – Part IIA of SFA];</p>	<p><b>Equivalent</b></p>



	<p>An LTR is required to set out the procedures and establish the systems necessary to maintain the integrity and security of the transmission and storage of all information (including transaction information and user information) reported to the LTR. [Regulation 16(1) of SF(TR)R].</p> <p><u>Accounting procedures</u></p> <p>A LTR is required to submit to MAS within 3 months after the end of its financial year a copy of its (i) annual report and directors’ report prepared in accordance with the provisions in the companies act; (ii) auditors’ long form report.</p> <p>The auditors long form report shall include the findings and recommendations of the auditors on the internal controls of the LTR and the non-compliance with any provisions of the SFA, directions issued by MAS.</p> <p>A LTR is required to submit to MAS within 45 days after the end of each of the first 3 quarters of the financial year a copy of its – (i) profit and loss accounts of the LTR for the preceding quarter; and (i) balance-sheet of the LTR for the preceding quarter</p> <p>[Regulation 11(1)(a) and (2) of SF(TR)R].</p>	
<p>A trade repository must maintain and operate effective written organisational and administrative arrangements to identify and manage any potential conflicts of interest concerning its managers, employees, or any person directly or indirectly linked to them by</p>	<p>An applicant applying for a trade repository licence is required to describe and demonstrate, with supporting documents or information, how the applicant will have adequate means to deal with any conflicts of interests that may arise. [Form 1 – Application for a trade repository licence or a foreign trade repository licence].</p> <p>There are minimum requirements on board composition for</p>	<p><b>Broadly Equivalent.</b> In Singapore there is no specification of close links. However a mention of “related bodies corporate” is included, even if these are not defined and cannot thus be compared against the EU definition of close links.</p> <p>On balance, this difference does not undermine the consistency of objectives</p>



close links.	<p>independence from management and business relationships, as well as from substantial shareholders of the LTR. [Regulations 3, 4, 6, 16 of the proposed SF(CG)R]</p> <p>There are requirements on an LTR against the employment of executive officers (i.e. an employee concerned with the management of the corporation on a day-to-day basis) who are concurrently employed by specified related corporations. [Regulation 15C of the proposed SF(CF)R]</p>	between the Singaporean and the EU regimes.
Trade repositories are required to indicate material shareholders (i.e. 5% or more) in new applications and to notify ESMA without undue delay of material changes to the constitution for registration. <sup>iv</sup>	<p>An LTR is required to indicate the group ownership structure showing the applicant’s shareholders who hold 5% or more of the LTR’s issued share capital and the LTR’s subsidiaries. [Trade Repository Form 3 - “Information of shareholders and subsidiaries”].</p> <p>Under the SFA, no person shall enter into any agreement to acquire shares in the LTR to become a substantial shareholder of the LTR without first obtaining approval from the Authority. [Section 46U of Part IIA of SFA].</p> <p>(i)</p>	<b>Equivalent</b>
<i>Compliance with EMIR.</i> A trade repository must establish adequate policies and procedures sufficient to ensure its compliance, including of its managers and employees, with all the provisions of EMIR. <sup>v</sup>	An applicant applying for a trade repository licence is required to demonstrate that it is able to comply with the requirements imposed on an LTR under the SFA. [Regulation 7(a) of the SF(TR)R].	<b>Equivalent</b>



<p><i>Access to services.</i> A trade repository must have objective, non-discriminatory and publicly disclosed requirements for access by undertakings subject to the Reporting Obligation.<sup>vi</sup></p> <p>A trade repository must allow reporting entities to access specific services separately.<sup>vii</sup></p>	<p>An LTR is required to ensure that access for participation in the LTR is subject to criteria that are fair and objective and that are designed to ensure the safe and efficient functioning of the LTR and to protect the interests of the investing public. [Section 46I(1)(d) of Part IIA of SFA]</p> <p>An LTR is required to make provision in its business rules for the criteria that the LTR would use to determine whether a person should or should not be allowed to participate in the services by the licensed trade repository. [Regulation 18(a) of the SF(TR)R]</p> <p>An LTR is required to make available to any person upon his request, or publish in a manner that is accessible, information on</p> <ul style="list-style-type: none"> <li>- all services of the LTR;</li> <li>- all products that may be reported to the LTR; and</li> <li>- the applicable fees and charges of the LTR. [Regulation 15 of SF(TR)R] .</li> </ul>	<p><b>Broadly equivalent</b>, as there is no specific rule on TR unbundling of services. However the non-discriminatory requirements and the way services should be offered may achieve a similar outcome. On balance, this gap does not undermine the consistency of objectives between the Singaporean and the EU regimes and is mitigated by the fact that such behaviour could possibly be sanctioned as unfair.</p>
<p><i>Access to information.</i> A trade repository must grant service providers non-discriminatory access to information maintained by the trade repository, on condition that the relevant counterparties have provided their consent.</p> <p>Criteria that restrict access may only be permitted to the extent that their objective is to control the risk to the data maintained by a trade repository.<sup>viii</sup></p>	<p>An LTR is required to maintain confidentiality of all information reported to the LTR by its users, except under specified circumstances, including when the disclosure of user information is permitted for such purpose specified in writing by the user. [Regulation 12(1)(b) of SF(TR)R].</p>	<p><b>Equivalent</b></p>



<p><i>Prices and fees for services under EMIR.</i> Prices and fees, including discounts and rebates and their conditions, must be publicly disclosed, for each separate service provided, and must be cost-related.<sup>ix</sup></p>	<p>An LTR is required to make available to any person upon his request, or publish in a manner that is accessible, information on all services of the licensed foreign trade repository, all products that may be reported to the licensed foreign trade repository and the applicable fees and charges of the licensed foreign trade repository. [Regulation 28 of SF(TR)R]</p> <p>An LTR (specified by the MAS) shall not impose any reporting fee on its participants in respect of any service or services provided by the LTR; or modify, restructure or otherwise change any existing reporting fee imposed on its participants without the prior approval of MAS [Regulation 17 of SF(TR)R].</p>	<p><b>Broadly equivalent.</b> In Singapore there is no specific reference to prices and fees that should be cost-related. However it is expected that TRs wishing to be recognised in Europe will need to offer competitive fees structures. Therefore, on balance, this gap does not undermine the consistency of objectives between the Singaporean and the EU regimes.</p>
<p><i>Provision of ancillary services.</i> Trade repositories must maintain the ancillary services<sup>x</sup> they provide (if any) operationally separate from the trade repository's function of centrally collecting and maintaining records of derivatives.<sup>xi</sup></p>	<p>An LTR is required to notify MAS that it is carrying on any business that is (i) not the business of operating as a trade repository; or (ii) not incidental to operating as a trade repository. [Section 46K of Part IIA of SFA];</p> <p>An LTR shall manage any risks associated with its business and operations prudently. [Section 46I(1)(b) of the SFA] ;</p> <p>An LTR is required to ensure that the systems and controls concerning the assessment and management of risks to the LTR are adequate and appropriate for the scale and nature of its operations. [Section 46J – Part IIA of SFA].</p>	<p><b>Not Equivalent</b></p> <p>EU Rules explicitly require that ancillary services be operationally separated from reporting and recordkeeping functions, while Singaporean rules do not, even if they include more general provisions on conflicts of interest and the supervisory powers may include a refusal of registration if the supervisor is not content with a certain TR (ancillary services or other). Equivalence may be considered if TR rules specifically require operational separation.</p>
<p>A trade repository must maintain and operate an adequate organisational structure to ensure continuity and orderly functioning of the trade repository in the performance of its services and activities. It must employ appropriate and proportionate systems, resources</p>	<p><u>Resources</u></p> <p>An LTR shall have sufficient financial, human and system resources (i) to operate in a safe and efficient manner in its capacity as a trade repository; (ii) to meet contingencies or disasters; and (iii) to provide adequate security arrangements. [Section 46I(g) of Part IIA of SFA] ;</p> <p>An LTR is required to ensure that the systems and controls concerning the assessment and management of risks to the LTR are adequate and appropriate for the scale and nature</p>	<p><b>Equivalent</b></p>



<p>and procedures.<sup>xii</sup></p> <p>A trade repository must identify sources of operational risk and minimize them through the development of appropriate, reliable and secure systems, controls and procedures having adequate capacity to handle the information received.<sup>xiii</sup></p>	<p>of its operations. [Section 46J – Part IIA of SFA];</p> <p>An LTR shall set out the procedures and establish the systems necessary to maintain the integrity and security of the transmission and storage of all information (including user information and transaction information) reported to the licensed foreign trade repository. [Regulation 29 of SF(TR)R].</p> <p><u>Identification of sources of risk, including operational risks</u></p> <p>The Corporate Governance Regulations require LTRs to set up a Risk Management Committee (Board committee) to be responsible for overseeing the establishment and operation of an independent risk management system for managing risks on an enterprise-wide basis; and the adequacy of the risk management function of the LTR, including ensuring that it is sufficiently resourced to monitor risk by the various risk categories and that it has appropriate independent reporting lines. [Regulation 15A of the proposed SF(CG)R].</p>	
<p><i>In case of incidents.</i> A trade repository must establish, implement and maintain an adequate business continuity policy and disaster recovery plan aiming at ensuring the maintenance of its functions, the timely recovery of operations and the fulfilment of the trade repository’s obligations. Such a plan must at least provide for the establishment of backup facilities.<sup>xiv</sup></p>	<p>An LTR is required to maintain at all times a plan of action (referred to in this regulation as a business continuity plan) setting out the procedures and establishing the systems necessary to restore, in the event of any disruption to the operations of the licensed foreign trade repository, safe and efficient operations of the LTR. [Regulation 27 of SF(TR)R].</p>	<p><b>Not equivalent</b>, as there is no express reference to backup facilities. Equivalence may be considered if TR rules specifically mention the creation of backup facilities.</p>



<p>The trade repository must ensure orderly substitution including the transfer of data to other trade repositories and the redirection of reporting flows to other trade repositories.<sup>xv</sup></p>	<p>MAS has the power to issue directions to LTRs to transfer data to other trade repositories and the redirection of reporting flows to other trade repositories. [Section 46ZK of the Part IIA of the SFA];</p> <p>Such direction making powers include power with respect to the publication of any information relating to any transaction reported to the LTR, or for ensuring that the Authority and such other entities as the Authority may specify are provided access to any information on any transaction reported to the LTR.</p>	<p><b>Broadly equivalent</b>, assuming that in case of incidents MAS will issue directions to ensure orderly substitution.</p>
<p>Trade repositories are required to provide financial reports and business plans as part of their application, and demonstrate proper resources and expected business status in six months after registration is granted.</p>	<p>In its application to MAS, an LTR is required to provide MAS an outline of its plans with regard to the operation and expansion of its business in Singapore and abroad (if applicable) over the next 3 to 5 years. The outline should include financial projections on the resources available to maintain the trade repository. [Trade Repository Form 1 – “Application for licence”];</p> <p>A licensed trade repository shall give MAS notice of any material change to the information provided by the LTR in its application form. [Section 46K(1)(a) of the SFA];</p>	<p><b>Equivalent</b></p>
<p><i>Initial record of data.</i> A trade repository must promptly record the information received pursuant to the Reporting Obligation.<sup>xvi</sup></p>	<p>An LTR shall maintain a record of all transactions reported to the trade repository. [Section 46L(1) of SF(TR)R];</p> <p>MAS may prescribe by regulations made under section 46ZJ –</p> <ul style="list-style-type: none"> <li>- the form and manner in which the record referred to in subsection (1) shall be maintained;</li> <li>- the information and details relating to each transaction that are to be maintained in the record; and</li> <li>- the period of time that the record is to be maintained. [Section 46L(2) of SF(TR)R].</li> </ul>	<p><b>Broadly equivalent</b>, as there is no reference to prompt recording. However on balance, this gap does not undermine the consistency of objectives between the Singaporean and the EU regimes.</p>



<p><i>Position calculations.</i> A TR must calculate the positions by class of derivatives and by reporting entity based on the details of the derivative contracts reported pursuant to the Reporting Obligation.<sup>xvii</sup></p>	<p>MAS has powers to issue directions to the LTR to calculate the positions by class of derivatives and by reporting entity based on the details of the derivatives contract reported. [Section 46ZK of the Part IIA of SFA].</p>	<p><b>Not equivalent</b>, as there is no explicit ongoing TR duty for such calculation. Equivalence may be considered if TR rules require calculation of positions.</p>
<p><i>Confidentiality.</i> A trade repository must ensure the confidentiality, integrity and protection of the information received under the Reporting Obligation.<sup>xviii</sup></p>	<p>An LTR and its officers and employees is required to maintain confidentiality of all user information and transaction information that (i) comes to the knowledge of the licensed trade repository or any of its officers or employees; or (ii) is in the possession of the LTR or any of its officers or employees. [Section 46O of Part IIA of SFA].</p>	<p><b>Equivalent</b></p>
<p>A trade repository must employ timely and efficient record keeping procedures to document changes to recorded information.</p> <p>A trade repository must allow the parties to a contract to access and correct the information on a contract in a timely manner.<sup>xix</sup></p>	<p>An LTR is required to maintain a record of all transactions reported to the LTR. (Section 46L of Part IIA of SFA);</p> <p>An LTR is required to have sufficient financial, human and system resources to operate in a safe and efficient manner in its capacity as a trade repository. [Section 46I(g) of Part IIA of SFA];</p> <p>An LTR is permitted to disclose user information and transaction information which is authorised by the Authority to be disclosed or furnished. [Section 46O(2)(b)];</p> <p>MAS has the power to issue directions to a LTR with respect to the publication of any information relating to any transaction reported to the LTR. [Section 46ZK(2)(a) of Part IIA of SFA].</p>	<p><b>Broadly equivalent</b>, as there is no reference to time (“timely manner”). However on balance, this gap does not undermine the consistency of objectives between the Singaporean and the EU regimes.</p>



<p>A trade repository must maintain the records for at least 10 years following the termination of the contract.<sup>xx</sup></p>	<p>A LTR is required to maintain a record of all transactions reported to the LTR. (Section 46L of Part IIA of SFA);</p> <p>Each LTR is required to ensure that all transaction information are kept until at least 5 years after the date of the expiry or termination of the contract, agreement or transaction to which the transaction information relates. (Regulation 5 of SF(TR)R].</p>	<p><b>Broadly equivalent</b>, as times are different: 5 years in Singapore, whereas under EMIR a TR must maintain records for at least 10 years, however on balance, this gap does not undermine the consistency of objectives between the Singaporean and the EU regimes.</p>
<p>A trade repository may not use the data it receives under EMIR for commercial purposes unless the relevant counterparties have provided their consent.<sup>xxi</sup></p> <p>A trade repository must take all reasonable steps to prevent any misuse of the information maintained in its systems.<sup>xxii</sup></p> <p>A natural person who has a close link<sup>xxiii</sup> with a trade repository or a legal person that has a parent undertaking<sup>xxiv</sup> or a subsidiary relationship<sup>xxv</sup> with a trade repository may not use confidential information recorded in a trade repository for commercial purposes.<sup>xxvi</sup></p>	<p>An LTR, including its officers and employees, are required to maintain the confidentiality of all user information and transaction information that comes to the knowledge of the LTR (or any of its officers or employees) or is in the possession of the LTR (or any of its officers or employees), except under certain circumstances. [Section 46O(1) of Part IIA of SFA];</p> <p>The usage of data for commercial purposes is not prescribed as one of the exceptions in which information may be permitted to be disclosed, unless it is a purpose allowed by the user and is specified in writing;</p> <p>A LTR is permitted to disclose transaction information for such purpose specified in writing by a user to whom the transaction relates. [Regulation 12(5)(b) of SF(TR)R].</p>	<p><b>Broadly equivalent</b>, as in Singapore there is no specification of close links. However, the general requirement on confidentiality applicable to officers and employees and the general conclusions on privacy and secrecy may achieve a similar outcome. On balance, this difference does not undermine the consistency of objectives between the Singaporean and the EU regimes..</p>



<p>Registration with ESMA (EMIR Art 56 and RTS/ITS Art 56)</p>	<p>A Singapore trade repository or foreign trade repository may apply to the Authority for the grant of a trade repository licence and foreign trade repository licence respectively. [Section 46E of Part IIA of the SFA]</p> <p>MAS has powers under the SFA to grant a corporation a trade repository licence or a foreign trade repository licence, provided that it meet such requirements, including minimum financial requirements, prescribed by the Authority. [Section 46E of Part IIA of the SFA]</p> <p>An applicant applying for a trade repository licence or foreign trade repository licence is required to lodge an application with the MAS under Form 1 (Application for trade repository licence or foreign trade repository licence), together with Forms 2 (Information on Chief Executive Officer and Directors) and 3 (Information on Shareholders and Subsidiaries).</p>	<p><b>Equivalent</b></p>
<p><i>Disclosure</i> to the public and to relevant authorities Third countries authorities need to conclude an international agreement with the EU and a cooperation arrangement with ESMA.  (EMIR Art 81 and RTS Art 81)</p>	<p>MAS has the power to specify in directions to the LTR to disclose information reported to the LTR to the public and to relevant authorities (which may include third countries authorities). [Section 46ZK of Part IIA of SFA]</p>	<p><b>Not Equivalent</b>, since there seems to be no standing and immediate obligation to make data available. Equivalence may be considered if (i) the TR rules include these disclosures, providing access to data according to the relevant mandates of the authorities; or (ii) if MAS uses such directions, in any of the two cases following the CPSS-IOSCO Report on Data Access and the Article 81 EMIR rules..</p>



<p>A trade repository must regularly, and in an easily accessible way, publish aggregate positions by class of derivatives on the contracts reported to it.<sup>xxvii</sup></p> <p><i>Scope of disclosure.</i><sup>xxviii</sup> The data, which may not allow the identification of any party to any contract,<sup>xxix</sup> must include at least:</p> <p>(a) a breakdown of the aggregate open positions for each of the following classes of derivatives: commodities; credit; foreign exchange; equity; interest rate; or other;</p> <p>(b) a breakdown of aggregate transaction volumes for each of the classes of derivatives mentioned in (a) above;</p> <p>(c) a breakdown of aggregate values for each of the classes of assets mentioned in (a) above.</p> <p><i>Means of disclosure.</i><sup>xxx</sup> The data must be published on a website or an online portal which is easily accessible by the public.</p> <p><i>Frequency of disclosure.</i><sup>xxxi</sup> The data must be published and updated at least weekly.</p>	<p>An LTR is required to maintain confidentiality of all information reported to the LTR by its users, except under circumstances, including when the disclosure is a disclosure of aggregated transaction information on the Internet website of the licensed trade repository or on any medium which is accessible to every member of the public. [Regulation 12(1)(g) of SF(TR)R]</p> <p>MAS has the power to specify in directions to the LTR to disclose information reported to the LTR to the public. [Section 46ZK(2)(a) of Part IIA of SFA]</p>	<p>id.</p>
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<p>A trade repository must collect and maintain data and must ensure that certain authorities have direct and immediate access to the details of derivatives contracts they need to fulfil their respective responsibilities and mandates.<sup>xxxii</sup></p> <p><i>Scope</i><sup>xxxiii</sup></p> <p>(i) Available data includes all transaction data allowing ESMA to fulfil its supervisory competences,<sup>xxxiv</sup> including transaction level data (a) for all counterparties within its jurisdiction, and (b) for derivative contracts where the reference entity of the derivative contract is located within its jurisdiction or where the reference obligation is sovereign debt of its jurisdiction.<sup>xxxv</sup></p> <p>(ii) ESMA must enact internal procedures in order to ensure appropriate staff access and any relevant limitations of access as regards non-supervisory activities under ESMA's mandate.<sup>xxxvi</sup></p> <p>(iii) ESMA must share the information necessary for the exercise of their duties with other relevant authorities of the Union.<sup>xxxvii</sup></p>	<p>A LTR is required to ensure that MAS is provided with access to all information on transactions reported to the licensed foreign trade repository [Section 46I (h) of Part IIA of SFA];</p> <p>MAS has the power to specify in directions to the LTR to disclose information reported to the LTR to the public. [Section 46ZK(2)(a) of Part IIA of SFA];</p> <p>Such direction making powers include power with respect to the publication of any information relating to any transaction reported to the LTR, or for ensuring that the Authority and such other entities as the Authority may specify are provided access to any information on any transaction reported to the LTR. [Section 46ZK of the Part IIA of SFA].</p>	<p>id.</p>
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<p><i>The ESRB.</i> Available data includes transaction level data (a) for all counterparties within its jurisdiction, and (b) for derivative contracts where the reference entity of the derivative contract is located within its jurisdiction or where the reference obligation is sovereign debt of its jurisdiction.<sup>xxxviii</sup></p>	<p>MAS' reporting regime captures counterparties within its jurisdiction. MAS intends to rely on data access arrangements to obtain further data on derivative contracts where the reference entity of the derivative contract is located within its jurisdiction or where the reference obligation is sovereign debt of its jurisdiction.</p>	<p>id.</p>
<p><i>The competent authority supervising CCPs accessing trade repositories.</i> Available data includes all the transaction data cleared or reported by the CCP.<sup>xxxix</sup></p> <p><i>The competent authority supervising trading venues of the reported contracts.</i> Available data includes all the transaction data on contracts executed on those venues.<sup>xl</sup></p> <p><i>The relevant members of the ESCB.</i></p> <p>(i) Available data includes all the transaction data cleared or reported by the relevant CCP overseen by that member of the ESCB.<sup>xli</sup></p> <p>(ii) Available data also includes transaction level data (a) for all counterparties within its jurisdiction, and (b) for derivative contracts where the reference</p>	<p>MAS has the power to specify in directions to the LTR to disclose information reported to the LTR to the public and to relevant authorities (which may include third countries authorities) [Section 46ZK(2)(a) of Part IIA of SFA].</p>	<p>id.</p>



<p>entity of the derivative contract is located within its jurisdiction or where the reference obligation is sovereign debt of its jurisdiction.<sup>xliii</sup></p> <p>(iii) Available data includes all position data for derivative contracts in the currency issued by that member.<sup>xliii</sup></p>		
<p>The relevant authorities of a third country that have entered into an international agreement with the Union regarding mutual access to, and exchange of, information on derivative contracts held in trade repositories established in a third country.<sup>xliv</sup> Available data will be determined taking into account the relevant authority's mandate and responsibilities.<sup>xlv</sup></p> <p>Where a third country has no trade repository, the requirement for an international agreement is waived.</p>	id.	id.
<ul style="list-style-type: none"> <li>• <i>The supervisory authorities appointed pursuant to the EU Directive on takeover bids.</i><sup>xlvi</sup></li> </ul> <p>(a) Available data includes all the transaction data on derivatives where the underlying asset is a security issued by a company which meets one of the following</p>	id.	id.



<p>conditions:</p> <ul style="list-style-type: none"><li>(i) it is admitted to trading on a regulated market within their jurisdiction;</li><li>(ii) it has its registered office or, where it has no registered office, its head office, in their jurisdiction; or</li><li>(iii) it is an offeror for a company within (i) or (ii) and the consideration offered by the offeror includes securities.</li></ul> <p>(b) Available data includes information on:</p> <ul style="list-style-type: none"><li>(i) the underlying securities;</li><li>(ii) the derivative class;</li><li>(iii) the sign of the position;</li><li>(iv) the number of reference securities;</li><li>(v) the counterparties to the derivatives.<sup>xlvii</sup></li></ul> <ul style="list-style-type: none"><li>• <i>The relevant securities and market authorities of the Union.</i> Available data includes all transaction data on markets, participants, contracts and underlying</li></ul>		
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<p>assets that fall within the scope of that authority according to its supervisory responsibilities and mandates.<sup>xlvi</sup></p> <ul style="list-style-type: none"><li>• <i>The relevant authorities of a third country that have entered into a cooperation agreement with ESMA in relation to trade repositories.</i><sup>xlix</sup> Available data will be determined taking into account the relevant authority's mandate and responsibilities.<sup>1</sup></li><li>• <i>The Agency for the Cooperation of Energy Regulators.</i> Available data includes all transaction regarding derivatives where the underlying asset is energy.<sup>li</sup></li></ul> <p><i>For all of the aforementioned entities.</i> For the purposes of prudential supervision of counterparties subject to the Reporting Obligation,<sup>lii</sup> available data includes all transaction data of such counterparties.<sup>liii</sup></p>		
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<p>A TR must provide access to data to the authorities mentioned above, in accordance with the relevant international communication procedures and standards for messaging and reference data.</p> <p>The counterparties to a trade must generate a unique trade identifier for each derivative contract to enable trade repositories to aggregate and compare data across different trade repositories.</p>	<p>MAS has the power to issue directions, by notice in writing, to a LTR with respect to the (i) publication of any information relating to any transaction reported to the LTR; or (b) for ensuring that the Authority and such other entities as the Authority may specify are provided with access to any information on any transaction reported to the LTR [Section 46ZK of Part IIA of SFA].</p>	<p>id.</p>
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LTR= Licenced TR, under Singaporean law.



## Annex II - Proposed rules on reporting

**NB: The conclusions in this section are preliminary since they are based on proposed rules.**

Description of EU Rules	Description of the corresponding [SFA/SFR] provisions	Remarks
<p>A trade repository is a legal person that centrally collects and maintains records of derivatives. (EMIR Article 2(2))</p>	<p>“A trade repository means a corporation that collects and maintains information on any transactions relating to any securities, futures contracts or derivatives contracts, or any other transactions or class of transactions that the Authority may prescribe by regulations made under section 341”. [Section 46B of Part IIA of Securities and Futures Act (“SFA”)]</p>	<p><b>Equivalent</b></p>
<p>Counterparties and CCPs shall ensure that the details of any derivative contract they have concluded and of any modification or termination of the contract are reported to a trade repository. The details shall be reported no later than the working day following the conclusion, modification or termination of the contract.  (EMIR Article 9)</p>	<p>A specified person who is a party to a specified derivatives contract is required to report information on the specified derivatives contract, and any amendment, modification, variation or change to the information [Section 125 of Part VIA of SF(A)Act]; Information on the specified derivatives contract is required to be reported by the close of the second business day immediately after the execution, modification or termination of the specified derivatives contract [Regulation 8 of Draft Securities and Futures (Reporting of Derivatives Contract)Regulation (“SF(RDC)”)].</p>	<p><b>Not equivalent</b>, as the deadline exists but it is one day longer than in the EU. If this is confirm, a condition should be consider according to which the timing of reporting should remain compatible with the EMIR provisions.</p>



<p>Both counterparties (as well CCPs) are responsible for the reporting obligation. However, a counterparty or a CCP which is subject to the reporting obligation may delegate the reporting of the details of the derivative contract. (EMIR Article 9)</p>	<p>A specified person who is a party to a specified derivatives contract is required to report information on the specified derivatives contract [Section 125(1) of Part VIA of SF(A)Act]; however a specified person is deemed to have reported that information if the specified person has reported that information to his counterparty, and his counterparty has reported that information to a licensed trade repository [Section 125(5) of Part VIA of SF(A)Act].</p>	<p><b>Broadly equivalent</b></p>
<ul style="list-style-type: none"> <li>• Details of the derivative contract.</li> <li>• Table of fields include specific EU fields: <ul style="list-style-type: none"> <li>- confirmation timestamp;</li> <li>- delivery of commodity derivatives underlyings;</li> <li>- change log of TR;</li> <li>- clearing threshold and hedging status'</li> <li>- trade with non-EEA C/P;</li> <li>- intragroup flag.</li> </ul> </li> </ul> <p>(EMIR Art 9, RTS/ITS Art9) (EMIR Article 9, TR RTS)</p>	<p>Information on a specified derivatives contract includes, but is not limited to a) the identities of the parties to the specified derivatives contract, b) the characteristics of the specified derivatives contract including, but not limited to, operational data (such as clearing and settlement details), event data (such as execution time), underlying information and information on transaction economics (such as effective date and maturity date) [Section 125(11) of Part VIA of SF(A)Act]. The Singaporean legislation table of fields to be reported to TRs as a minimum have been analysed for this row assessment and the following items/rows.</p>	<p><b>Broadly equivalent.</b> Not all fields/formats are the same. However, on balance the fields required under the Singaporean regime allow for a broadly equivalent set of information.</p>
<p>Reports include information on exposures (information on mark-to-market or mark-to-model valuation of contracts and collateral) (RTS/ITS Art9) <i>Reporting of exposures:</i><sup>liv</sup> The data on collateral required as part of the Counterparty Data</p>	<p>MAS requires collateral information and mark-to-market value information to be reported, as per its draft table of minimum reporting fields (Second Schedule of Draft Securities and Futures Regulations 2013).</p>	<p><b>Equivalent</b></p>



<p>must include all posted collateral. Where a counterparty does not collateralise on a transaction level basis, counterparties must report to a trade repository collateral posted on a portfolio basis. When the collateral related to a contract is reported on a portfolio basis, the reporting counterparty must report to the trade repository a code identifying the portfolio of collateral posted to the other counterparty related to the reported contract. Non-financial counterparties other than Non-Financial Counterparties Subject to Clearing Obligation are not required to report collateral, mark-to-market, or mark-to-model valuations of the contracts. For contracts cleared by a CCP, mark-to-market valuations must only be provided by the CCP.</p>		
<p>International codes used for reporting purposes: (temporary BIC) - LEI, UPI, trade ID generated by the counterparties (RTS/ITS Art 9)</p>	<p>MAS requires LEI, UPI and UTI to be reported (Second Schedule of Draft Securities and Futures Regulations 2013).</p>	<p><b>Equivalent</b></p>
<p>The reports must include the following information: <i>Counterparty data.</i><sup>lv</sup> The</p>	<p>MAS requires counterparty information, and information related to cleared trades to be reported (Second Schedule of Draft Securities and Futures Regulations 2013)..</p>	<p><b>Equivalent</b></p>



<p>reports must include information relating to the counterparties to the derivative contract, including, where different, the beneficiary of the rights and obligations arising from it. Such information must include the details set out in a table in an annex to the Reporting Obligation RTS (the “Counterparty Data”).<sup>lvi</sup></p> <p><i>Cleared trades:</i><sup>lvii</sup> Where a contract is concluded in a trading venue and cleared by a CCP such that a counterparty is not aware of the identity of the other counterparty, the reporting counterparty must identify that CCP as its counterparty.</p>		
<p><sup>lviii</sup> The reports must include information relating to the main characteristics of the derivative contract concluded between the two counterparties, including their type, underlying maturity, notional value, price, and settlement date. Such information must include the details set out in a table in an annex to the Reporting Obligation RTS (the “Common Data”).<sup>lix</sup></p> <p>Where a derivative contract</p>	<p>MAS requires similar scope of information to be reported (Second Schedule of Draft Securities and Futures Regulations 2013).</p>	<p><b>Equivalent</b></p>



<p>includes features typical of more than one underlying asset as specified in this table, the report must indicate the class that the counterparties agree the contract most closely resembles before the report is sent to a trade repository.<sup>lx</sup></p>		
<p>Where an existing contract is subsequently cleared by a CCP, clearing should be reported as a modification of the existing contract.<sup>lxi</sup></p> <p>Modifications to the data registered in trade repositories must 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.</p>	<p>For trades that are novated or given up for clearing within the reporting timeframe, our present intent is to require reporting for the cleared leg. For trades that are cleared after the reporting timeframe, the pre-cleared leg would be reportable. Upon clearing, the pre-cleared position would be closed.</p> <p>Specified person who is a party to a specified derivatives contract is required to report information on the specified derivatives contract, and any amendment, modification, variation or change to the information [Section 125 of Part VIA of SF(A)Act]</p> <p>An LTR is required to maintain a record of all transactions reported to the LTR. (Section 46L of Part IIA of SFA)</p>	<p><b>Broadly equivalent</b></p>
<p>The information in the reports must be provided in the format specified in a table in an annex to the Reporting Obligation ITS.<sup>lxii</sup></p>	<p>MAS specifies the data format to be reported, as per its Consultation Paper (Second Schedule of Draft Securities and Futures Regulations 2013).</p>	<p><b>Equivalent</b></p>
<p>(i) A report must identify a derivative contract using a unique product identifier (a</p>	<p>UPI expected.</p>	<p><b>Equivalent</b></p>



<p>“UPI”) which is: unique; neutral; reliable; open source; scalable; accessible; available at a reasonable cost basis; and subject to an appropriate governance framework.</p> <p>(ii) Where a UPI does not exist, a report must identify a derivative contract by using the combination of the assigned ISO 6166 ISIN code or Alternative Instrument Identifier code with the corresponding ISO 10962 CFI code.</p> <p>(iii) Where the combination referred to in (ii) is not available, the type of derivative must be identified on the following basis:</p> <ul style="list-style-type: none"><li>(a) The class of the derivative must be identified as one of the following: commodities; credit; foreign exchange; equity; interest rate; or other.</li><li>(b) The derivative type must be identified as one of the following: contracts for difference; forward rate agreements; forwards; futures; options; swaps; or other.</li><li>(c) For derivatives not</li></ul>		
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<p>falling into a specific derivative class or derivative type (as set out in (a) and (b)), the report must be made on the basis of the derivative class or derivative type that the counterparties agree the derivative contract most closely resembles.</p>										
<p>The counterparties to a trade must generate a unique trade identifier for each derivative contract to enable trade repositories to aggregate and compare data across different trade repositories.</p>	<p>UTI expected.</p>									
<p><i>Reporting start date</i></p> <p>- ESMA has set out various reporting start date in the Reporting Obligation ITS:</p> <p>(i) For credit derivative and interest rate derivative contracts:</p> <p>(a) If a trade repository for that class of derivatives has been registered<sup>lxiii</sup> before April 1, 2013, the Reporting Obligation will apply from July 1, 2013.</p> <p>(b) If there is no trade</p>	<p>MAS intends to phase in the reporting obligation in the following manner:</p> <ul style="list-style-type: none"> <li>For credit and interest rate derivatives contracts:</li> </ul> <table border="1" data-bbox="595 991 1227 1150"> <thead> <tr> <th>Types of entity</th> <th>Reporting start date</th> </tr> </thead> <tbody> <tr> <td>Banks</td> <td>1 April 2014</td> </tr> <tr> <td>Non-bank financial entities</td> <td>1 July 2014</td> </tr> <tr> <td>Non- financial entities</td> <td>1 October 2014</td> </tr> </tbody> </table>	Types of entity	Reporting start date	Banks	1 April 2014	Non-bank financial entities	1 July 2014	Non- financial entities	1 October 2014	<p><b>Broadly equivalent</b>, as not all dates are the same, but when reporting will be mandatory, the effects of Article 13 (disapplication of EMIR and application of the Singaporean regime) could be considered.</p>
Types of entity	Reporting start date									
Banks	1 April 2014									
Non-bank financial entities	1 July 2014									
Non- financial entities	1 October 2014									



<p>repository registered for that class of derivatives on or before April 1, 2013, the Reporting Obligation will apply 90 days after the registration of a trade repository for that class of derivatives.</p> <p>(c) If there is no trade repository registered for that class of derivatives by July 1, 2015, the Reporting Obligation will apply from that date and contracts must be reported to ESMA.<sup>lxiv</sup></p>										
<p>(ii) For all other derivative contracts:</p> <p>(a) If a trade repository for that class of derivatives has been registered before October 1, 2013, the Reporting Obligation will apply from January 1, 2014.</p> <p>(b) If there is no trade repository registered for that class of derivatives on October 1, 2013, the Reporting Obligation will apply 90 days after the registration of a trade repository for that class of derivatives.</p> <p>(c) If there is no trade repository registered for that class of derivatives by July 1, 2015, the Reporting Obligation will apply</p>	<p>For FX, equity, commodity and other derivatives contracts</p> <table border="1" data-bbox="595 868 1227 1027"> <thead> <tr> <th>Types of entity</th> <th>Reporting start date</th> </tr> </thead> <tbody> <tr> <td>Banks</td> <td>1 October 2014</td> </tr> <tr> <td>Non-bank financial entities</td> <td>1 January 2015</td> </tr> <tr> <td>Non- financial entities</td> <td>1 April 2015</td> </tr> </tbody> </table>	Types of entity	Reporting start date	Banks	1 October 2014	Non-bank financial entities	1 January 2015	Non- financial entities	1 April 2015	<p>id.</p>
Types of entity	Reporting start date									
Banks	1 October 2014									
Non-bank financial entities	1 January 2015									
Non- financial entities	1 April 2015									



<p>from that date and contracts must be reported to ESMA.<sup>lxv</sup></p>		
<p>The Reporting Obligation applies to derivative contracts entered into before August 16, 2012 which remain outstanding on that date, and to derivative contracts entered into on or after August 16, 2012.<sup>lxvi</sup></p> <p>(i) Derivative contracts which were outstanding on August 16, 2012 and are still outstanding on the reporting start date must be reported to a trade repository within 90 days of the reporting start date.</p> <p>(ii) Derivative contracts which were entered into before, on or after August 16, 2012, that are not outstanding on or after the reporting start date must be reported to a trade repository within 3 years of the reporting start date.</p> <p>The reporting start date must be extended by 180 days for the reporting of exposures.<sup>lxvii</sup></p>	<p>In the case of a specified derivatives contract that was booked in Singapore prior to the reporting commencement date applicable to the specified person concerned, but has not less than 1 year to maturity as at the date of listing reporting commencement date, the information on the specified derivatives contract shall be reported within 6 months from the reporting commencement date [Regulation 8 of SF(RDC)R].</p>	<p>Id.</p>



<p>Counterparties must keep a record of any derivative contract they have concluded and any modification thereof for at least five years following the termination of the contract.<sup>lxviii</sup></p>	<p>Every specified person shall ensure that all relevant books and other information as may be required by the Authority for the purposes of the Act, including transaction information, as the case may be, are kept for a minimum of 5 years</p> <p>Where the information is transaction information, the period of 5 years shall commence on the date of the expiry or termination of the contract, agreement or transaction to which the information relates [Regulation 8 of SF(RDC)]</p>	<p><b>Equivalent</b></p>
<p><i>When one report is made on behalf of both counterparties:</i><sup>lxix</sup></p> <p>(a) it must contain the Counterparty Data in relation to each of the counterparties;</p> <p>(b) the Common Data must be submitted only once; and</p> <p>(c) it must state that the report is being made on behalf of both counterparties.</p>		<p><b>Not equivalent</b>, as the proposed rules do not require matching or validation reports upon receipt.</p>
<p><i>Delegation to third-parties.</i> A counterparty or a CCP which is subject to the Reporting Obligation may delegate the performance of such obligation to a third party.<sup>lxx</sup></p>	<p>A specified person is deemed to have fulfilled its reporting obligation if the specified person has reported that information to any other person, and that person has reported that information to a licensed trade repository [Section 125(4) of Part VIA of SF(A)Act]</p>	<p><b>Equivalent</b></p>
<p><i>No duplication.</i> Counterparties and CCPs must ensure that the details of their derivative contracts are reported without duplication.<sup>lxxi</sup></p>	<p>MAS intends to rely on the trade repository to reconcile duplicative trades using UTI (Second Schedule of Draft Securities and Futures Regulations 2013).</p> <p>With regard to the reporting of UTI, MAS requires both counterparties of uncleared and unconfirmed trades to agree on the UTI to be reported. For cleared trades and uncleared contract that is electronically confirmed, MAS requires the CCP, and the electronic confirmation platform,</p>	<p><b>Not Equivalent.</b> However, should the TR rules prevent duplication of data by enabling delegation and validating reports upon receipt, and (ii) MAS deliver on its intention to rely on the trade repository to reconcile duplicative trades using UTI, this does not undermine the consistency of objectives between the Singaporean and the EU regimes</p>



	respectively, to generate the UTI.	and is thus deemed equivalent.
<p>The performance of the Reporting Obligation (whether directly by a counterparty or a CCP or through an entity acting on its behalf) shall not be considered in breach of any restriction on disclosure of information imposed by that contract or by any legislative, regulatory or administrative provision and no liability resulting from such disclosure shall lie with the reporting entity or its directors or employees.<sup>lxxii</sup></p>	<p>Banking confidentiality provisions in Singapore permit disclosure of client identity only if the disclosure is permitted in writing by the customer (section 47(2) of the Banking Act). MAS has received feedback from the industry on operational difficulties in obtaining such customer consent, and is considering ways to address this issue, including making legislative changes to allow client identity of OTC derivatives to be reported without breaching domestic confidentiality provisions.</p>	<p><b>Not equivalent.</b> However, equivalence could be considered once the legal barrier is removed.</p>



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- <sup>i</sup> Under EMIR, Art. 2(29), “senior management” includes the person or persons who effectively direct the business of the trade repository, and the exclusive member or members of the board.
- <sup>ii</sup> Under EMIR, Art. 2(27), “board” means administrative or supervisory board, or both, in accordance with national company law.
- <sup>iii</sup> EMIR, Art. 78(1).
- <sup>iv</sup> EMIR, Art. 55.
- <sup>v</sup> EMIR, Art. 78(3).
- <sup>vi</sup> EMIR, Art. 78(7).
- <sup>vii</sup> EMIR, Art. 78(8).
- <sup>viii</sup> EMIR, Art. 78(7).
- <sup>ix</sup> EMIR, Art. 78(8).
- <sup>x</sup> Including trade confirmation, trade matching, credit event servicing, portfolio reconciliation or portfolio compression services.
- <sup>xi</sup> EMIR, Art. 78(5).
- <sup>xii</sup> EMIR, Art. 78(4).
- <sup>xiii</sup> EMIR, Art. 79(1).
- <sup>xiv</sup> EMIR, Art. 79(2).
- <sup>xv</sup> EMIR, Art. 79(3).
- <sup>xvi</sup> EMIR, Art. 80(3).
- <sup>xvii</sup> EMIR, Art. 80(4).
- <sup>xviii</sup> See Section I.B. entitled “Reporting Obligation (EMIR, Art. 9)” above.
- <sup>xix</sup> EMIR, Art. 80(5).
- <sup>xx</sup> EMIR, Art. 80(3).
- <sup>xxi</sup> EMIR, Art. 80(2).
- <sup>xxii</sup> EMIR, Art. 80(6).
- <sup>xxiii</sup> See above.
- <sup>xxiv</sup> See above.
- <sup>xxv</sup> See above.
- <sup>xxvi</sup> EMIR, Art. 80(6).
- <sup>xxvii</sup> EMIR, Art. 81(1).
- <sup>xxviii</sup> TRs Transparency Obligation RTS, Art. 1(1).
- <sup>xxix</sup> EMIR, Art. 81(5).
- <sup>xxx</sup> TRs Transparency Obligation RTS, Art. 1(2).
- <sup>xxxi</sup> TRs Transparency Obligation RTS, Art. 1(2).
- <sup>xxxii</sup> EMIR, Art. 81(2).
- <sup>xxxiii</sup> As listed in EMIR, Art. 81(3).
- <sup>xxxiv</sup> TRs Transparency Obligation RTS, Art. 2(1).
- <sup>xxxv</sup> TRs Transparency Obligation RTS, Art. 2(9).
- <sup>xxxvi</sup> TRs Transparency Obligation RTS, Art. 2(2).
- <sup>xxxvii</sup> EMIR, Art. 81(4).
- <sup>xxxviii</sup> TRs Transparency Obligation RTS, Art. 2(9).
- <sup>xxxix</sup> TRs Transparency Obligation RTS, Art. 2(4).
- <sup>xl</sup> TRs Transparency Obligation RTS, Art. 2(5).
- <sup>xli</sup> TRs Transparency Obligation RTS, Art. 2(4).
- <sup>xlii</sup> TRs Transparency Obligation RTS, Art. 2(9).
- <sup>xliii</sup> TRs Transparency Obligation RTS, Art. 2(10).



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- xliv In accordance with EMIR, Art. 75.
- xliv TRs Transparency Obligation RTS, Art. 3(1).
- xlvi Under Article 4 of Directive 2004/25/EC of the European Parliament and of the Council of April 21, 2004.
- xlvii TRs Transparency Obligation RTS, Art. 2(6) and (7).
- xlviii TRs Transparency Obligation RTS, Art. 2(8).
- xliv In accordance with EMIR, Art. 76.
- l TRs Transparency Obligation RTS, Art. 3(2).
- li TRs Transparency Obligation RTS, Art. 2(3).
- lii See Section I.B. entitled “Reporting Obligation (EMIR, Art. 9)” above.
- liii TRs Transparency Obligation RTS, Art. 2(11).
- liv Reporting Obligation RTS, Art. 3.
- lv EMIR, Art. 9(5)(a) and Reporting Obligation RTS, Art. 1(1)(a).
- lvi See Table 1 in the Annex to the Reporting Obligation RTS.
- lvii Reporting Obligation RTS, Art. 2(2).
- lviii EMIR, Art. 9(5)(b) and Reporting Obligation RTS, Art. 1(1)(b).
- lix See Table 2 in the Annex to the Reporting Obligation RTS.
- lx Reporting Obligation RTS, Art. 1(6).
- lxi Reporting Obligation RTS, Art. 2(1).
- lxii Reporting Obligation RTS, Art. 1 and Tables 1 and 2 in the Annex to the Reporting Obligation RTS.
- lxiii Under EMIR, Art. 55.
- lxiv In accordance with EMIR, Art. 9(3).
- lxv In accordance with EMIR, Art. 9(3).
- lxvi EMIR, Art. 9(1).
- lxvii As prescribed under Reporting Obligation RTS, Art. 3.
- lxviii EMIR, Art. 9(2).
- lxix Reporting Obligation RTS, Art. 1(3) and (4). Under the Reporting Obligation RTS, Art. 1(5), where one counterparty reports the details of a contract to a trade repository on behalf of the other counterparty, the details reported must include the full set of details that would have been reported had the contracts been reported to the trade repository by each counterparty separately.
- lxx EMIR, Art. 9(1). Under the Reporting Obligation RTS, Art. 1(5), where a third entity reports a contract to a trade repository on behalf of one or both counterparties, the details reported must include the full set of details that would have been reported had the contracts been reported to the trade repository by each counterparty separately.
- lxxi EMIR, Art. 9(1).
- lxxii EMIR, Art. 9(4).