



OTC derivatives reform – trade reporting regime



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**Town Hall Presentation
19 August 2013**

Overview

- Background
- Derivative trade repositories
- Transaction reporting requirements
- Conclusion
- What's next
- Questions?



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Background – GFC and OTC derivatives

- Collapses of Lehman Brothers and AIG in 2008
 - Substantial and unknown exposures to other counterparties through over-the-counter (OTC) derivatives
 - Regulators felt they had to take big decisions whether to bail-out these institutions without full knowledge of the consequences of (in)action
- Lessons learned
 - Regulators never again want to be „blindsided’ about the risk positions and interlinkages of major market participants
 - Focus on improving OTC derivatives markets’ transparency, stability and integrity
 - More broadly, focus on reducing size of counterparty credit risk positions plus risk mitigation tools

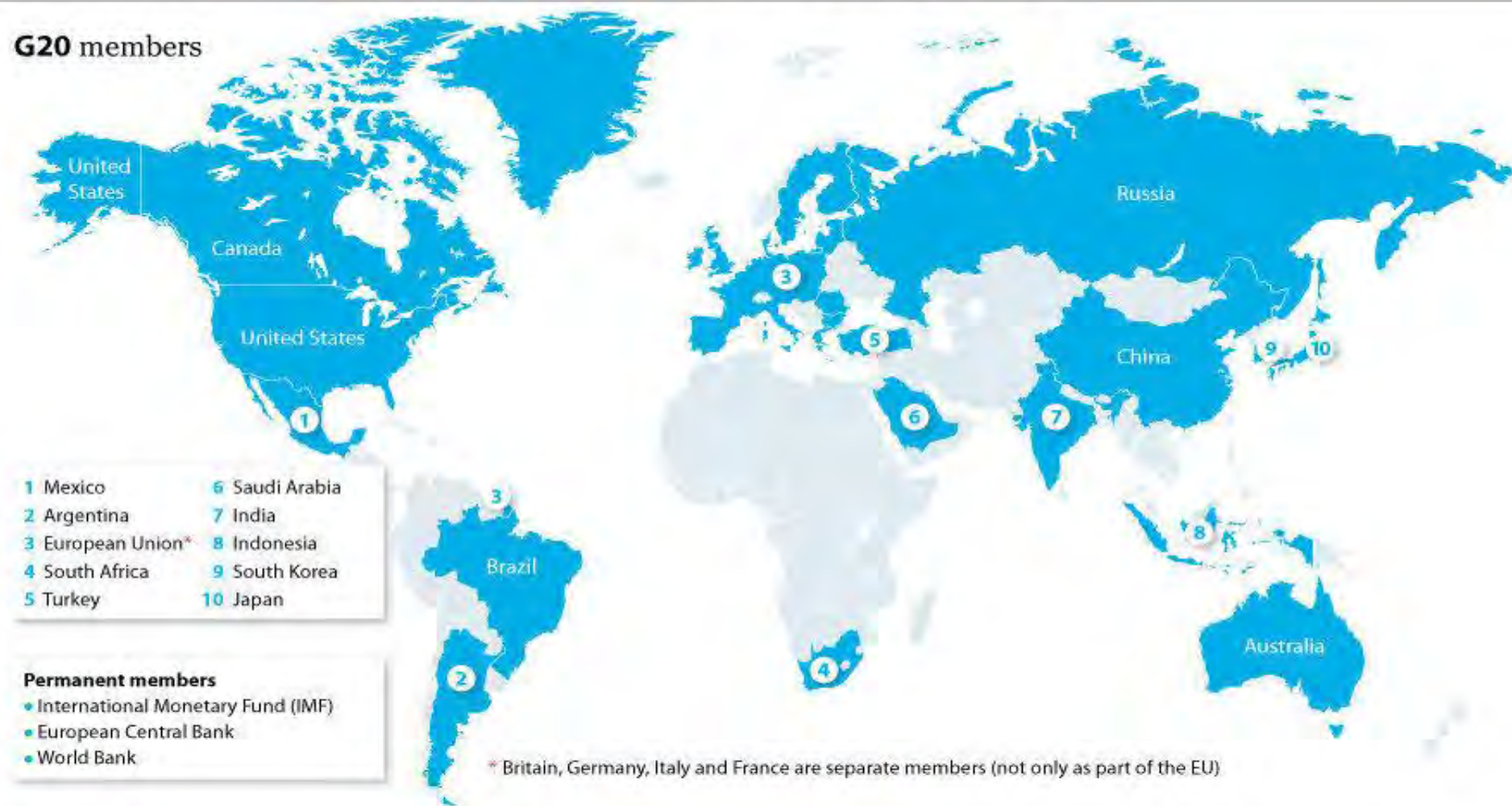


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G20: countries and permanent members

G20 members



The G-20 is the premier forum for our international economic development that promotes open and constructive discussion between industrial and emerging-market countries on key issues related to global economic stability.

The G20 was formed in **1999**

The main forms of G20 activity are annual meetings at the level of financial ministers and heads of central banks

The meetings are hosted by a **presiding country**

The presiding country is **changed annually** on a rotation basis

Each year the presiding countries must represent a **different region**

The temporary secretariat is located in the **presiding country**

Background – Pittsburgh G20 commitments, 2009

Trade reporting

- All OTC derivative transactions to be reported to trade repositories

Central clearing

- All standardised OTC derivatives transactions to be centrally cleared

Platform trading

- All standardised OTC derivatives transactions to be traded on exchanges or electronic trading platforms, “where appropriate”



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Background – ASIC's regulatory objectives

- ASIC's regulatory objectives in making derivative trade reporting rules requiring reporting of OTC derivatives to trade repositories:
 - a) enhance the transparency of transaction information available to relevant authorities and the public;
 - b) promote financial stability;
 - c) support the detection and prevention of market abuse.



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Background – Legislative process

March 2012 – Regulators recommend that Government implement a broad trade reporting obligation

January 2013 – New Part 7.5A of Corporations Act becomes effective

May 2013 – Minister mandates trade reporting across five asset classes and activates ASIC's rulemaking powers

June/July 2013 - Corporations Regulations made



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Background – ASIC's rulemaking process

Dec 2012 - Treasury
consultation on trade reporting

Mar-Apr 2013 – ASIC consults
on trade reporting and trade
repositories (CP201/CP205)

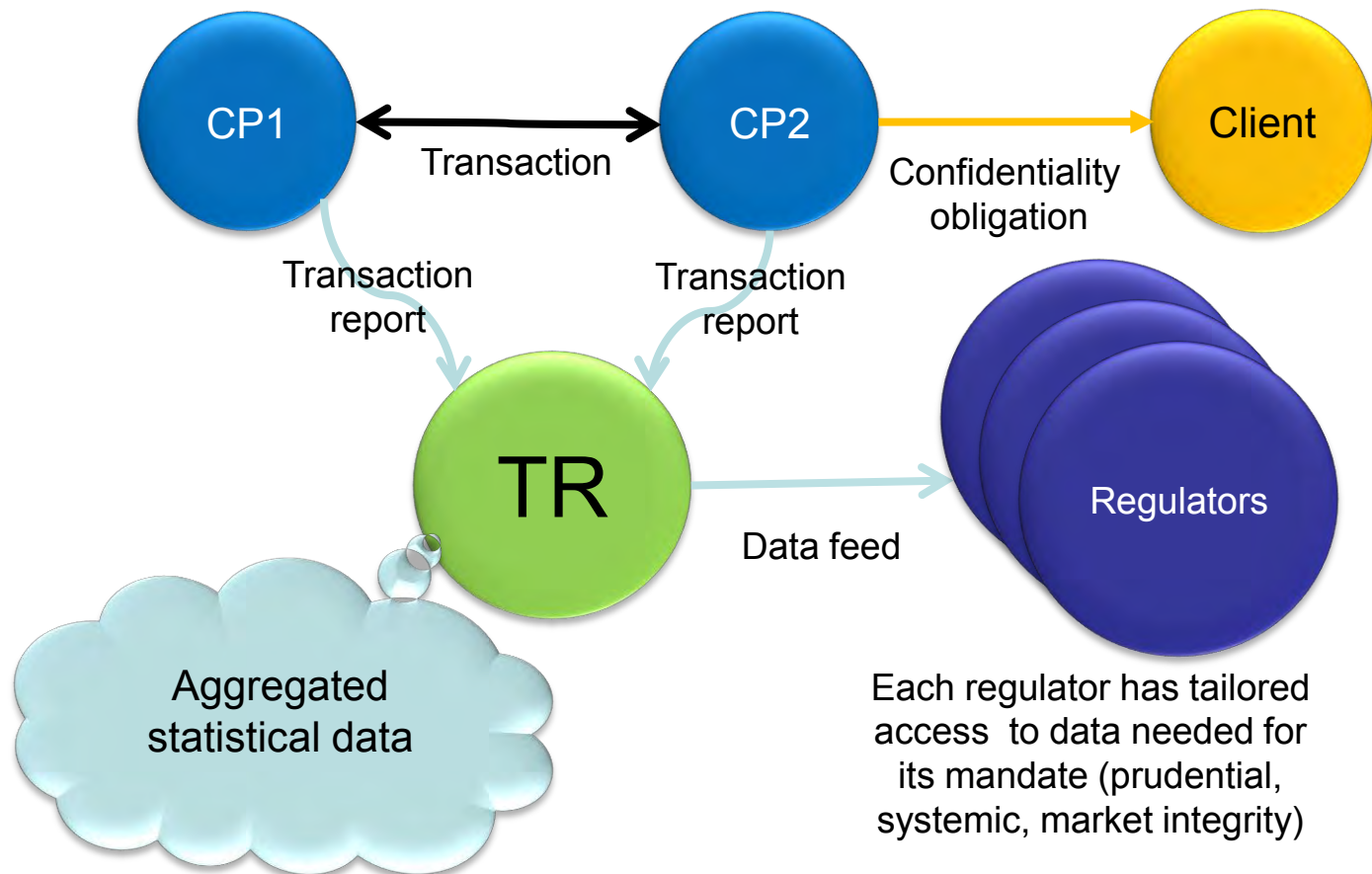
July 2013 – Rules and
guidance finalised



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Background – What are trade repositories?



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Trade repository rules – Licensed and prescribed TRs

Licensed
trade
repositories

Licensed by
ASIC

- Domestic
- Overseas

Prescribed
trade
repositories

Prescribed by
Regulation

- (Domestic)
- Overseas



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Trade repository rules – What info will TRs make available?

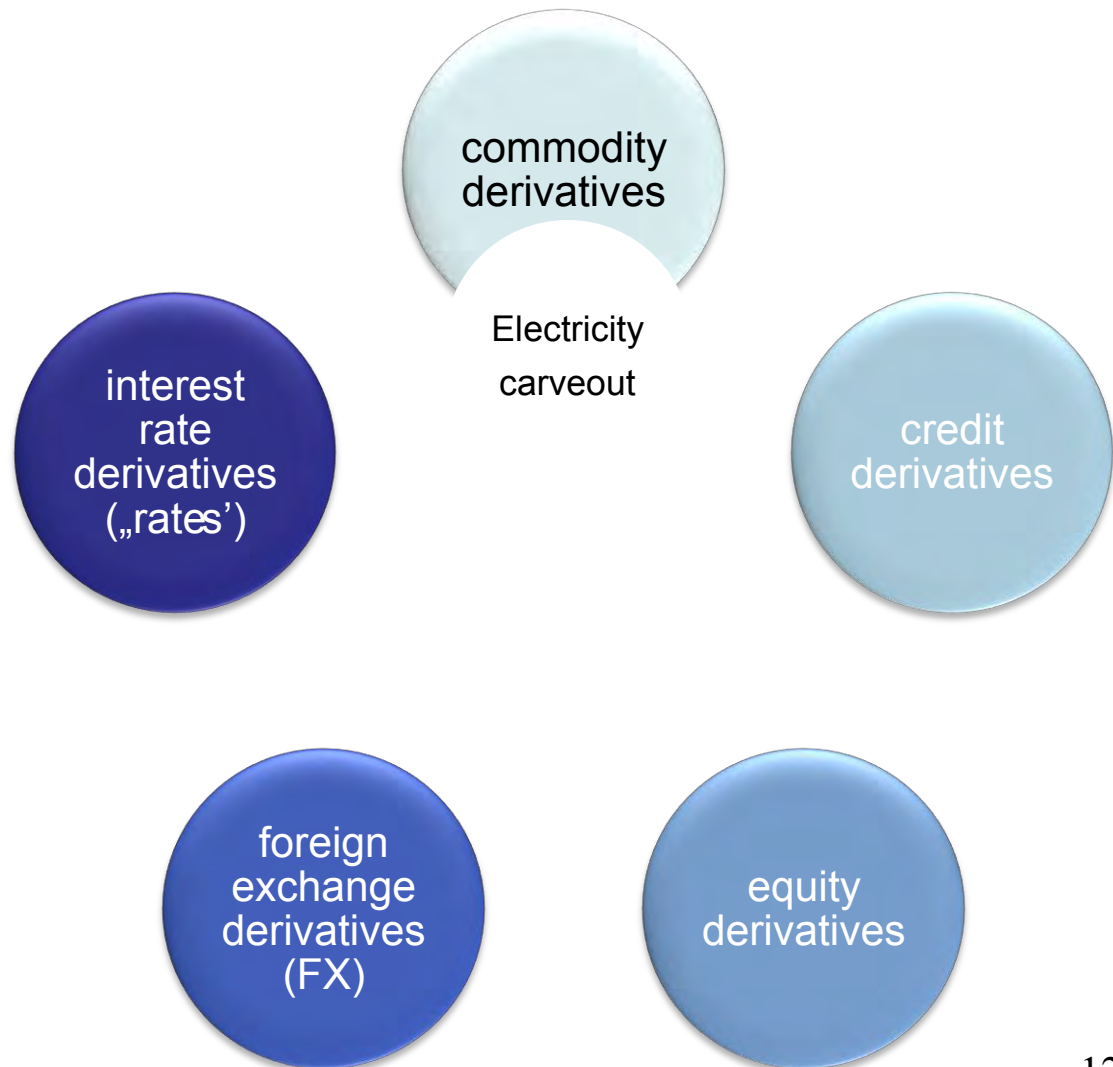
- Licensed Australian derivative trade repositories are required to make certain aggregated data publicly available on a weekly basis.
- Australian Regulators will have access to continuous, direct and immediate access to all Derivative Trade Data retained in the Trade Repository.
- This data will be used to help achieve our regulatory objectives:
 - a) enhance the transparency of transaction information available to relevant authorities and the public;
 - b) promote financial stability;
 - c) support the detection and prevention of market abuse.



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Trade reporting rules – Which transactions need to be reported?



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Trade reporting rules – When does reporting start?

Ph.	Who covered	Transaction reporting start date	Position reporting start date
Opt-in	Counterparties that wish to opt-in	As specified in the opt-in notice	As specified in the opt-in notice (but before 1 October 2014)
1	CFTC registered swap dealers	1 October 2013	1 October 2014
2	Major financial institutions (>\$50b notional outstanding)	1 April 2014 (rates, credit)	1 October 2014 (rates, credit)
		1 October 2014 (other)	1 April 2015 (other)
3	Other financial institutions/intermediaries	1 October 2014 (rates, credit)	1 April 2015 (rates, credit)
		1 April 2015 (other)	1 October 2015 (other)
4	End users (subject to further consultation)	Not before 1 January 2015	Not before 1 January 2015



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Trade reporting rules – Phase 2 threshold

- Calculated as at 31 December 2013 for purposes of determining phase 2 eligibility
- The A\$50 billion threshold does not include transactions by:
 - subsidiaries or other related bodies corporate of the reporting entity; or
 - the reporting entity that are not within the scope of the reporting requirements for that entity (e.g., for certain foreign entities, not booked to the P+L of a branch in Australia and not entered into in Australia).
- ... but it does include electricity derivatives even though they are not reportable
- For managed investment schemes and trusts, the threshold may be measured for each scheme or trust, rather than at the level of the responsible entity or trustee



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Trade reporting rules – Which trade repositories can be used?

- No TRs licensed as yet in Australia
 - first TRs expected to be licensed Q4 2013 or Q1 2014
- TRs prescribed by Regulation (until 30 June 2014):

Trade Repository	Rates	Credit	Equity	Comm	FX
DTCC Data Repository (U.S.) LLC	✓	✓	✓	✓	✓
DTCC Derivatives Repository Ltd	✓	✓	✓	✓	✓
DTCC Data Repository (Japan) KK	✓	✓	✓	✓	✓
DTCC Data Repository (Singapore) Pte Ltd	✓	✓	✓	✓	✓
Chicago Mercantile Exchange Inc	✓	✓		✓	✓
INFX SDR					✓
ICE Trade Vault, LLC	✓	✓		✓	✓
HKMA	✓				✓



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Trade reporting rules – Who will need to report what?

Reporting entity	Transactions reported	Reported to
Australian entity ie incorporated or formed in Australia	All OTC Derivatives to which the entity is a counterparty	Licensed TRs
Foreign ADI with a branch in Australia	All OTC Derivatives: -Booked to the P/L account of an Australian branch; or	Licensed TRs
Foreign corporation registered under Part 5.2B Corporations Act	- entered into by the entity in this jurisdiction	Prescribed TRs

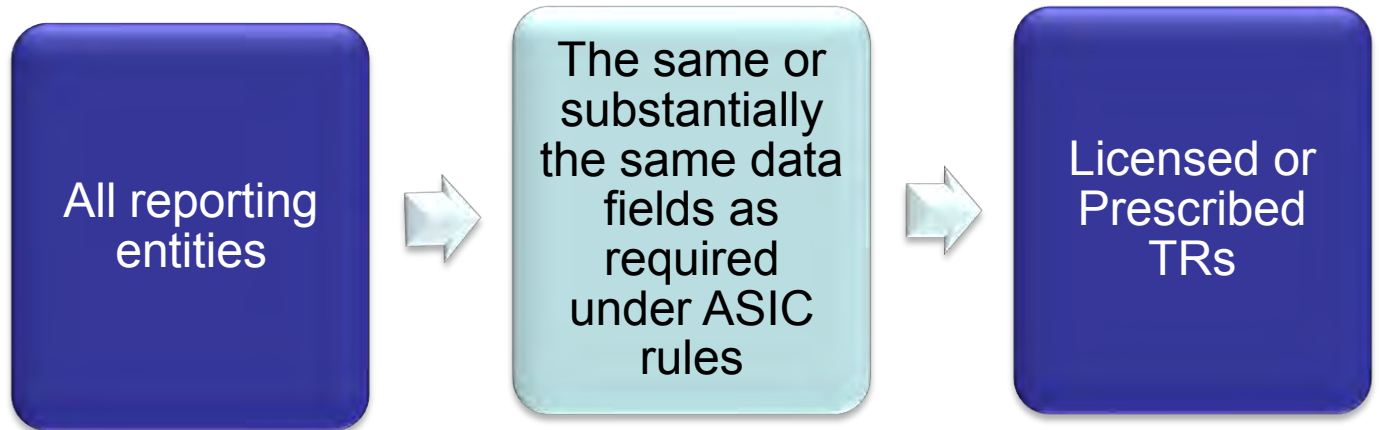


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Trade reporting rules – Alternative reporting

- Until 1 October 2014

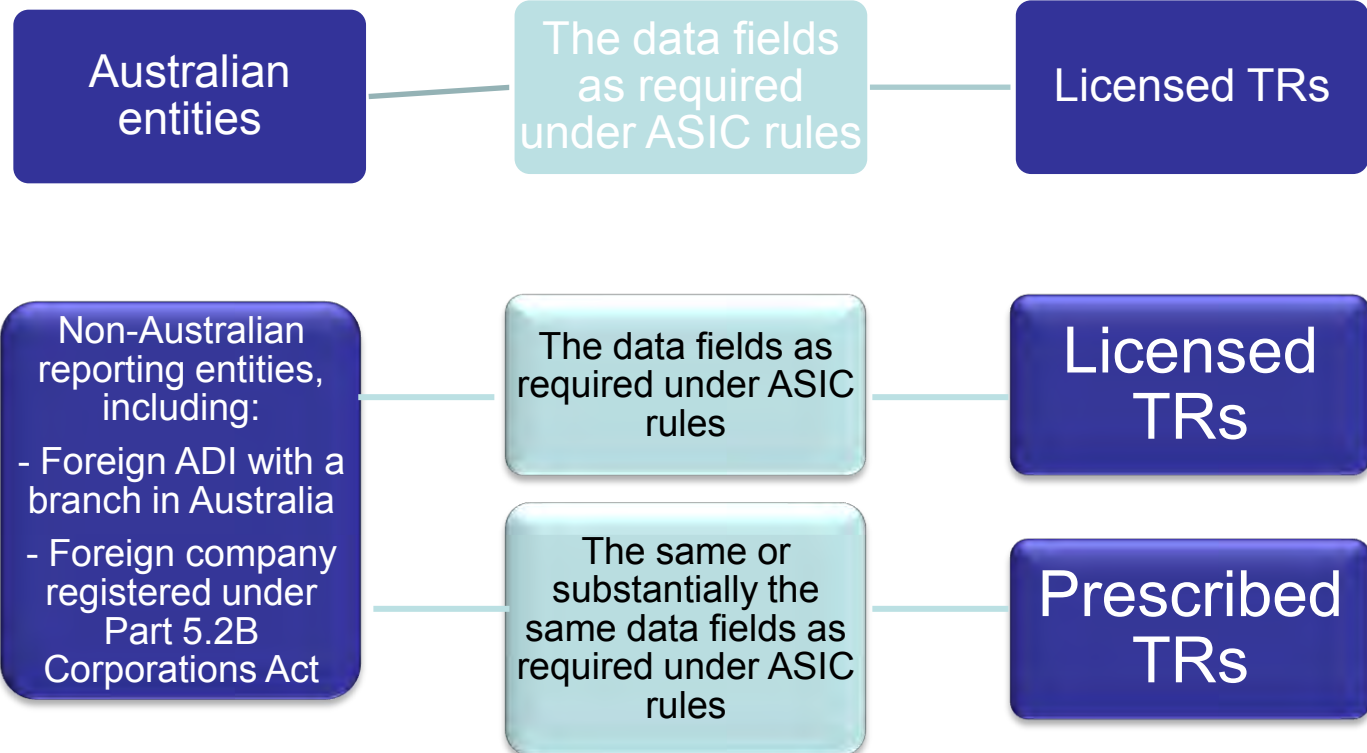


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Trade reporting rules – Alternative reporting

- From 1 October 2014



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Trade reporting rules – Two-sided reporting

- Both counterparties to transaction must report to a TR if both covered by scope of obligation
- If a counterparty is not subject to a reporting obligation, or has not yet been phased-in, they do not need to report.
- Reporting entities can delegate reporting e.g. to counterparty, CCP, etc



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Trade reporting rules – Delegated reporting

- The rules allow for a reporting entity to report by another person reporting on its behalf
 - A reporting entity that appoints another person to report on its behalf remains responsible for complying with the rules in relation to the report
 - The party appointed may be a counterparty, a central counterparty, a trading platform, a service provider, a broker or any other third party



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Trade reporting rules – T+1 reporting

- All transaction, amendments, allocations and terminations must be reported by the end of the business day following the day the transaction took place, in the time zone the transactions was entered into
- Updated mark-to-market valuations and information about collateral exchanges also need to be reported by T+1



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Trade reporting rules – Exchange-traded derivatives

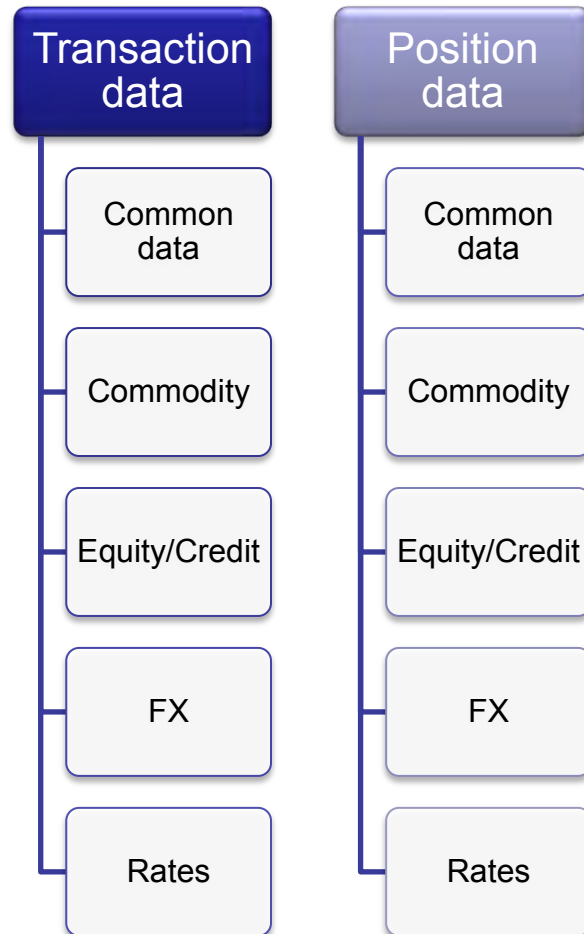
- Intent of rules is to ensure only OTC transactions are reported
- We have excluded transactions undertaken on a Part 7.2A market supervised by ASIC in Australia (e.g. ASX24, FEX)
- We have also excluded transaction done on a „regulated foreign market’, which is essentially a market equivalent to a Part 7.2A market
 - We will shortly be publishing an initial list of regulated foreign markets
- Intention is that trades done on SEF/MTF-like platforms will need to be reported



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Trade reporting rules – What information must be reported?



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Counterparty identifier hierarchy

For Corporates

LEI or pre-LEI (if available)

ABN (if available)

BIC

Client Code (for individual)



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Trade reporting rules – What information must be reported?

- Following feedback from stakeholders, the following data fields have been removed:
 - Method of execution
 - Submission of order entry timestamp
 - Value for options
 - Other material terms matched by the counterparties in verifying the derivative
- We have made a number of clarification to data fields based on feedback as well as to try and reduce uncertainty in what information will need to be reported.



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Trade reporting rules – Cleared trades

- When a derivative transaction is entered into before the clearing of a transaction through a CS facility, a bilateral trade may exist between the two counterparties to a trade.
- If the original transaction is a „reportable transaction’, the transaction must be reported to a TR.
- If the derivative transaction is then cleared by a CS facility, the original bilateral transaction between the counterparties may be novated to the CS facility.
 - The CS facility would then enter into a new transaction with each counterparty.
 - If these new transactions are „reportable transactions’, they must be reported as two new transactions.



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Trade reporting rules – Transitional measures

- Until 1 October 2014, information about barriers, collateral and valuations (mark-to-market, mark-to-model or other valuation) is not required to be reported
- Until 1/10/14 One-sided & conditional reporting
 - Alternative reporting for all reporting entities (not just foreign reporting entities)
 - Reporting of „substantially equivalent’ information
 - Note „porting rule’ requires transfer of information to Licensed TRs from prescribed TRs in certain circumstances
 - One-sided reporting of transactions with another Reporting Entity
 - One-sided reporting of transactions with another entity that is not a Reporting Entity



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Trade reporting rules – Impact on end users

- Separate end user consultation planned late 2013/early 2014. The issues we will consult on include:
 - Whether reporting of transactions between end users and financial institutions should be one- or two-sided
 - Whether reporting of end user-to-end user, intragroup or hedging -transactions should be required by end users;
 - What the level of any *de minimis* reporting threshold for end users should be
- End users should plan around coming under some form of reporting obligation commencing early 2015



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Trade reporting rules – Our powers to grant relief

- We are empowered under s907D to grant relief to the following from all or specified provisions:
 - (a) a person or class of persons;
 - (b) a facility or class of facilities; or
 - (c) a derivative transaction or class of derivative transactions.
- In accordance with the process outlined in Regulatory Guide 51 *Applications for relief* (RG 51), we will consider applications for relief from the reporting of certain derivative products in exceptional circumstances.
- Our forthcoming regulatory guide will discuss in more detail relief around counterparty masking



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Substituted compliance and equivalence

- We have already begun detailed discussion with CFTC on the possible equivalence of the Australian reporting regime, and have had initial discussions with ESMA
- The possibility of equivalence and substituted compliance has played a key role in our design decisions around the regime
- We expect decisions to be made by CFTC and ESMA over the coming months on the equivalence of the Australian regime



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Conclusion

- Finalisation of the derivative trade reporting regime is a major step in implementing Australia's G20 commitments.
- Australian reforms have been designed to ensure, as far as possible, consistency with international requirements.
- ASIC will continue to work closely with stakeholders to provide guidance and work through implementation issues.



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More information

- Rules, FAQs, Explanatory Statements, Reg Guide on TRs:
 - www.asic.gov.au > Markets tab > OTC derivatives reform
- Queries/comments etc.:
 - OTCD@asic.gov.au



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Questions



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