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OTC derivatives reform

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Agenda – to be updated

- **Introduction**
 - G20 commitments on OTC derivatives reform
 - ASIC's role in implementation
- **Derivatives transaction reporting**
 - Details of the obligation
 - Scope of reporting
 - Delegated reporting
 - Definition of OTC derivative
 - What information must be reported
 - Proposed rule changes
 - Implementation process
- **Other G20 mandates**
 - Central clearing
- **Questions**



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Introduction – GFC and OTC derivatives

- GFC:
 - Collapse of Lehman Brothers and bailout of AIG
 - A lack of transparency in OTC derivatives markets hampered crisis resolution efforts of authorities and increased market uncertainty
 - Exposures between market participants were not fully understood by regulators
 - Regulators never again wanted to be ‘blindsided’ by poorly understood and poorly risk managed exposures in the OTC markets
- G20’s rationales in agreeing to reform of OTC derivatives markets
 - improve transparency in the derivatives markets
 - mitigate systemic risk
 - protect against market abuse



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G20 OTC derivatives reform commitments



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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”

Bilateral risk mitigation

- Increased capital requirements for OTCD exposures
- Margining requirements for uncleared OTCDs
- Bilateral risk mitigation requirements

ASIC's Role in implementing OTC derivatives reforms

- Corporations Act Part 7.5A gives ASIC rulemaking power with regards to trade reporting, central clearing, and platform trading
 - dependent on Ministerial mandates and subject to Ministerial disallowance
- ASIC advises Government on OTC mandates through the Council of Financial Regulators (CFR)
- CFR recommends mandates to Minister through periodic market assessment reports
 - 2009
 - March, October 2012
 - July 2013
 - Apr 2014
 - [Next report due 2015]



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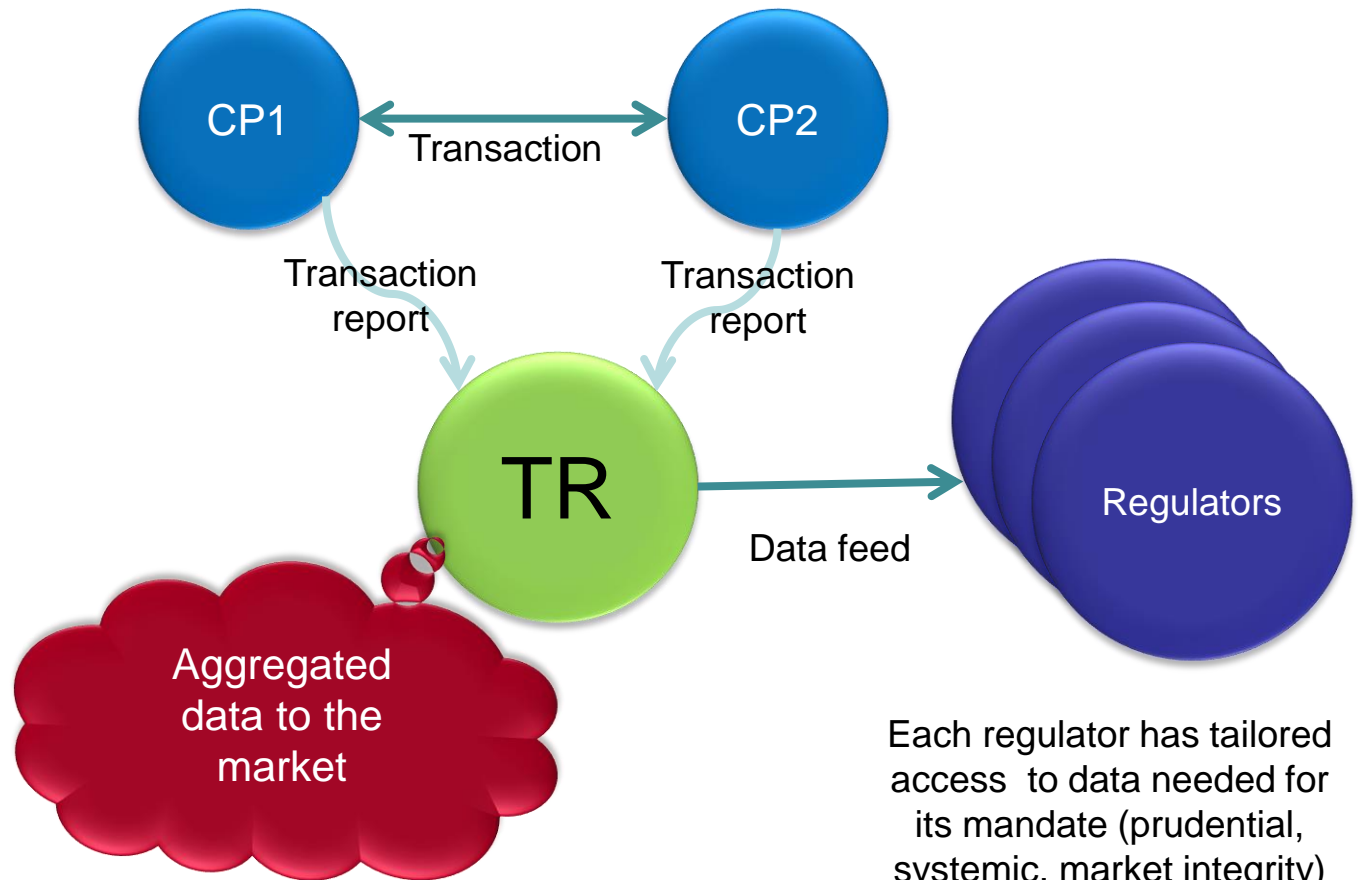
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What is trade reporting?



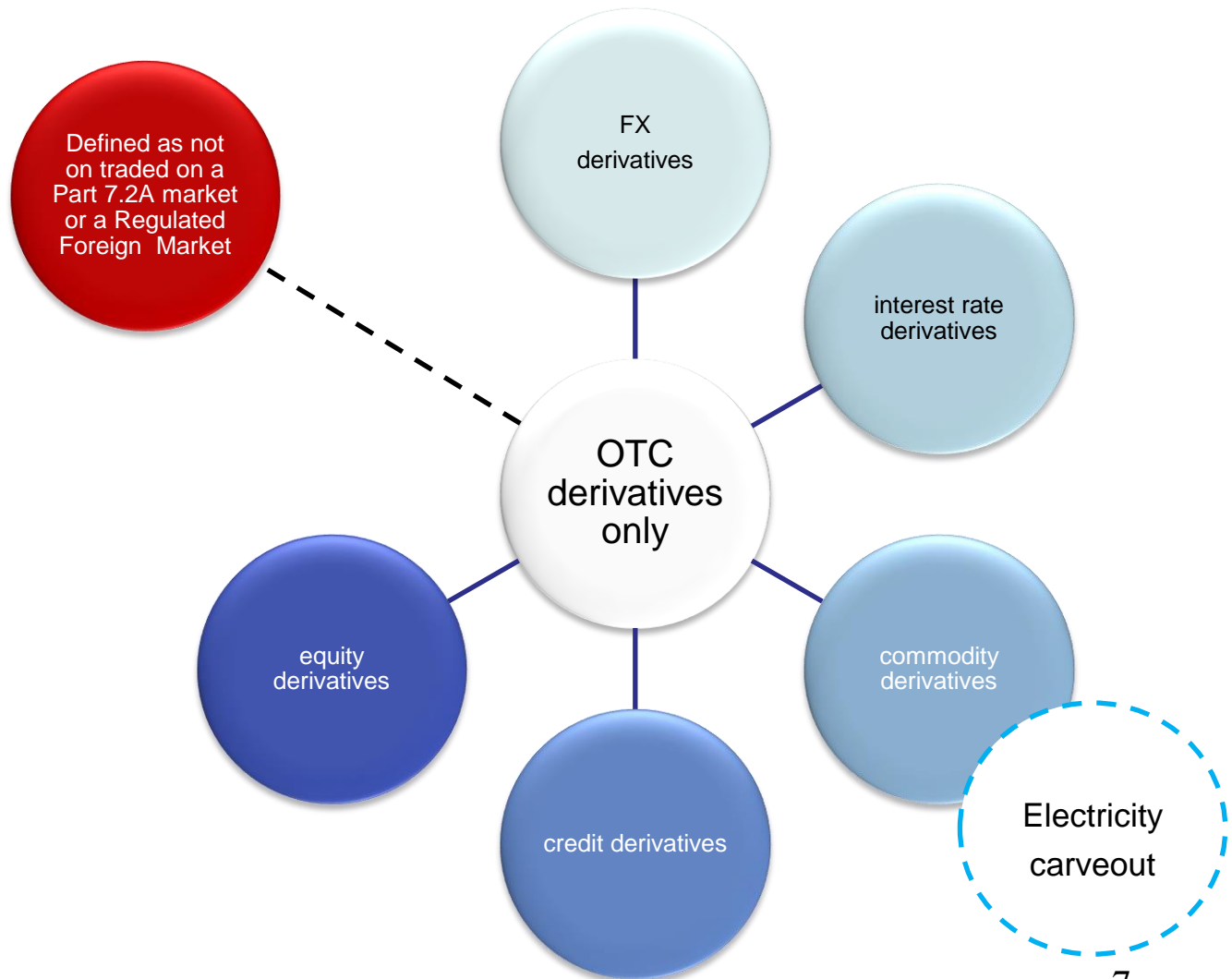
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Each regulator has tailored access to data needed for its mandate (prudential, systemic, market integrity)

Which asset classes are reportable to trade repositories?



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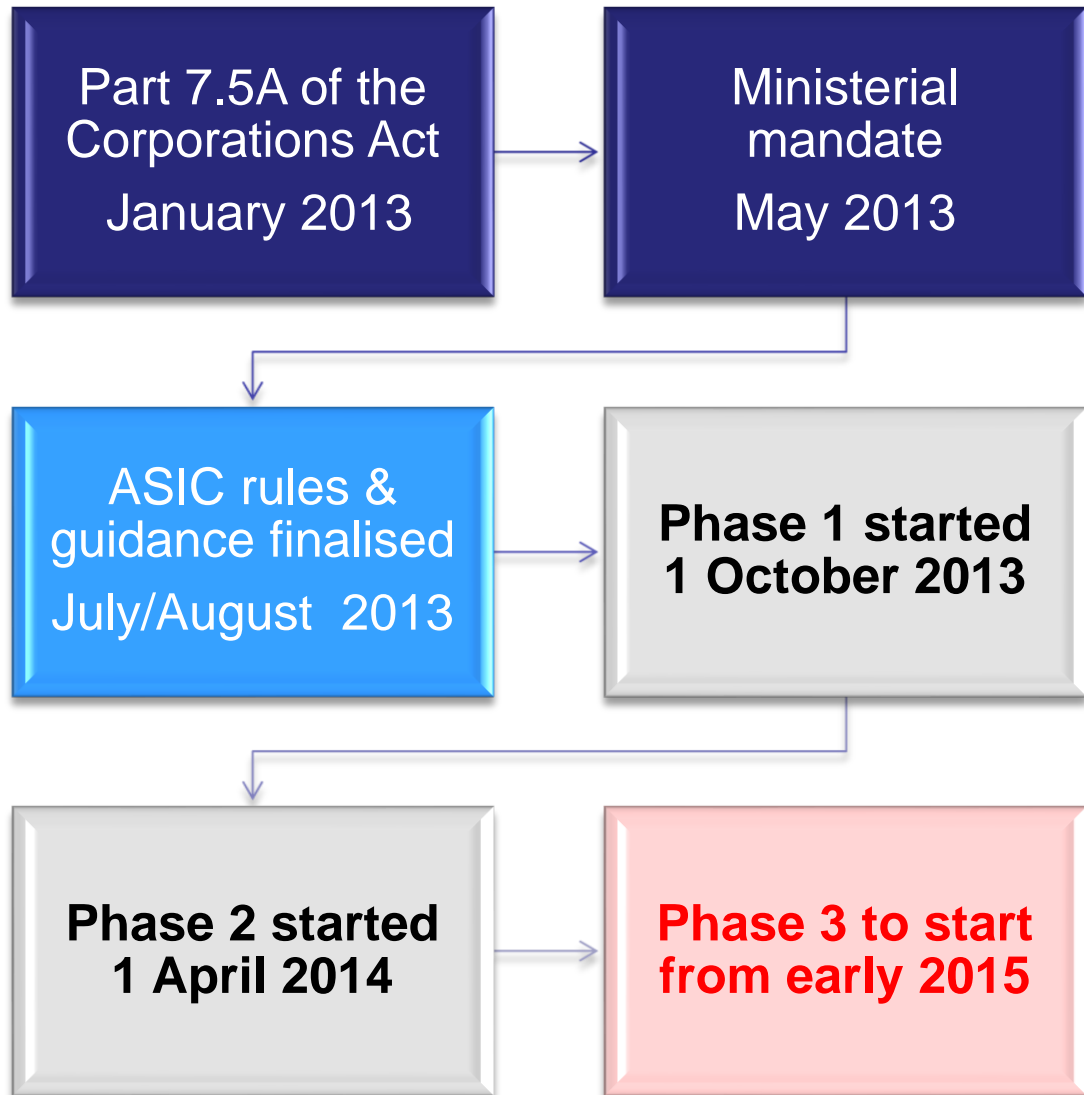
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Trade reporting – process so far



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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)
Phase 1	CFTC registered swap dealers –	1 October 2013	1 October 2014
Phase 2	Major financial institutions (\$50 billion or more notional outstanding)	1 April 2014 (rates, credit)	1 October 2014 (rates, credit)
		1 October 2014 (other)	1 April 2015 (other)
Phase 3	All other financial entities (ADIs, AFSLs, exempt foreign licensees, licensed CS facilities)	Per next slides	Per next slides



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Phase 3 commencement

- ASIC recently delayed the start of Phase 3 trade reporting

Original rules

Phase 3 Reporting Entities

A Reporting Entity with \$50bn or less total gross notional outstanding in reportable OTC positions (on a per-fund basis where relevant) as at 31 December 2013

Following the making of class exemption by ASIC on 2 July 2014

Phase 3A

A Phase 3 Reporting Entity with \$5bn or more total gross notional outstanding in reportable OTC positions (on a per-fund basis where relevant) as at 30 June 2014

Phase 3B

All other Phase 3 Reporting Entities



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Revised start dates for Phase 3 reporting

Type of reporting	Previous start date (Phase 3)	Amended start date (Phase 3A)	Amended start date (Phase 3B)
Interest rate and credit derivative <u>trades</u>	1 October 2014	The later of: 7 months after the first TR is licensed; or 13 April 2015	The earlier of: 13 months after the first TR is licensed; or 12 October 2015
Equity, FX and commodity derivatives <u>trades</u> (other than electricity)	1 April 2015	The earlier of: 13 months after the first TR is licensed or 12 October 2015	
Position reporting (one-off obligation)	6 months after respective trade reporting start date		



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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 (prescribed TRs until 1/10/14)
Foreign ADI with a branch in Australia Foreign corporation registered under Part 5.2B Corporations Act	All OTC Derivatives: -booked to the P/L account of an Australian branch; or - entered into by the entity in this jurisdiction	Licensed TRs or Prescribed TRs



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Trade reporting rules – Which trade repositories can be used?

- No TRs licensed as yet in Australia
 - DTCC Data Repository Singapore is licensed in Singapore and has lodged an application for an Australian TR licence
- TRs prescribed by Regulation (till at least 30 June 2015):

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	✓				✓
Unavista Ltd	✓	✓	✓	✓	✓

- ASIC has recently been given powers to extend these prescriptions



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Trade reporting – Two-sided obligation



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- Both counterparties to transaction must report to a TR if both are 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 to any third party e.g. to counterparty, clearing house, etc.
- Foreign reporting entities can report under foreign rules to prescribed TRs if the foreign rules are “substantially equivalent”

Trade reporting – Who reports?

- Generally, the **counterparty** (principal) to an OTC derivative transaction is required to report
 - Someone simply acting as agent *does not* have a reporting obligation
- Reporting entities include corporations, partnerships, managed investment schemes and trusts
- Trustees and Responsible Entities (REs) are deemed to be the reporting entity where they enter into transactions on behalf of funds or schemes, respectively
- However, the precise incidence of reporting obligations depends on how dealings are structured:
 - E.g. Whether asset manager enters into trades on its own account under a mandate or as agent for scheme/trust



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Trade reporting rules – Delegated reporting

- The rules allow for a reporting entity to report via 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
- Delegating entity must take all reasonable steps to ensure accuracy and currency of info reported on its behalf
- We are proposing to clarify this in CP221 to make delegated reporting more attractive



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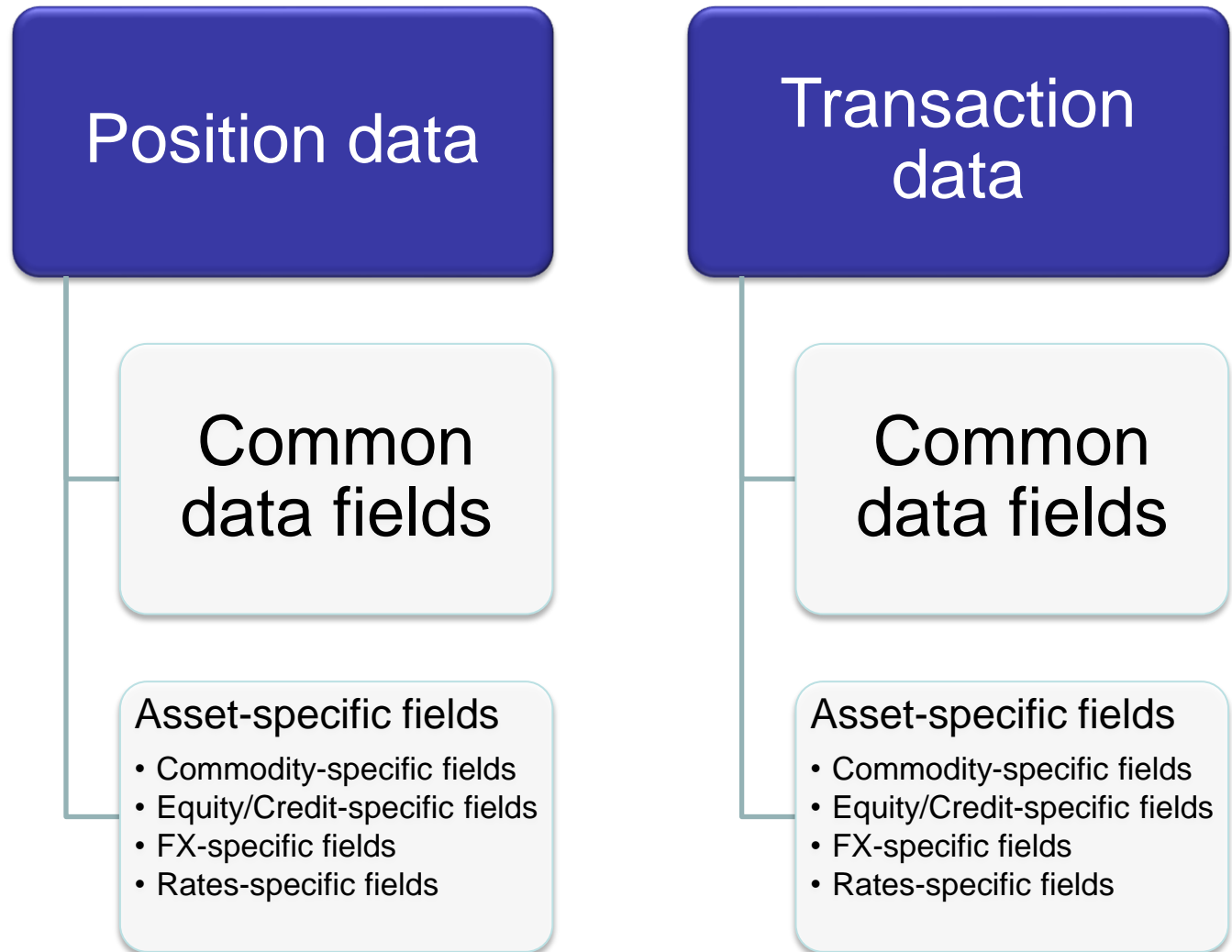
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Trade reporting rules – What information must be reported?



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CP221 - Proposed amendments to the rules

- Published on 25 July 2014, responses due by 29 August 2014
- The CP includes a number of proposed technical changes, along with proposals to:
 - require certain foreign subsidiaries of Australian financial entities to report to TRs from 1 October 2015; and
 - introduce a ‘safe harbour’ for delegated reporting designed to improve the functioning of delegated reporting under the rules.



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CP221 - Proposed amendments to the rules



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- The proposed technical changes to the rules include:
 - incorporating ‘snapshot reporting’ as a permanent reporting option;
 - allowing foreign entities to report to prescribed trade repositories in jurisdictions other than the jurisdiction in which they are incorporated;
 - requiring foreign entities that use alternative reporting arrangements to ‘tag’ transactions as being reported under the rules;
 - amending the definition of ‘regulated foreign market’;
 - requiring Australian reporting entities to report to a prescribed trade repository if a licensed trade repository is not available; and
 - removing ABNs from the hierarchy of entity identifiers that must be reported by reporting entities if a global LEI is not available.

Transitional exemptive relief

- Transitional, time-limited relief from strict compliance with elements of the reporting rules has been granted in some form to all reporting entities
- Relief summaries available on ASIC's OTC webpage
- Relief granted to Phase 1 and 2 entities include:
 - Delayed reporting of products not within scope of CFTC reporting rules
 - 'Snapshot' reporting allows reporting of end of day position changes instead of all intraday trades
 - Delayed reporting where there is a dependency on middleware providers
 - Delayed reporting of counterparty IDs (masking) for specified jurisdictions and to allow time for consents/notification
 - Clarifying relief that no 'pairing and sharing' of transaction IDs where trades done away from trading/confirmation platforms
- Relief for phase 3 entities mainly around delayed start date (plus conditions)



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Other G20 reforms – Central clearing

- CFR OTC market report July 2013:
 - Recommended a central clearing mandate for interest rate derivatives denominated in G4 currencies (USD, JPY, GBP, EUR)
 - Initial focus on dealers with significant levels of cross-border activity
- CFR OTC market report April 2014:
 - Recommended that the Government consider a mandatory clearing obligation for OTC transactions in Australian Dollar interest rate derivatives for internationally active dealers
- Treasury has released proposals papers on a central clearing mandate along the lines proposed by CFR in February and July 2014
- ASIC will likely consult on draft rules in H2 2014 if Government decides to proceed with a clearing mandate
- ASX Clear (Futures) and LCH were both authorised to provide OTC rates clearing in Australia in 2013



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Questions



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