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OTC derivatives reform – trade reporting regime

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Agenda



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- **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
 - Transitional exemptive relief
 - Proposed rule changes
 - Conclusion
- **Questions**

Background – GFC and OTC derivatives



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- Collapses of Lehman Brothers and AIG in 2008
 - Substantial and poorly risk-managed 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 wanted to be ‘blindsided’ about the risk positions and interlinkages of major market participants
 - Focus on reducing size of counterparty credit risk positions plus risk mitigation tools
 - Focus on improving OTC derivatives markets’ transparency, stability and integrity

G20 OTC derivatives reform commitments

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



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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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ASIC's regulatory objectives



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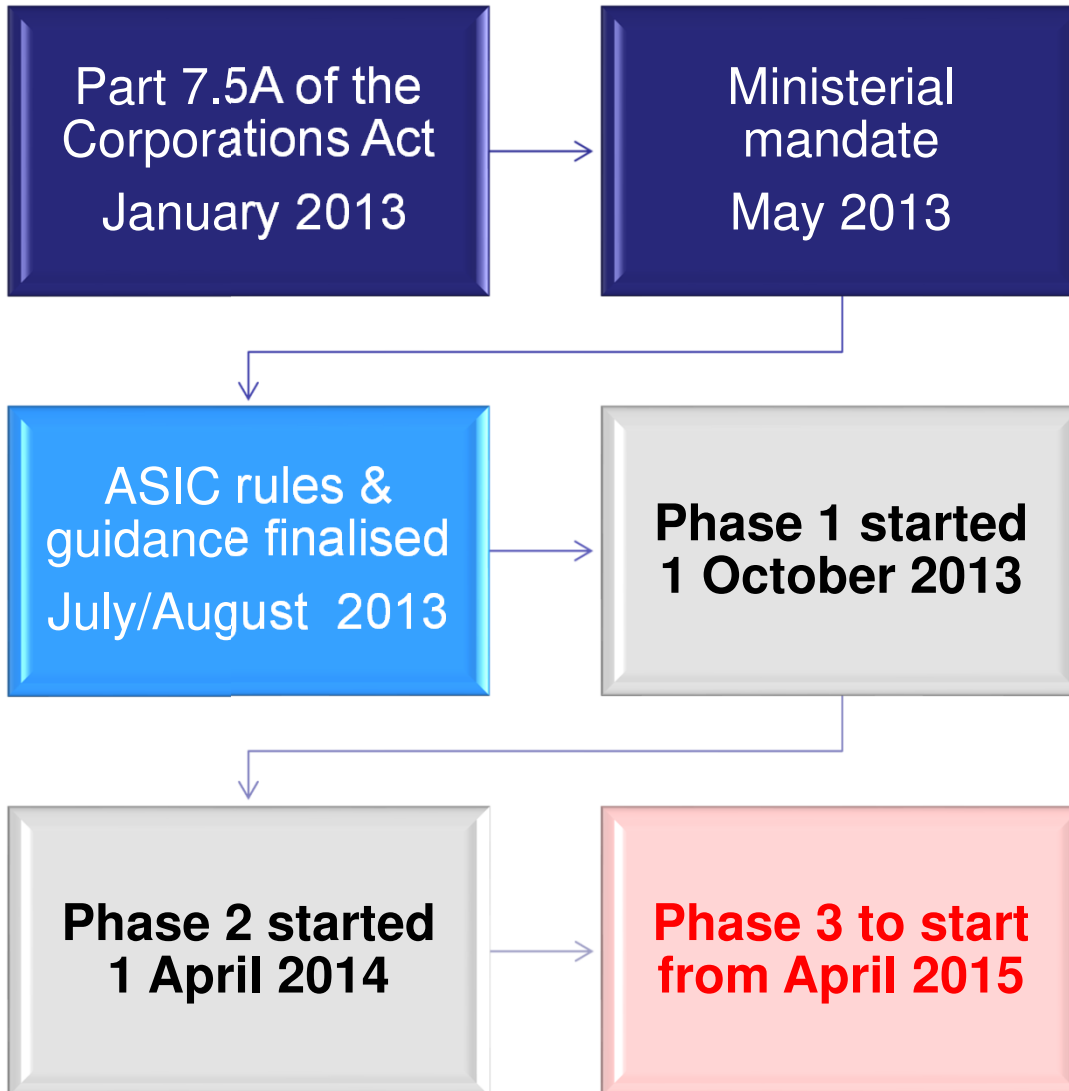
- ASIC's regulatory objectives in making derivative trade reporting rules requiring reporting of OTC derivatives to trade repositories:
 - a) enhance the transparency of transaction information available to relevant authorities and the public;
 - b) promote financial stability;
 - c) support the detection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

Trade reporting – process so far



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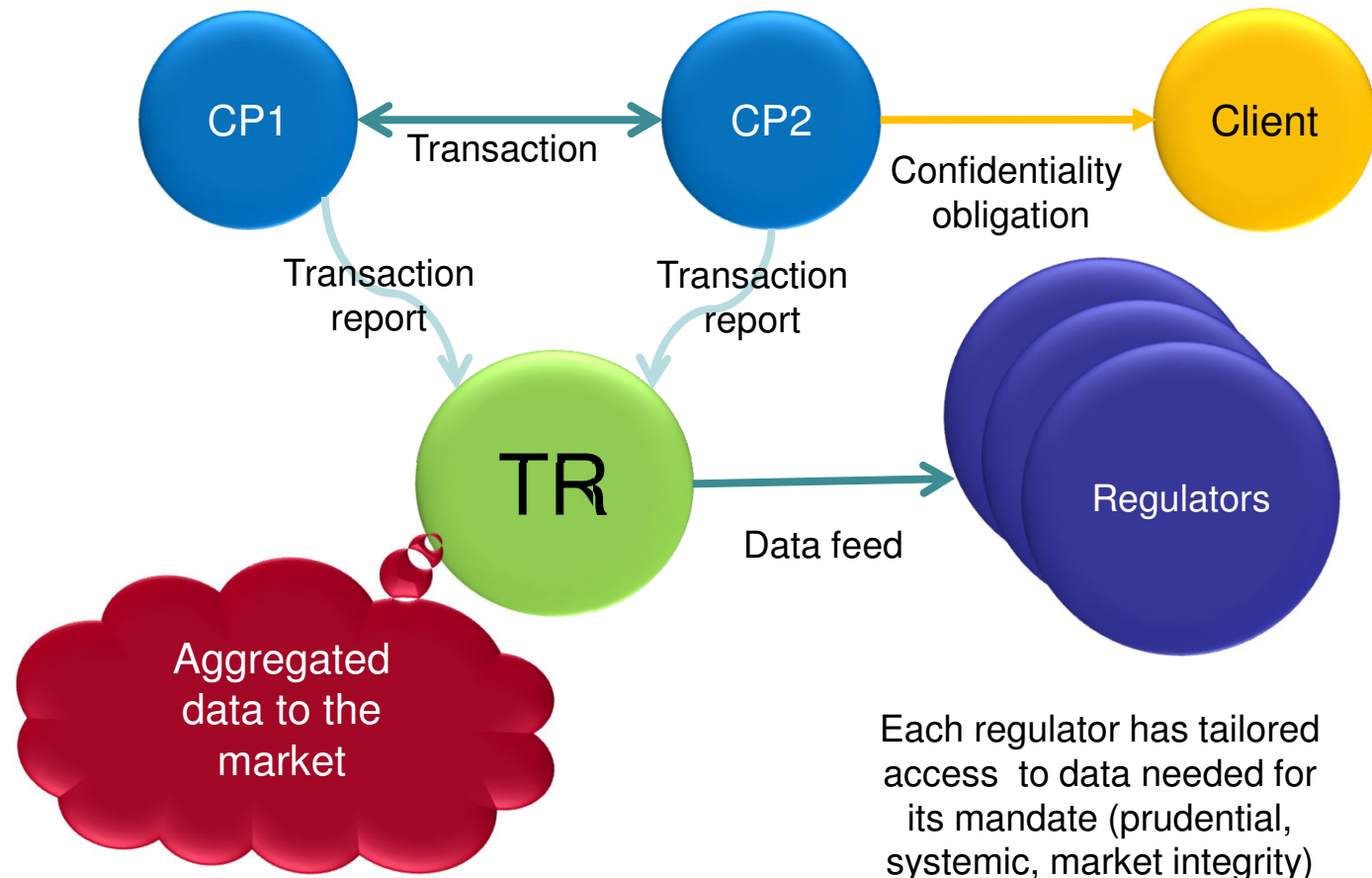


What is trade reporting?



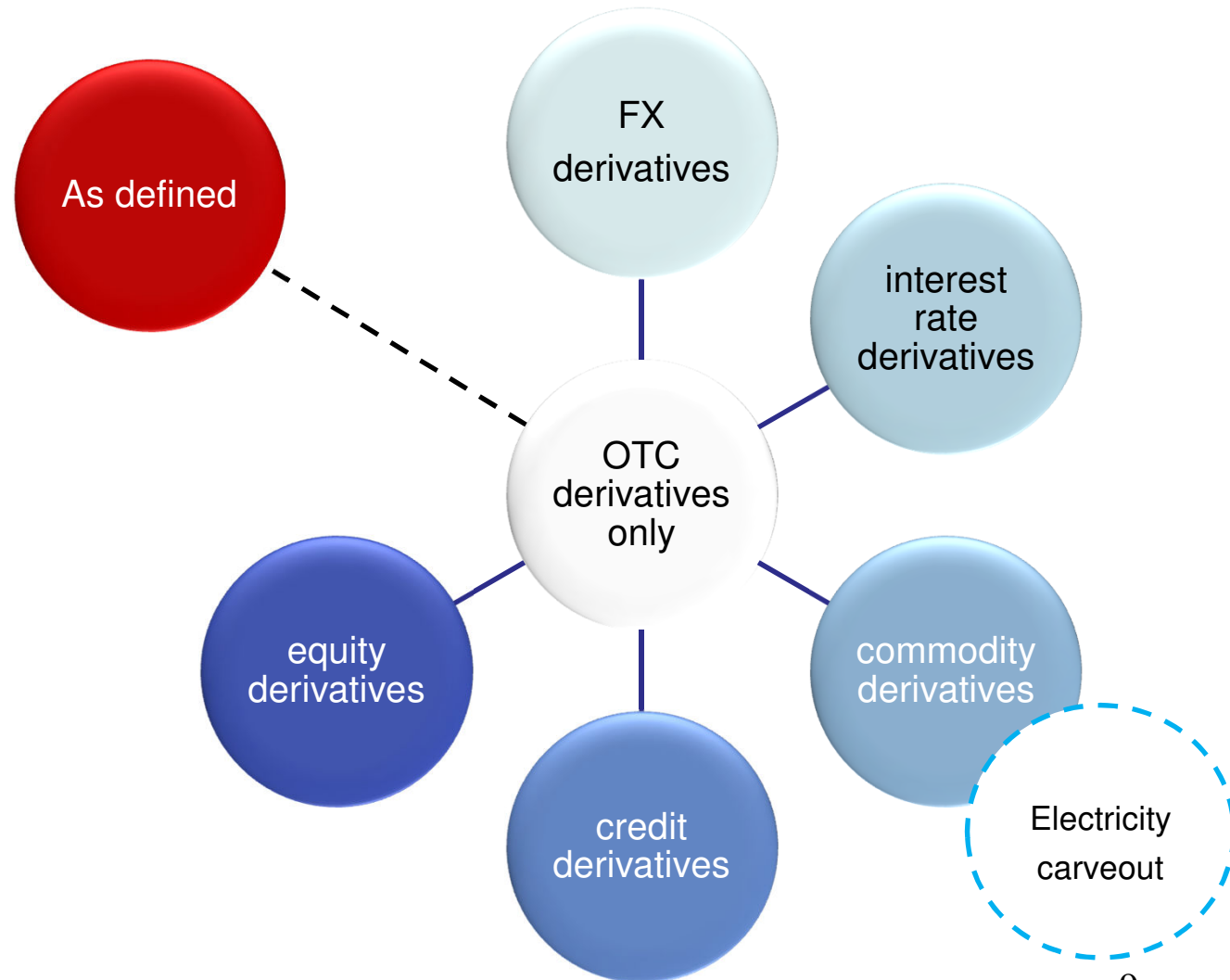
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Each regulator has tailored access to data needed for its mandate (prudential, systemic, market integrity)

Which asset classes are reportable to trade repositories?



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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)	See next slides	See next slides



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Phase 3A/3B threshold

- Phase 3A: $A\$5bn \leq x < \$50bn$ gross notional outstanding in OTC derivatives as at 30 June 2014
- Phase 3B: $x < A\$5bn$ gross notional outstanding in OTC derivatives as at 30 June 2014
- What counts toward the threshold?
 - All reporting OTC derivatives, plus OTC electricity derivatives
 - Australian reporting entities: count positions entered into or booked globally
 - Foreign reporting entities: count positions entered into or booked in Australia
 - Threshold measured at the legal entity not group level
 - 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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When does reporting start?

- Revised timetable



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Ph.	Who covered	Transaction reporting start date	Position reporting start date
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)
3A	Financial institutions/intermediaries (\$5b < \$50b notional outstanding)	13 April 2015 (rates, credit)	19 October 2015 (rates, credit)
		12 October 2015 (other)	18 April 2016 (other)
3B	Financial institutions/intermediaries (<\$5b notional outstanding)	12 October 2015	18 April 2016

Who will need to report what?



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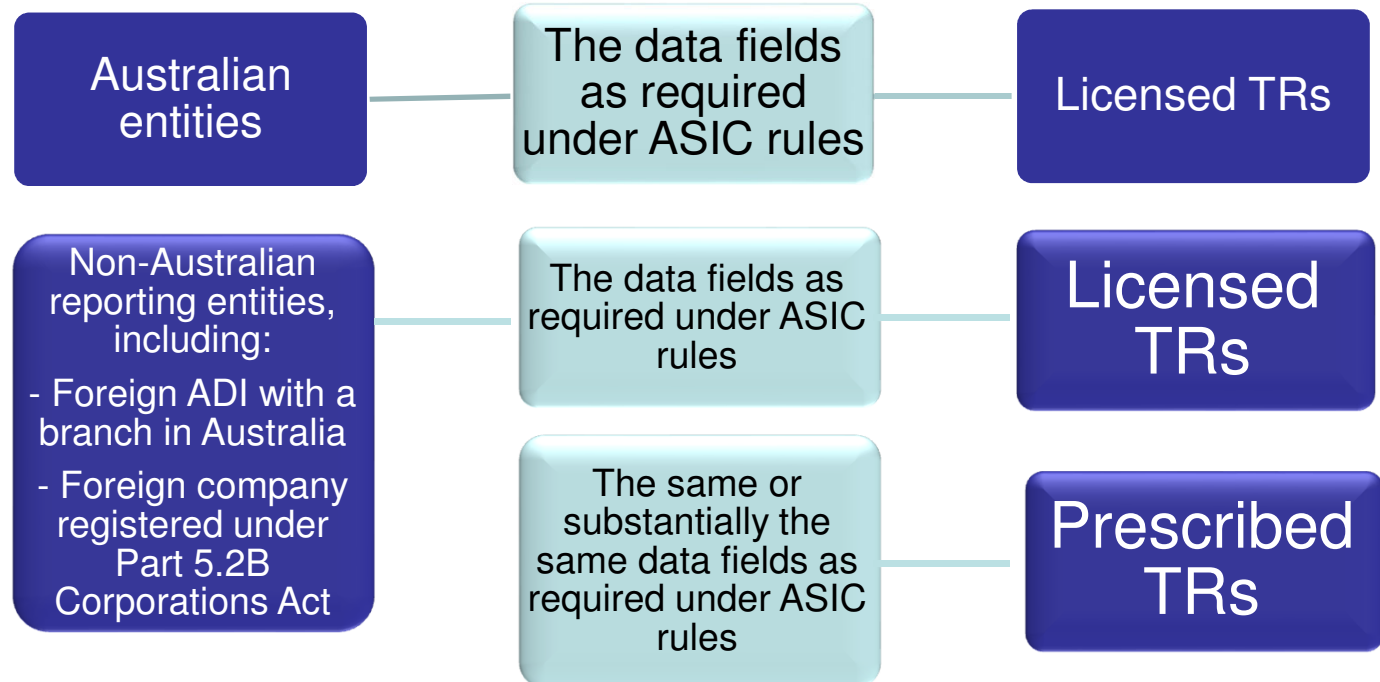
Reporting entity	Transactions reported	Reported to
Australian entity i.e. incorporated or formed in Australia	All OTC Derivatives to which the entity is a counterparty	Licensed TRs
Foreign ADI with a branch in Australia Foreign corporation registered under Part 5.2B Corporations Act that is an AFSL or foreign exempt licensee	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

What information needs to be reported?



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Licensed and prescribed TRs



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Licensed trade repositories

Licensed
by ASIC

- Domestic
- Overseas

DTCC Data
Repository
Singapore
Pte Ltd
(DDRS)

Prescribed trade repositories

Prescribed by
Regulation

- (Domestic)
- Overseas

9 overseas
TRs
prescribed,
including
DDRS

Which trade repositories can be used?

- DTCC Data Repository Singapore (DDRS) is the only TR currently licensed in Australia, and was licensed on 15 September 2014
 - DDRS is established and also licensed in Singapore. Therefore in licensing DDRS, ASIC placed substantial reliance on the rules and supervisory regime in Singapore, through the issuing of a number of exemption to DDRS from the ASIC rules for licensed TRs.
- 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	✓	✓	✓	✓	✓



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- ASIC has recently been given powers to extend these prescriptions

Two-sided reporting



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- 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
- ASIC took the view that two-sided reporting for all entities is preferable for reasons relating to market misconduct, systemic risk and wider prudential obligations

Two-sided reporting



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- We are aware industry has made submissions to ASIC and Government expressing the view that small financial entities should be exempted from trade reporting requirements.
- Government has indicated it will retain two-sided reporting obligations for Phase 3A
- Government is still considering its position with respect to Phase 3B and will make an announcement at a later date if a decision is made to change the Phase 3B reporting requirements.

Delegated reporting



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- The Rules currently 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
- We have proposed to make some changes to delegated reporting in Consultation Paper 221

T+1 reporting



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- All transaction, amendments, allocations and terminations must be reported by the close 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

Definition Of OTC derivatives



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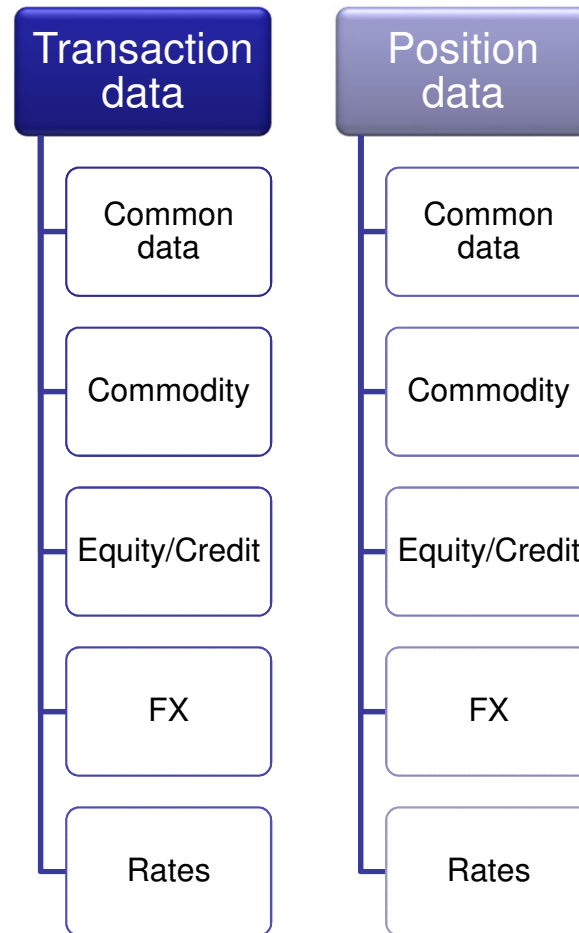
- Derivatives – as defined in s761D
- Intent of rules is to ensure only OTC transactions are reported
- We have excluded transactions undertaken on a Part 7.2A market supervised by ASIC in Australia (e.g. ASX24, FEX)
- We have also excluded transaction done on a ‘regulated foreign market’, which is essentially a market equivalent to a Part 7.2A market
 - see OTC determination 13/1145
 - there is also a supplementary list of foreign markets included in relief instrument 14/0952
- Intention is that trades done on SEF/MTF-like platforms will need to be reported

What information must be reported?



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Counterparty identifier hierarchy

For Corporates

LEI or pre-LEI (if available)

[ABN (if available)] *

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Client Code (for individual)



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* Proposed to be removed from waterfall

Cleared trades



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- If the original transaction ('Alpha trade') 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 would be novated to the CS facility.
 - The CS facility would then enter into a new transaction with each counterparty (beta and gamma trades)
 - If these new transactions are 'reportable transactions', they must be reported as two new transactions.
 - The original 'alpha' trade must be reported as terminated as it is replaced by the cleared trades

Our powers to grant relief



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- 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 can consider applications for relief
- Any decision on applications for relief will be informed primarily by the cost savings to industry balanced against the regulatory implications of providing such relief

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, 2 and 3 entities include:
 - 'Snapshot' reporting allows reporting of end of day position changes instead of all intraday trades
 - 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
 - Reporting of collateral information delayed by 12 months to no earlier than 1 October 2015
 - Reporting of FX security conversion transactions delayed until 1 October 2016



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CP221 - Proposed amendments to the rules



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- Published on 25 July 2014, responses were due by 29 August 2014
- We received 16 submissions from firms and trade associations
- The CP includes a number of proposed changes, including proposals to:
 - incorporating ‘snapshot reporting’ as a permanent reporting option
 - requiring foreign entities that use alternative reporting arrangements to ‘tag’ transactions as being reported under the rules
 - 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.
- ASIC is considering its position following feedback received in consultation, and is aiming to make rule changes in Q1 2015.

Conclusion

- Implementation of the derivative trade reporting regime is a major step in meeting Australia's G20 commitments so as to improve financial stability and market integrity
- 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 > Regulatory resources > Markets tab > OTC derivatives reform
- Queries/comments etc.:
 - OTCD@asic.gov.au



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