

EFFECTIVE FROM 21 OCTOBER 2024



ASIC
Australian Securities &
Investments Commission

REGULATORY GUIDE 251

Derivative transaction reporting

September 2024

About this guide

This guide is for reporting entities that are subject to the reporting obligations under the *ASIC Derivative Transaction Rules (Reporting) 2024*.

It explains the derivative transaction reporting regulatory regime and gives targeted guidance to help reporting entities understand how to comply with their reporting obligations.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This guide was issued in September 2024 and is based on regulations as at the date of issue and legislation commencing on 21 October 2024.

Previous versions:

- Superseded Regulatory Guide 251, issued 29 August 2013 and reissued 13 February 2015, 17 March 2020 and 2 February 2023

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

ASIC is responsible for administering the derivative trade repository licensing regime and for making and enforcing derivative transaction rules that establish mandatory requirements that apply to reporting and clearing of derivative transactions.

This guide explains the reporting obligations for over-the-counter (OTC) derivatives that apply to reporting entities under the *ASIC Derivative Transaction Rules (Reporting) 2024*, and gives guidance to help reporting entities understand how to comply with their reporting obligations.

Background

- RG 251.1 As a result of the issues identified during the global financial crisis in 2008, the Leaders of the Group of Twenty (G20) pledged in September 2009 to strengthen the international financial regulatory system and agreed to implement reforms to improve practices in OTC derivatives markets. These reforms included the mandatory reporting of OTC derivative transactions to derivative trade repositories (trade repositories), that would make information available about these transactions to regulators and the broader market.
- RG 251.2 The objectives of the OTC derivatives reforms are to:
- (a) improve the transparency of derivative transaction information available to relevant authorities and the public;
 - (b) mitigate systemic risk; and
 - (c) protect against market abuse.
- RG 251.3 Since then, all G20 members (including Australia) and three other member jurisdictions of the Financial Stability Board (FSB) have established mandatory derivative transaction reporting regimes.
- RG 251.4 In addition, between 2012 and 2018, the FSB and CPMI-IOSCO developed international standards and guidance for certain data elements collected under derivative transaction reporting regimes with a view to common adoption across G20 and FSB jurisdictions. This is to streamline and simplify reporting requirements for businesses and to enable regulatory authorities to more readily aggregate information about internationally traded OTC derivatives and better understand the multiple cross-border connections between counterparties.

Note 1: CPMI-IOSCO refers to the joint work of the Committee on Payments and Market Infrastructures (CPMI) of the Bank for International Settlements and the International Organisation of Securities Commissions (IOSCO).

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Note 2: The international standards and guidance developed by CPMI-IOSCO include:

- [Technical guidance: Harmonisation of the unique transaction identifier](#) (PDF 570 KB) (UTI Guidance), February 2017;
- [Technical guidance: Harmonisation of the unique product identifier](#) (PDF 602 KB) (UPI Guidance), September 2017; and
- [Technical guidance: Harmonisation of critical OTC derivatives data elements \(other than UTI and UPI\)](#) (PDF 1 MB) (CDE Technical Guidance), April 2018—the Regulatory Oversight Committee of the Global Legal Entity Identifier System (ROC) published a first update to the CDE Technical Guidance in September 2021 and a second update in September 2023.

- RG 251.5 Starting in 2020 and progressively since then, the major jurisdictions of the United States, Canada, the European Union, the United Kingdom, Japan, Singapore and Hong Kong have either finalised or proposed changes to their derivative transaction reporting regimes to adopt these international standards.
- RG 251.6 The Australian derivative transaction reporting regime has been in place since 2013. Following two rounds of public consultation by ASIC in November 2020 and May 2022, the Australian requirements were also updated to adopt these international standards. Reporting under the updated requirements commenced on 21 October 2024.

Australian legislative framework

- RG 251.7 Part 7.5A was inserted into the *Corporations Act 2001* (Corporations Act) in 2012 for the regulation of derivative transactions and derivative trade repositories. ASIC is responsible for administering this regime by making and enforcing derivative transaction rules that establish mandatory requirements that apply to reporting, clearing and execution of derivative transactions: s901A. ASIC is also responsible for licensing and supervising trade repositories: s903A.

Note: In this document, references to chapters (Chs), parts (Pts), divisions (Divs) or sections (s) are to the Corporations Act, unless otherwise specified.

- RG 251.8 Under s901B, the Minister has the power to determine one or more classes of derivatives for which execution, reporting or clearing requirements may be imposed.
- RG 251.9 Subject to the scope of the Minister's determination, ASIC has made derivative transaction rules imposing reporting requirements and clearing requirements: s901A.
- RG 251.10 Regulations made in the *Corporations Regulations 2001* (Corporations Regulations) may limit the operation of the derivative transaction rules: s901C and s901D.

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- RG 251.11 ASIC may exempt persons, facilities or derivative transactions from provisions of the Corporations Act, the regulations or the rules: s907D.
- RG 251.12 ASIC may also make determinations under the rules that a derivative able to be traded on an authorised financial market is, or is not, an OTC derivative for the purposes of the reporting requirements under the rules: Rule 1.2.4(3).

Note: In this document, references to ‘Rule 1.2.5’, ‘Part 2.4’ or ‘Schedule 2’ (for example) are references to a particular rule, part or schedule of the *ASIC Derivative Transaction Rules (Reporting) 2024*.

- RG 251.13 Table 1 sets out the legislative and regulatory architecture of the Australian OTC derivative transaction reporting requirements.

Table 1: Legislative and regulatory architecture

Purpose of the legislation and regulatory architecture	Legislative or regulatory reference
Primary legislation for the regulation of derivative transactions and derivative trade repositories	Corporations Act, Pt 7.5A
Primary definition of a derivative	Corporations Act, s761A
Prescribes the classes of derivatives in relation to which reporting requirements may be imposed by ASIC-made rules	Minister’s determination under s901B(2)
Precludes imposing requirements on end users	Corporations Regulations, reg 7.5A.50
Exempts entities with small-scale gross notional outstanding positions from reporting transactions where their counterparty reports the transactions	Corporations Regulations, regs 7.5A.70–7.5A.74
ASIC-made rules imposing specific reporting requirements	ASIC Derivative Transaction Rules (Reporting) 2024 , as amended from 20 October 2025 by ASIC Derivative Transaction Rules (Reporting and Clearing) Amendment Instrument 2024/416
Exclusion of certain types of derivatives or contracts or arrangements	ASIC Derivative Transaction Rules (Reporting) 2024 , Rule 1.2.4(2)–(7)
Exclusion of certain types of entities	ASIC Derivative Transaction Rules (Reporting) 2024 , Rule 1.2.5(3)–(4)
ASIC exemptions made under s907D	If applicable, see our Derivative transaction reporting webpage
ASIC determinations in relation to derivatives able to be traded on an authorised financial market	If applicable, see our Derivative transaction reporting webpage

- RG 251.14 On 8 August 2023, the Minister’s first 2013 determination was remade in unchanged form as the [Corporations \(Derivatives\) Determination 2023](#) (Ministerial determination).

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- RG 251.15 This Ministerial determination continued to empower ASIC to make rules imposing reporting requirements for the following classes of derivatives:
- (a) commodity derivatives (other than electricity derivatives);
 - (b) credit derivatives;
 - (c) equity derivatives;
 - (d) foreign exchange derivatives; and
 - (e) interest rate derivatives.
- RG 251.16 Regulations 7.5A.50 and 7.5A.70–7.5A.74 of the Corporations Regulations continue to affect the operation of the *ASIC Derivative Transaction Rules (Reporting) 2024* (derivative transaction rules (reporting)) as follows:
- (a) reg 7.5A.50 provides that derivative transaction rules cannot impose requirements on end users (i.e. reporting entities other than those specified in Table 1 of the derivative transaction rules (reporting)); and
 - (b) regs 7.5A.70–7.5A.74 provide an exemption—the ‘single-sided’ exemption—for reporting entities with small-scale gross notional outstanding positions sustained below A\$5 billion, from reporting transactions where their counterparty reports the transactions, and other conditions are met.
- RG 251.17 Having first made derivative transaction reporting rules in 2013 and renewed them in 2022, on 19 December 2022, ASIC made the current derivative transaction rules (reporting), effective 21 October 2024.
- RG 251.18 In addition, commencing 20 October 2025, the [ASIC Derivative Transaction Rules \(Reporting and Clearing\) Amendment Instrument 2024/416](#) (Amendment Instrument 2024/416) amends the derivative transaction rules (reporting) to:
- (a) substitute dealings in ‘nexus derivatives’ as the scope test for foreign entities’ reporting requirements in place of the existing ‘entered into’ scope test, and simplify the scope of foreign central counterparties’ reporting requirements—see RG 251.65 and RG 251.69–RG 251.71; and
 - (b) remove the provisions for alternative reporting.
- RG 251.19 Under the amendment, until 20 October 2025, trade repositories to which derivative trade data may be reported under the derivative transaction rules (reporting) must either be:
- (a) licensed under Pt 7.5A; or
 - (b) prescribed by the Corporations Regulations: see s901A(6). Regulation 7.5A.30(2) of the Corporations Regulations allows ASIC to determine that a facility should be prescribed, subject to certain conditions.

- RG 251.20 However, commencing 20 October 2025, reporting entities must report derivative trade data to a licensed trade repository, unless there is no licensed trade repository. Our [derivative trade repositories](#) webpage includes information about:
- (a) licensed trade repositories; and
 - (b) any trade repositories that we determine are prescribed under reg 7.5A.30(2A).

Overview of our guidance

- RG 251.21 This guide explains the reporting obligations that apply to reporting entities under the derivative transaction rules (reporting), and gives targeted guidance to help reporting entities understand how to comply with their reporting obligations, including:
- (a) the scope of reportable OTC derivative transactions (Section B);
 - (b) who the reporting obligations apply to (Section C);
 - (c) unique transaction identifier (see Section D);
 - (d) derivative transaction information to be reported (see Section E); and
 - (e) derivative transaction reporting breaches (Section F).

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B The scope of reportable transactions

Key points

This section gives guidance about the scope of 'OTC Derivatives' used in the meaning of 'Reportable Transactions', asset classes and products that must be reported, and lifecycle and snapshot reporting requirements.

The definition of an OTC derivative is based on the meaning of a derivative under s761D of the Corporations Act and is subject to definitional exclusions relating to:

- spot settlement transactions;
- exchange-traded derivatives; and
- foreign exchange securities conversion transactions.

Overview of OTC derivatives

- RG 251.22 The derivative transaction rules (reporting) impose obligations on reporting entities (Rule 1.2.5) to report information about their reportable transactions in OTC derivatives to a licensed, or in certain circumstances a prescribed, trade repository (the reporting obligations).
- RG 251.23 The Ministerial determination sets out the classes of derivatives in relation to which reporting requirements may be imposed; see RG 251.8–RG 251.9 and RG 251.14–RG 251.15.
- RG 251.24 Rule 1.2.4 defines an OTC derivative as a derivative, within the meaning of s761D of the Corporations Act, that is in a prescribed class under the Ministerial determination.
- RG 251.25 Table 2 sets out the definitional elements and legislative framework for defining an OTC derivative under the derivative transaction rules (reporting).

Table 2: Framework for defining an OTC derivative

OTC derivative definitional elements	Legislative reference
Within the principles definition of a derivative	Section 761D(1) of the Corporations Act gives the principles definition of a derivative
Excluding products that are not derivatives	Section 761D(3)(c) of the meaning of a derivative under the Corporations Act excludes financial products covered by s764A(1) (e.g. a security, an interest in a scheme, an insurance contract or a government bond)
Excluding products that are, or may be, both a derivative and something else	The Corporations Regulations also declare things not to be a derivative: see, for example, reg 7.1.04 (8)(a) (tradeable water rights)

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OTC derivative definitional elements	Legislative reference
Excluding transactions in tangible property	Section 761D(3)(a) excludes transactions for tangible property subject to various conditions, including that they are not for cash settlement, set-off or subject to usual market practices of close-out by matching
Excluding transactions for spot settlement	For s761D(1)(b), reg 7.1.04(1) of the Corporations Regulations excludes foreign exchange contracts for less than T+3 settlement Other contracts for intangible property are excluded by Rule 1.2.4(7) of the derivative transaction rules (reporting)
Excluding exchange-traded derivatives	Excluded by Rule 1.2.4(2) of the derivative transaction rules (reporting)
Excluding FX contracts for foreign currency securities settlement purposes	Excluded by Rule 1.2.4(6) of the derivative transaction rules (reporting)

Excluding transactions in tangible property

- RG 251.26 Section 761D(3)(a) of the Corporations Act generally excludes from the meaning of a derivative a transaction for the physical delivery of tangible property (e.g. a physical commodity such as wheat, crude oil or gold). This is subject to the arrangement not being subject to cash settlement, set-off between the parties or usual market practices, including by the rules of a licensed market or a clearing and settlement (CS) facility, permitting close-out by matching: s761D(3).
- RG 251.27 Transactions in intangible property (e.g. shares or environmental certificates) are not excluded by this provision.
- RG 251.28 Transactions in tangible property that are for physical delivery but have a usual market practice of being closed-out by matching before the physical delivery date—because, for example, a party is not ordinarily able to make or take delivery—are not excluded by this provision.

Excluding transactions for spot settlement

- RG 251.29 Key products for which ‘spot’ settlement is a common transaction type—such as foreign exchange and securities—are already excluded under provisions described above, including for transactions in tangible property for physical delivery.

Note: The ‘spot’ leg of an FX swap is reportable as being a component of an FX swap ‘entered into as a single economic arrangement’: paragraph (c) of Item 92 Package Identifier in Table S1.1(1) Transaction information of the derivative transaction rules (reporting).

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- RG 251.30 Under Rule 1.2.4(7) of the derivative transaction rules (reporting), transactions in other products that are intangible property—such as Australian carbon credit units or other environmental units—for which market practice is spot settlement (e.g. T+2 or T+3) are also excluded from the definition of an OTC derivative and the scope of reportable transactions. This is consistent with the approach taken in overseas jurisdictions, such as Singapore, Hong Kong, the European Union and the United States.
- RG 251.31 Rule 1.2.4(7)(a) refers to arrangements ‘at a price and within a period of no longer than the shortest period determined by the usual market practice for delivery of the property’. Reporting entities are responsible for determining if the price and delivery date of a transaction fall within this meaning, but we recognise that ‘usual market practice’ is not always commonly understood as a singular market convention. We consider that it is not unreasonable that reporting entities determine to include or exclude transactions on differing bases, but we expect there would only be small or infrequent differences between these bases.

Excluding exchange-traded derivatives

- RG 251.32 Under Rule 1.2.4(2), an OTC derivative means a derivative that is *not* the entry into of an arrangement that is a derivative on, or reported to the operator of, an authorised financial market, in accordance with the Operating Rules of the authorised financial market, and either:
- (a) ASIC has made a determination under Rule 1.2.4(3) that specifies the derivative for the purposes of Rule 1.2.4(2)(a), hence it is *not an OTC derivative*; or
 - (b) meets the generic definition of an exchange-traded derivative under Rule 1.2.4(2)(b)(i)–(iv) and is not specified in a determination made by ASIC under Rule 1.2.4(3), hence it is *not an OTC derivative*.
- RG 251.33 The generic definition of an exchange-traded derivative (which is set out in Rule 1.2.4(2)(b)(ii)–(iv) of the derivative transaction rules (reporting)) identifies ‘standardisation features’ as follows:
- (a) the derivative is able to be traded, or reported, in accordance with, and with terms documented under or prescribed by, the Operating Rules of the authorised financial market; and
 - (b) the derivative is available in one or more series; and
 - (c) the terms of the derivative, including the amount or size, are the same for every other derivative in the same series, with the exception of the price.

- RG 251.34 A derivative within the meaning of Rule 1.2.4(2)(a) may or may not have these ‘standardisation features’. If it does not, the derivative is only *not* an OTC derivative if it is determined as such by ASIC under Rule 1.2.4(3).
- RG 251.35 For example, a derivative such as an interest rate swap that is, under international norms and in ASIC’s view, not ordinarily treated as an exchange-traded derivative for derivative transaction reporting purposes, is not likely to be determined by ASIC under Rule 1.2.4(3) as not being an OTC derivative.
- RG 251.36 Alternatively, a derivative may be an existing exchange-traded derivative for which the operator of the authorised financial market has relaxed its ‘standardisation features’ to the point that it is ‘OTC-like’. Subject to the particular circumstances, ASIC may determine under Rule 1.2.4(3) that the derivative continues to be treated as *not* being an OTC derivative.
- RG 251.37 If a derivative within the meaning of Rule 1.2.4(2)(a) does have the ‘standardisation features’, then Rule 1.2.4(2)(b) applies and the derivative is not an OTC derivative unless ASIC makes a determination to the contrary under Rule 1.2.4(3).
- RG 251.38 For example, a derivative such as a commodity futures contract that is, under international norms and in ASIC’s view, ordinarily treated as an exchange-traded derivative for derivative transaction reporting, is not likely to be determined by ASIC under Rule 1.2.4(3) as an OTC derivative.
- RG 251.39 Alternatively, a derivative may be an existing OTC derivative for which the operator of the authorised financial market on which it is traded tightens its ‘standardisation features’ to the point that it is ‘exchange-traded-like’. Subject to the particular circumstances, ASIC may determine under Rule 1.2.4(3) that the derivative continues to be treated as an OTC derivative.

Excluding FX securities conversion transactions

- RG 251.40 Excluded from the definition of an OTC derivative and the scope of reportable transactions are ‘FX securities conversion transactions’: see Rule 1.2.4(6)). An FX securities conversion transaction is a foreign exchange transaction, settling not more than seven business days forward, that the reporting entity reasonably believes is entered into solely to facilitate the settlement of a transaction of a foreign currency denominated security, or portfolio of securities.
- RG 251.41 A reporting entity is not required to conclusively determine that a foreign exchange contract must not be reported, and may report the transaction if it does not have a reasonable belief that it is not reportable.

Asset classes and products that must be reported

- RG 251.42 A reporting entity must report details of its reportable transactions in the asset classes prescribed under the Ministerial determination, currently:
- (a) commodity derivatives that are not electricity derivatives;
 - (b) credit derivatives;
 - (c) equity derivatives;
 - (d) foreign exchange derivatives; and
 - (e) interest rate derivatives.
- RG 251.43 Subject to the Ministerial determination, the types of derivatives that must be reported are those for which:
- (a) an applicable UPI code is obtainable from the [UPI Service](#); and

Note: In May 2019, the FSB designated the Derivative Services Bureau Limited as the UPI service provider.
 - (b) the underlier is specifically identified in the reference data of the UPI code; or
 - (c) the underlier is of a type set out in our guidance for reporting underliers that are not specifically identified in the reference data of the UPI code.
- RG 251.44 The derivative transaction rules (reporting) do not require all kinds of arrangements that may be a derivative to be reported. We consider that a derivative product is not a reportable derivative product if it would not be capable of being reported with a UPI code and an underlier as set out above.
- RG 251.45 The UPI Service supports UPI codes that identify derivative products, categorised by:
- (a) asset class—commodities, credit, equity, foreign exchange and rates (i.e. interest rates), which is aligned with the scope of the Ministerial determination;
 - (b) instrument type—forward, swap and option; and
 - (c) product name—differentiated standard products by asset class as determined by an industry-led '[Product Committee](#)' that oversees the definitions of UPI Service.
- RG 251.46 The UPI Service also has designations of an asset class of 'Other', instrument type of 'Other' and product name of 'Non-Standard', but these do not, of themselves, widen the asset class, instrument type and product name scope of the UPI Service as explained in Table 3.

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Table 3: Limited scope of ‘Other’ and ‘Non-Standard’ designations

UPI Service designation	Limited scope of a UPI code
Asset class of ‘Other’	‘Other’ allows a UPI code to identify more than one asset class, but limited to among commodities, credit, equity, foreign exchange or rates
Instrument type of ‘Other’	‘Other’ allows a UPI code to identify more than one type of return attribute applicable to the derivative product, but limited to among forward, swap or option return attributes
Product name of ‘Non-Standard’	‘Non-Standard’ allows a UPI code to identify a variant to a standard product, but limited to describing the product with the same set of attributes as describes a standard product

RG 251.47 For completeness within the UPI Service, the UPI Service also supports a small number of UPI codes that designate an instrument type but not an asset class or designate neither an instrument type nor an asset class: see the UPI Service’s product definition of ‘Other:Other:Undefined’.

RG 251.48 Where such a UPI code is applicable to a derivative product, it would only be reportable if, even if not so designated in the UPI code, a reporting entity determines that the actual asset class(es) of the derivative product is within the scope of the Minister’s determination and the actual instrument type(s) is among forward, swap and option.

RG 251.49 In effect, a derivative product is reportable if it has the attributes of a named product in the UPI Service or is a variant of such a named product.

RG 251.50 Finally, a reportable derivative product needs to have an underlier that is of a type supported as a specific identifiable underlier in the UPI Service or under the provisions of the derivative transaction rules (reporting) for underliers not specifically identified in the UPI Service (see Item 83 Underlier ID (Other) in Table S1.1(1) Transaction information of the derivative transactions rules (reporting)).

RG 251.51 A wide range of types of underliers are supported in these ways, including currency codes, equity and debt securities, instruments identified by an international securities identification number (ISIN), exchange-traded derivatives, credit default swap indices and indices in the other asset classes, entity legal entity identifiers (LEIs) and names, interest rate, inflation index and commodity reference rates or prices and digital tokens. An underlier that is a basket, or a proprietary index supported by the UPI Service, would have constituents that are also of these types.

RG 251.52 It is the reporting entity’s responsibility to determine if a transaction in a derivative product of a particular type is a reportable transaction.

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Exemption for electricity derivatives

- RG 251.53 Under s761D(1)(c) of the Corporations Act a condition of the meaning of a derivative is that ‘the amount of the consideration, or the value of the arrangement, is ultimately determined, derived from or varies by reference to (wholly or in part) the value or amount of something else (of any nature whatsoever and whether or not deliverable)’.
- RG 251.54 We consider that a derivative can be classified as an electricity derivative where the ‘something else’ referred to in s761D(1)(c) is an attribute related to electricity, including, but not limited to:
- (a) an electricity price;
 - (b) the volatility of an electricity price;
 - (c) an amount of electricity generated; and
 - (d) an amount of electricity purchased or sold.

Reporting more information than is required by the derivative transaction rules (reporting)

- RG 251.55 Subject to Rule 2.2.1(1A), which requires a reporting entity to use its best endeavours to avoid submitting duplicative reporting (e.g. the re-reporting on a day of all the outstanding derivative transactions on that day) the derivative transaction rules (reporting) do not prohibit a reporting entity from reporting information about a transaction that is in addition to the information required by the rules. Examples of additional information may include:
- (a) electricity derivatives; or
 - (b) information required by a trade repository for its data handling processes.

Further technical guidance

- RG 251.56 Further guidance materials (as amended from time to time) are available on our [Derivative transaction reporting](#) webpage including:
- (a) *ASIC Derivative Transaction Rules (Reporting)—Schedule 1 technical guidance* (Schedule 1 technical guidance), which provides further information to inform the technical reporting of asset class and products within the framework of the UPI system; and
 - (b) *worked examples*, which set out template examples of reporting for a range of products for the prescribed asset classes.

Lifecycle or snapshot reporting

- RG 251.57 Rule 2.2.8 of the derivative transaction rules (reporting) refers to:
- (a) lifecycle reporting, which is the reporting of ‘Derivative Transaction Information for each Reportable Transaction in an OTC Derivative that takes place on a day’; and
 - (b) snapshot (or ‘end-of-day’) reporting, which is the reporting of ‘Derivative Transaction Information in relation to the Relevant OTC Derivative on its terms as of the Relevant Day’.
- RG 251.58 Lifecycle reporting is required for all reportable transactions except in the case of a ‘small-scale buy-side entity’(see RG 251.73–RG 251.76) where:
- (a) lifecycle reporting is required for equity derivative transactions; and
 - (b) either lifecycle or snapshot reporting is applicable to all other types of derivatives.
- RG 251.59 Where applicable to a reporting entity, lifecycle reporting requires reporting of transactions that include, for example:
- (a) buying a derivative and then selling or terminating that derivative later the same day;
 - (b) entering into a derivative and then clearing that derivative later the same day;
 - (c) entering into a block trade in a derivative and then allocating portions of that block trade to multiple new counterparties as new transactions;
 - (d) having bought an equity derivative on a previous day, selling that derivative in multiple tranches of transactions on a subsequent day; and
 - (e) in the particular case of reporting a new ‘position’, or modification of an existing ‘position’, with the event type that indicates inclusion of an OTC derivative into a position, each of the preceding transactions that have been included in that position.

Intragroup transactions

- RG 251.60 For the avoidance of doubt, intragroup transactions, meaning transactions with related parties that are not consolidated at the domestic book reporting level, are by no means excluded under the derivative transaction rules (reporting)—hence they are reportable. Related parties include the parent entity, controlled entities, joint venture entities and other branches under the same parent entity. The inclusion of intragroup transactions in OTC derivative data is important for regulatory purposes as it provides transparency in relation to geographic and intragroup risks and exposures.

C Who the reporting obligations apply to

Key points

This section gives guidance on:

- the reporting entities that must comply with the reporting obligations; and
- how a reporting entity can appoint another person to report on its behalf.

Reporting entities

- RG 251.61 The reporting obligations apply to the reporting entities listed in Rule 1.2.5, which defines ‘reporting entities’ and ‘reportable transactions’ for each type of reporting entity.
- RG 251.62 An Australian entity that is an authorised deposit-taking institution (ADI), and Australian financial services (AFS) licensee or a CS facility licensee must report information about all derivative transactions to which it is a counterparty.
- RG 251.63 From 21 October 2024 until 19 October 2025 inclusive, a foreign entity that is required to be registered under Div 2 of Pt 5B.2 of the Corporations Act and is:
- (a) a foreign ADI (within the meaning of s5 of the *Banking Act 1959*) that has a branch located in this jurisdiction;
 - (b) an AFS licensee;
 - (c) a CS facility licensee; or
 - (d) an exempt foreign licensee (see Rule 1.2.3),
- must report information about all derivative transactions entered into with a retail client (within the meaning of s761G of the Corporations Act) located in this jurisdiction, booked to the profit or loss account of a branch of the reporting entity located in this jurisdiction, or entered into by the reporting entity in this jurisdiction.
- RG 251.64 From 20 October 2025, the reporting obligations of foreign entities are amended by [Amendment Instrument 2024/416](#).
- RG 251.65 From 20 October 2025, foreign entities that are:
- (a) CS facility licensees must report information about all derivative transactions entered into with an Australian entity—that is, an entity (including a corporation, partnership, managed investment scheme or trust) incorporated or formed in this jurisdiction (see Rule 1.2.3); and

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- (b) foreign ADIs, AFS licensees and exempt foreign licensees must report information about all derivative transactions entered into with a retail client located in this jurisdiction, booked to the profit or loss account of a branch of the reporting entity located in this jurisdiction, or *that are nexus derivatives*.

RG 251.66 At all times, a responsible entity of a registered managed investment scheme, or a trustee of a trust is a reporting entity if it enters into a reportable transaction in its capacity as the responsible entity or trustee of an Australian entity. Similarly, a corporate director of a corporate collective investment vehicle (CCIV) is a reporting entity if the CCIV, or a person acting for or on behalf of the CCIV, enters into a reportable transaction: see Rule 1.2.5(2) and RG 251.92–RG 251.93.

RG 251.67 However, at all times, the following are excluded from the meaning of a reporting entity under Rule 1.2.5(3) and (4) of the derivative transaction rules (reporting):

- (a) an AFS licensee, who is taken not to be an end user (see RG 251.16 and reg 7.5A.50 of the Corporations Regulations) only because they are an AFS licensee and whose AFS licence does not authorise them to provide financial services in relation to a prescribed class of derivatives; and
- (b) a clearing member, where the operating rules of an authorised clearing facility provide—such as for an agency clearing model—that both the clearing member and the client or affiliate of the clearing member for a cleared reportable transaction are both counterparties of the central counterparty—in which case, the clearing member is not a reporting entity, and only the client or affiliate and central counterparty may be reporting entities under Rule 1.2.5(4).

Until 20 October 2025—Meaning of ‘entered into’

RG 251.68 The ordinary principles of Australian contract law apply to the requirement to report trades entered into by a reporting entity in this jurisdiction under the derivative transaction rules (reporting). Under Australian law a contract is entered into in the place where the acceptance of the offer to enter into the contract is received, where an instantaneous form of communication is used to communicate the acceptance.

From 20 October 2025—Meaning of ‘nexus derivative’

RG 251.69 Broadly, a ‘nexus derivative’, defined under Rule 1.2.3, means an OTC derivative in relation to which Australian-located staff of a foreign entity are involved in one or more functions of pricing, seeking or providing quotes, structuring, offer and/or acceptance or managing its financial risks and a reporting entity is a counterparty.

- RG 251.70 The test for determining whether an OTC derivative is a nexus derivative is based on the functions performed by the persons involved in executing the relevant derivative transaction. The test is designed to capture functions which would typically be performed by a person who is commonly referred to as a ‘salesperson’ or ‘trader’. The test is not intended to capture functions performed by persons sitting in non-sales or trader functions such as management, counterparty risk, operational risk, finance and treasury. The person’s role in the organisation or job title is not definitive in determining whether an OTC derivative is a nexus derivative.
- RG 251.71 Note that prior to 20 October 2025, a foreign reporting entity may elect to report nexus derivative transactions, in one or more asset classes, under [ASIC Derivative Transaction Rules \(Nexus Derivatives\) Instrument 2024/603](#) by submitting an opt-in notice by email to otcd@asic.gov.au.
- RG 251.72 The information that must be reported about reportable transactions is explained further in Section E.

Small-scale buy-side entity

- RG 251.73 The derivative transaction rules (reporting) provide some limited exemptions from requirements for entities that meet the definition of a small-scale buy-side entity, as defined in Rule 1.2.3. The definition of a ‘small-scale buy-side entity’ (first defined in terms of the buy-side elements) is:
- (a) a responsible entity, trustee or a non-bank body regulated by APRA (i.e. an insurance company); and
 - (b) not an AFS licensee whose AFS licence authorises them to make a market in derivatives (i.e. a market-maker cannot be taken to be a buy-side entity); and
 - (c) not an exempt foreign licensee (as the definition of an exempt foreign licensee does not exclude that they may be a market-maker).
- RG 251.74 Then the small-scale element is defined in terms of:
- (a) holding total gross notional outstanding non-centrally cleared derivatives of A\$12 billion or less (measured at the managed investment scheme, trust or entity level (as applicable));
 - (b) being measured on each 31 March, 30 June, 30 September and 31 December (each a ‘quarter day’);
 - (c) being small scale from the day after the quarter day where the holding is A\$12 billion or less on the prior two quarter days; and
 - (d) ceasing to be small scale from the day after the quarter day where the holding is greater than A\$12 billion on the prior two quarter days.

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- RG 251.75 This definition of small scale linking total gross notional outstanding and the pattern of the measure versus a threshold over successive quarter days follows the same logic used in reg 7.5A.73 of the Corporations Regulations for ‘small-scale, single-sided’ reporting entities and for mandatory clearing under the *ASIC Derivative Transaction Rules (Clearing) 2015*.
- RG 251.76 For an entity that meets the definition of being a ‘small-scale buy-side entity’, reporting requirements are relaxed in the following ways:
- (a) lifecycle reporting is only required for equity derivatives—snapshot reporting is otherwise allowed;
 - (b) a narrower scope of valuation and collateral reporting is permitted by exempting certain data elements for small-scale buy-side entities; and
 - (c) the delta of an option is not required to be reported.

Appointing another person to report (delegated reporting)

- RG 251.77 The derivative transaction rules (reporting) allow a reporting entity to appoint one or more persons to report on its behalf. This may be a counterparty, central counterparty, operator of a financial market, service provider, broker or any other third party: Rule 2.2.7 (Derivative Transaction Information—Delegation of reporting). Delegated reporting is a form of outsourcing. A reporting entity’s delegation arrangements may involve the appointment of one or more sub-delegates depending on the nature of business activities and functions being performed.
- RG 251.78 A reporting entity that appoints another person to report on its behalf remains responsible for taking all reasonable steps to ensure the completeness, accuracy and currency of the information reported: Rule 2.2.6 (Reporting Requirement—Accuracy of reporting). A reporting entity remains responsible for the content of reports submitted to a trade repository, including any misreporting or omissions by the delegate(s) they rely on.
- RG 251.79 Delegated reporting should not be confused with the small-scale single-sided reporting exemption under regs 7.5A.70–7.5A.74 of the Corporations Regulations. The small-scale single-sided exemption does not involve delegating an entity’s reporting to another person to fulfil dual-sided reporting requirements. Rather, it exempts a small-scale entity from its reporting requirements provided its counterparty makes their own report and subject to certain conditions being met.

Removal of the ‘safe harbour’

- RG 251.80 Until 21 October 2024, the derivative transaction rules (reporting) included a ‘safe harbour’ provision for reporting entities. Under the ‘safe harbour’, a

reporting entity was taken as having complied with Rules 2.2.1–2.2.5 and 2.2.8, subject to the following conditions being met:

- (a) the terms of the delegate’s appointment and any related agreements or arrangements were to be documented in writing; and
- (b) the reporting entity was required to make regular inquiries reasonably designed to determine whether the delegate was discharging its obligations under the terms of its appointment.

RG 251.81 The ‘safe harbour’ did not exempt a reporting entity from its requirement under Rule 2.2.6 to take all reasonable steps to ensure that the information reported under Rule 2.2.1 and any change to the information reported under Rule 2.2.2(1) was at all times complete, accurate and current.

RG 251.82 Under the current derivative transaction rules (reporting), the ‘safe harbour’ has been removed to simplify and harmonise outsourcing requirements for regulated entities. A reporting entity now retains full responsibility for reporting requirements that it chooses to outsource to one or more delegates: see Section H of Consultation Paper 361 *Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): Second consultation (CP 361)*.

Alignment of outsourcing requirements and guidance

RG 251.83 Alignment of domestic and international regulatory requirements is important for standardising key concepts, promoting best practice and reducing regulatory burden for regulated entities. In forming our guidance, we have drawn on:

- (a) IOSCO report, *Principles on Outsourcing: Final Report* (IOSCO principles on outsourcing) (PDF 630 KB), published October 2021;
- (b) Regulatory Guide 104 *AFS licensing: Meeting the general obligations (RG 104)*;
- (c) Regulatory Guide 265: *Guidance on ASIC market integrity rules for participants of securities markets (RG 265)* (see RG 265.601–RG 265.622 ‘Outsourcing of critical services’); and
- (d) APRA’s Prudential Standard CPS 231 *Outsourcing (CPS 231)*.

IOSCO principles on outsourcing

RG 251.84 The IOSCO principles on outsourcing are broadly applicable to delegated reporting. We encourage reporting entities to:

- (a) conduct suitable due diligence processes in selecting an appropriate reporting delegate and in monitoring its ongoing performance;

- (b) enter into a legally binding written contract with each reporting delegate, the nature and detail of which should be appropriate to the materiality of the reporting function;
- (c) take appropriate steps to ensure they, and any reporting delegate, establish procedures and controls to protect their proprietary and client-related information and to ensure continuity of service, including a plan for disaster recovery with periodic testing of backup procedures;
- (d) take appropriate steps to ensure that a reporting delegate protects confidential information and data related to reporting entities and their clients from intentional or inadvertent unauthorised disclosure to third parties;
- (e) be aware of the risks posed and, where appropriate, manage them effectively where they are dependent on a reporting delegate for reporting services;
- (f) take appropriate steps to ensure they are able to obtain promptly, on request, information concerning derivative transaction reporting that is relevant to contractual and regulatory compliance. This includes access to reported data including rejections, reconciliation breaks as well as other data quality measures relating to the relevant data; and
- (g) include written provisions relating to the termination of tasks in their contracts with reporting delegates and ensure they maintain appropriate exit strategies.

Nature, scale and complexity factors

RG 251.85 A fundamental compliance concept for AFS licensees is that the nature, scale and complexity of a business will determine what you need to do to demonstrate compliance with obligations: see [RG 104](#), Section B ‘Key compliance concepts’. We do not take a ‘one size fits all’ approach to regulation. We apply the same concept to reporting entities—what a reporting entity needs to do to demonstrate taking ‘all reasonable steps’ to ensure it meets its reporting requirements, including under delegated reporting arrangements, depends on the nature, scale and complexity of its business. RG 104.22 sets out examples of ‘nature, scale and complexity’ factors.

Frequency and form of delegate oversight

RG 251.86 A reporting entity that appoints another person to report on its behalf is required to have an appropriate governance framework and systems, processes and controls designed to ensure that the information reported (under Rule 2.2.1(1)) and any change to that information is and remains at all times complete, accurate and current.

- RG 251.87 Subject to the nature, scale and complexity of a reporting entity's activities, we encourage reporting entities to perform reconciliations at least monthly, irrespective of whether the reporting function is performed in-house or outsourced to one or more delegates. Reconciliations should be designed to ensure that the outstanding derivative records held by the derivative trade repository match the books and records of the reporting entity and its delegates, where applicable. A reporting entity should consider the potential impact of errors or omissions to the underlying data quality for transparency, market conduct, systemic risk monitoring and broader regulatory purposes. We would expect large, active, domestic and international banks and institutions to undertake proportionately more frequent reconciliations of reporting.
- RG 251.88 Change management problems with the implementation of new systems, processes or controls are a common root cause of breaches and reportable situations. We expect a reporting entity to increase the frequency and form of reconciliations and checks performed during periods of change implementation. Without additional diligence in the oversight of change implementation, undetected reporting errors can compound for extended periods of time. The duration of a breach is a factor to consider when assessing its significance because the reporting entity's arrangements to ensure compliance are more likely to be inadequate the longer the errors or omissions remain undetected.
- RG 251.89 We consider that best practice oversight by reporting entities involves accessing transaction, position, collateral and valuation records directly from the trade repository to which a delegate is reporting and performing reconciliations and checks against source data, rather than relying solely on the information from a delegate, or chain of delegates. A delegate's written appointment or any related agreements should outline the approach to reconciliations to ensure a reporting entity's reporting obligations are met.
- RG 251.90 For many reporting entities, accessing reported data directly from the trade repository facilitates end-to-end reconciliation against data held in source systems, including but not limited to risk, trading and client systems. For some buy-side reporting entities, we note that access to source data can require oversight of multiple third parties. In such circumstances, it is important to have clear delegation arrangements and workflows in place to ensure the accuracy, timeliness and completeness of reporting (including in relation to reconciliations and checks), and plans for remediation of any reporting errors and omissions.
- RG 251.91 The outcome we are seeking is for systems, processes and controls to be designed to minimise reporting breaches and, where breaches occur, for issues and fixes to be promptly identified and deployed.

Reporting trades made by a fund manager

RG 251.92 Generally, where a fund manager enters into an arrangement that is an OTC derivative as agent on behalf of:

- (a) a responsible entity of an Australian managed investment scheme;
- (b) a trustee of an Australian trust; or
- (c) a CCIV or corporate director of a CCIV,

the responsible entity, trustee, or corporate director is the reporting entity for that reportable transaction for the purposes of the derivative transaction rules (reporting): see Rule 1.2.5(2). Under this scenario, the fund manager is the execution agent and the fund is counterparty 1.

RG 251.93 Where an Australian entity (e.g. an Australian fund manager) enters into an arrangement that is an OTC derivative as a principal, then the Australian entity is the reporting entity in relation to that transaction and counterparty 1.

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D Unique transaction identifier

Key points

The unique transaction identifier (UTI) is a globally unique transaction identifier used in derivative transaction reporting by each party to the transaction, so that each reported transaction is solely identified by a single UTI. It provides significant regulatory benefit in terms of matching both sides of the same transaction, including avoiding double counting in market metrics such as turnover and aggregate notional principal.

Generally, implementation of Rule 2.2.9 'Reporting requirement—Unique transaction identifier' requires an ASIC reporting entity, or a person appointed on its behalf, to:

- in certain circumstances, receive and report a UTI generated by another entity; and
- in other circumstances, generate, report and provide a UTI to another entity.

Rule 2.2.9—Unique transaction identifier

RG 251.94 The UTI is one of the international harmonised standards for which CPMI-IOSCO have developed global technical guidance: CPMI IOSCO, [Technical guidance: Harmonisation of the unique transaction identifier](#), February 2017 (UTI Guidance). Note that, since October 2020, the Regulatory Oversight Committee (ROC) is responsible for publishing updates or changes to the UTI Guidance.

RG 251.95 Rule 2.2.9 of the derivative transaction rules (reporting) (the UTI rule) sets out requirements for determining the UTI generating entity, generating a UTI and providing it to the other counterparty as soon as practicable. It also deals with generating and reporting a UTI when the reporting entity does not receive a UTI from the UTI generating entity in sufficient time for reporting and that a reporting entity may appoint a service provider to generate the UTI and provide it to the other counterparty.

Note: Our Schedule 1 technical guidance provides guidance on reporting transaction identifiers, including when a Rule 2.2.9 UTI is reported and when the transaction identifier for a pre-21 October 2024 reportable transaction is reported.

RG 251.96 In terms of UTI rule compliance, we take an outcomes-focused approach—that is, the outcome we seek is a high level of same-UTI reporting by the counterparties to a transaction no matter which jurisdiction(s) the transaction is reported to. We take the view that the method of UTI generation is less important than the same-UTI reporting outcome.

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When a UTI is required

- RG 251.97 A reporting entity is required to report a UTI for a reportable transaction that is an:
- (a) entry into of an arrangement that is an OTC derivative;
 - (b) assignment of an arrangement that is an OTC derivative; and
 - (c) change in the recording of an OTC derivative from representation as a transaction to representation as a position.
- RG 251.98 Each of these kinds of reportable transactions involve reporting a new transaction or position, and reporting a new transaction or position requires generating and reporting a new UTI. Conversely, a new UTI is not required for a reportable transaction that modifies or terminates an arrangement that is an OTC derivative which is reported using the transaction identifier of the original transaction that is being modified or terminated.
- RG 251.99 The UTI rule does not apply to a report made under the current alternative reporting provisions specified in Rule 2.2.1(3). However, from 20 October 2025, this provision is removed for new transactions and the UTI rule will then apply to new transactions.

UTI rule compliance—Appointing another person

- RG 251.100 Rule 2.2.9(2) of the derivative transaction rules (reporting) provides that in the UTI rule, other than subrule (8), a reference to a reporting entity that is a responsible entity (RE), trustee or corporate director of a CCIV, includes a person appointed by an RE, trustee or corporate director of a CCIV to enter into OTC derivatives on behalf of the RE, trustee or corporate director of a CCIV.
- RG 251.101 By way of example, a person appointed by an RE, trustee or corporate director of a CCIV may be a fund manager—in which case, the reporting entity or the fund manager may:
- (a) determine the UTI generating entity under subrule (3);
 - (b) generate and provide the UTI to the other counterparty under subrule (4);
 - (c) act on non-receipt of a UTI under subrule (6); and
 - (d) appoint a service provider under subrule (7).
- RG 251.102 The actions, in relation to complying with the UTI rule, include actions that ordinarily are required to be performed promptly after the entry into of an OTC derivative. The fund manager or other appointed person that entered into the OTC derivative may be able to perform the actions for the reporting entity more efficiently and effectively than the reporting entity itself.

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- RG 251.103 Separately, Rule 2.2.9(7) deals with the appointment of a person (service provider) to generate the UTI for a reportable transaction for which the reporting entity is the UTI generating entity, provided that:
- (a) the terms of the service provider’s appointment and any related agreements or arrangements require the service provider to generate a UTI using the service provider’s LEI as the LEI component of the UTI; and
 - (b) the terms of the service provider’s appointment and any related agreements or arrangements require the service provider to provide that UTI to the other counterparty in accordance with Rule 2.2.9(5)(b).
- RG 251.104 In keeping with delegated reporting more broadly, reporting entities that use third parties to generate and provide UTIs remain responsible for compliance with the UTI rule: see Rule 2.2.9(8).

Determining the UTI generating entity

- RG 251.105 Rule 2.2.9(3) of the derivative transaction rules (reporting) sets out the reporting entity’s obligation to determine the UTI generating entity. Table 2 of the derivative transaction rules (reporting) sets out the ‘UTI generating entity for specified Reportable Transactions’. A reporting entity must determine the UTI generating entity:
- (a) for a reportable transaction specified in column 2 of Table 2—which are specified for circumstances of a reportable transaction that, in summary:
 - (i) is cleared by an authorised clearing facility (see item 1);
 - (ii) is a transaction between a clearing member of an authorised clearing facility (acting in its capacity of a clearing member) and a client of the clearing services of that clearing member (see item 2);
 - (iii) is entered into through a facility that is an authorised financial market or, in certain circumstances, not an authorised financial market (see item 3);
 - (iv) is only reportable in this jurisdiction, whether by one or both counterparties to the transaction (see item 4); or
 - (v) is, or may be, also reportable in a foreign jurisdiction (see items 5–8A); and
 - (b) in accordance with column 3 of Table 2—which specifies the UTI generating entity for the circumstances of a reportable transaction as variously the:
 - (i) operator of the authorised clearing facility (see item 1);
 - (ii) clearing member (see item 2);

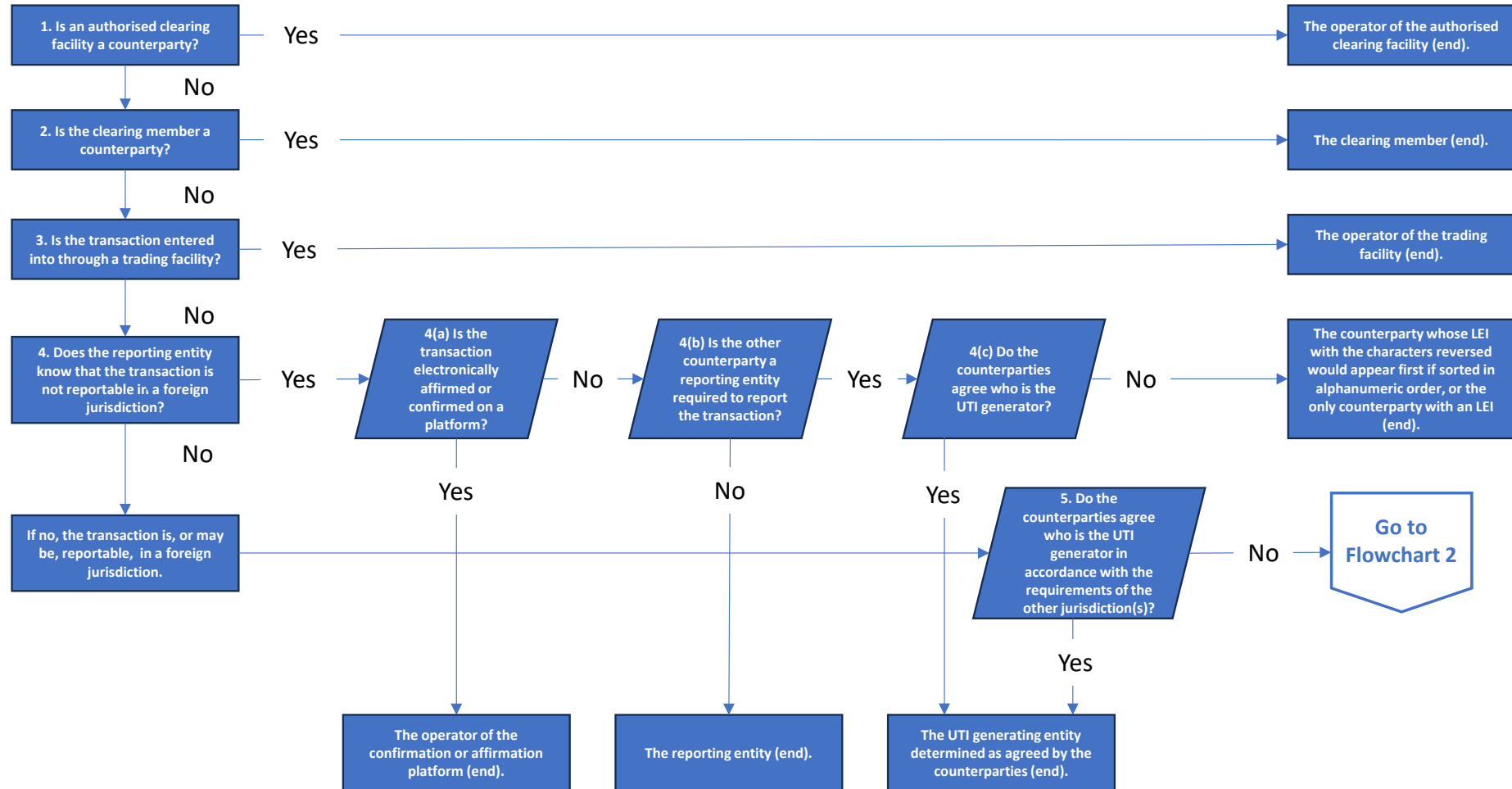
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- (iii) operator of the facility that is an authorised financial market or, in certain circumstances, not an authorised financial market (item 3);
- (iv) operator of the affirmation or confirmation platform (see items 4, 6A and 8A);
- (v) reporting entity (see item 4);
- (vi) UTI generating entity determined as agreed by the reporting entity and the other counterparty (see items 4, 6A and 8A);
- (vii) counterparty whose LEI with the characters reversed would appear first if the reversed LEIs of the counterparties were sorted in alphanumeric order, or the only counterparty with an LEI (see items 4, 6A and 8A);
- (viii) UTI generating entity determined according to a method in accordance with the derivative transaction reporting requirements of each of the foreign jurisdiction(s) in which the reportable transaction will or may be reported by the reporting entity (see item 5);
- (ix) UTI generating entity determined according to the derivative transaction reporting requirements of the foreign jurisdiction with the earliest reporting deadline (see item 7); or
- (x) operator of the derivative trade repository to which the reportable transaction will be reported and recorded in the repository records of a single jurisdiction, subject to both counterparties satisfying any reasonable requirements for the generation of a UTI by the operator (see item 8A).

- RG 251.106 The UTI rule (under Rule 2.2.9(3)) also requires that a reporting entity determines the UTI generating entity using:
- (a) the first item of items 1, 2, 3, 4 and 5 of Table 2 that applies to the reportable transaction; or
 - (b) if items 1, 2, 3, 4 and 5 of Table 2 do not apply, then any one of items 6, 7 or 8 that the reporting entity believes is applicable, taking into account its own reporting requirements in foreign jurisdictions and its knowledge of, or reasonable assumptions about, the reporting requirements of the other counterparty.
- RG 251.107 Figure 1 and Figure 2 provide an overview of the steps to take to determine the UTI generating entity for items 1–5 and items 6–8 respectively.

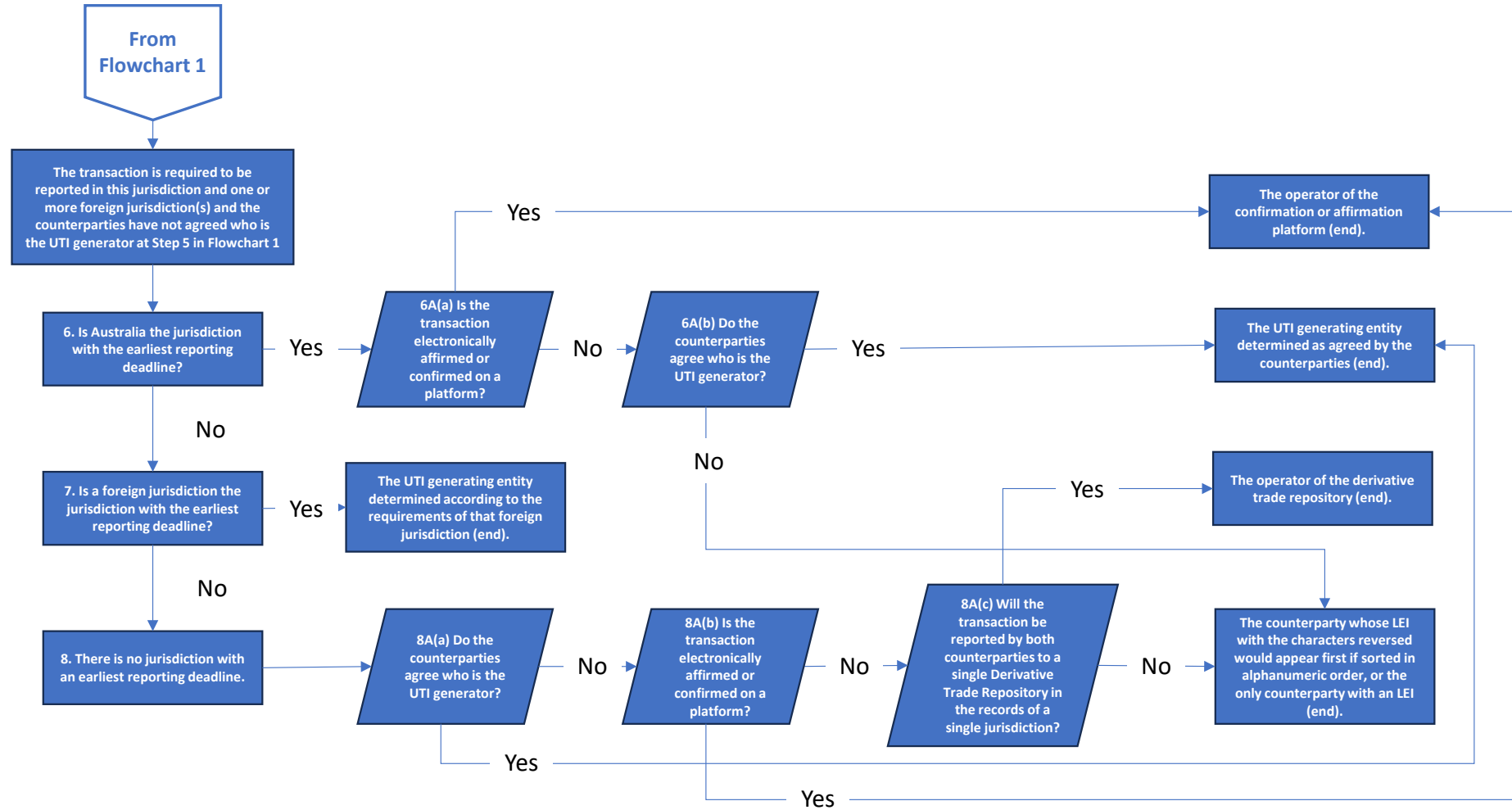
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Figure 1: ASIC reportable transaction UTI generation flowchart 1



Note: See Table 6 for the data shown in this flowchart (accessible version).

Figure 2: ASIC reportable transaction UTI generation flowchart 2



Note: See Table 7 for the data shown in this flowchart (accessible version).

Flowchart 1: Financial market infrastructures—Clearing facility, clearing member, financial market

- RG 251.108 Items 1 and 3 of Table 2 apply to reportable transactions entered into through financial market infrastructures, such as authorised clearing facilities or authorised financial markets.
- RG 251.109 Item 2 applies to a reportable transaction under the principal model of client clearing where the clearing member enters into a transaction with a client (an item 2 reportable transaction) and an equal and offsetting transaction with a central counterparty (an item 1 reportable transaction).
- RG 251.110 Under the agency model of client clearing, the client enters into a transaction directly with a central counterparty (an item 1 reportable transaction) and the associated clearing member does not enter into a transaction. In this case the central counterparty is the UTI generating entity and the clearing member does not generate a UTI for their client's cleared transaction.
- RG 251.111 Generally, clearing facilities (and their clearing members) and financial markets operate in jurisdictions where derivatives reporting requirements apply and comparable UTI generation requirements have been, or are in the process of being, implemented. This means that, although these entities may not be ASIC reporting entities or ASIC-licensed operators of financial market infrastructures, they will still generate and provide UTIs that are used in reporting by ASIC reporting entities.
- RG 251.112 However, where such a foreign entity does not provide a UTI because it is not required to do so by the rules of its home jurisdiction, Rule 2.2.9(6) provides that the reporting entity must use its best endeavours to determine the new UTI generating entity according to the next applicable item in Table 2.
- (a) Where a foreign central counterparty or foreign clearing member has not provided a UTI, there is no next applicable item in Table 2, and the reporting entity generates and reports a UTI.
 - (b) Where an operator of a financial market has not provided a UTI, the next applicable item in Table 2 is as for a bilateral transaction between the counterparties, either as item 4 (for a transaction only reportable in this jurisdiction) or item 5 (for a transaction that is, or may be, also reportable in a foreign jurisdiction).
- RG 251.113 In addition, where an operator of an authorised financial market or affirmation or confirmation platform generates and provides a single UTI for a transaction that is subsequently reported as a package of two or more transactions, a reporting entity may, to the extent that it accords with commonly adopted industry practices, modify that single UTI in order to generate a UTI for each subsequently reported transaction. Such a modification may be, for example, to append the character 'P' (signifying

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‘payer’) and the character ‘R’ (signifying ‘receiver’) to the single UTI received so as to generate two new UTIs.

Transaction is only reportable in this jurisdiction

- RG 251.114 If items 1, 2 and 3 of Table 2 do not apply, the reportable transaction must be either:
- (a) only reportable in this jurisdiction; or
 - (b) reportable in this jurisdiction and one or more foreign jurisdictions.
- RG 251.115 Item 4 of Table 2 applies if the reporting entity knows that the reportable transaction is only reportable in this jurisdiction. In this situation, the UTI generating entity is determined according to different circumstances of the reportable transaction that are in an order of priority of:
- (a) the operator of the affirmation or confirmation platform;
 - (b) the sole reporting entity;
 - (c) the UTI generating entity determined as agreed or according to an agreed method by the reporting entity and the other counterparty;
 - (d) the counterparty whose LEI with the characters reversed (reversed LEI) would appear first if the reversed LEIs of the counterparties were sorted in alphanumeric order, or the only counterparty with an LEI.
- RG 251.116 Where the counterparties agree, or agree a method for determining, which of them is the UTI generating entity, this does not mean that the agreement needs to be in writing and/or signed by both parties—it is a matter for the parties to determine if they have agreed. The counterparties may also agree a method for determining the UTI generating entity and such a method may be industry guidance or conventions on how to determine the UTI generating entity.
- RG 251.117 However, if we do not observe the UTI outcomes that we refer to in RG 251.96, we may question reporting entities’ capabilities to agree and/or adhere to practices to determine UTI generating entities in a way that supports achieving those UTI outcomes.
- RG 251.118 Items 4 and 5 of Table 2 do not require a reporting entity to conclusively determine all of the jurisdictions in which the transaction will be reported. If the reporting entity determines that it knows the transaction is only reportable in this jurisdiction, item 4 applies. If not, including if the reporting entity is uncertain about whether the transaction is reportable in another jurisdiction, item 5 applies, subject to meeting the requirements in paragraph (b) of item 5.

Transaction is, or may be, also reportable in a foreign jurisdiction

- RG 251.119 If items 1, 2, 3 and 4 of Table 2 do not apply, item 5 may apply in the circumstances that the reportable transaction either:

- (a) is only reportable in this jurisdiction but the reporting entity does not know that it is only reportable in this jurisdiction; or
- (b) is, or may be, reportable in a foreign jurisdiction.

RG 251.120 It may not be practical for a reporting entity to determine all of the reporting requirements of the other counterparty—reporting requirements in different jurisdictions that apply to the other counterparty depend on a range of factors such as the asset class or product type of the transaction, the domicile of an entity, the location of the person who enters into the transaction for the other counterparty and whether the transaction will be cleared.

RG 251.121 The method used at item 5 to determine the UTI generating entity may be any method and is not dependent on determining the jurisdiction with the earliest reporting deadline, but is subject to the method being:

- (a) determined by the reporting entity and the other counterparty; and
- (b) in accordance with the derivative transaction reporting requirements of each of the foreign jurisdiction(s) in which the reportable transaction will or may be reported by the reporting entity.

RG 251.122 Paragraph (b) of item 5 would not be satisfied where, for example:

- (a) the other counterparty is not a reporting entity under the derivative transaction rules (reporting) and the rules of the foreign jurisdiction under which the other counterparty will report the transaction require the other counterparty to determine the jurisdiction with the earliest reporting deadline as an explicit step before determining the method to determine the UTI generating entity—the other counterparty may consider that it cannot apply item 5; and/or
- (b) the reporting entity will also report the transaction in a foreign jurisdiction and the rules of that foreign jurisdiction likewise do not provide that the reporting entity can apply item 5.

Flowchart 2: Determining the jurisdiction with the earliest reporting deadline

RG 251.123 If item 5 of Table 2 does not apply, then one of items 6, 7 and 8 must apply. Rule 2.2.9(3)(b)(ii) provides that the reporting entity should apply *any one* of items 6, 7 or 8 that the reporting entity believes is applicable taking into account its own reporting requirements in foreign jurisdictions, and its knowledge of, or reasonable assumptions about, the reporting requirements of the other counterparty.

RG 251.124 Items 6, 7 and 8 of Table 2 align with the UTI Guidance in being applicable depending on whether this jurisdiction or a foreign jurisdiction is the jurisdiction with the earliest reporting deadline or if there is no jurisdiction with an earliest reporting deadline.

- RG 251.125 When we made the derivative transaction rules (reporting), in addition to the practical difficulties of determining all of the jurisdictions in which the transaction is reportable, there was not an international consensus about how to determine, among the identified jurisdictions to which the transaction is reportable, the jurisdiction that has the earliest reporting deadline.
- RG 251.126 Given these uncertainties, Rule 2.2.9(3)(b)(ii) only requires that a reporting entity believes that one of items 6, 7 or 8 applies taking into account its own reporting requirements in foreign jurisdictions, and its knowledge of, or reasonable assumptions about, the reporting requirements of the other counterparty.
- RG 251.127 If item 6 applies, the UTI generating entity is determined under item 6A in the same manner as for a transaction that is only reportable to ASIC, but excluding the possibility that the reporting entity is the UTI generating entity as the only entity that will report the transaction.
- RG 251.128 If item 7 applies, the UTI generating entity is determined according to the derivative transaction reporting requirements of the foreign jurisdiction.
- RG 251.129 It is important to note that this does not mean that the foreign entity is automatically the UTI generating entity—the UTI generating entity is determined according to UTI rules in the foreign jurisdiction, which may result in either of the counterparties being determined as the UTI generating entity.
- RG 251.130 If item 8 applies, the UTI generating entity is determined under item 8A in an order of priority:
- (a) the UTI generating entity determined as agreed by the reporting entity and the other counterparty;
 - (b) the operator of the affirmation or confirmation platform;
 - (c) the operator of the derivative trade repository; and
 - (d) the counterparty whose reversed LEI would appear first if the reversed LEIs of the counterparties were sorted in alphanumeric order, or the only counterparty with an LEI.
- RG 251.131 In relation to paragraph (c) of item 8A, a derivative trade repository may provide repository services for more than one jurisdiction and holds the reports for each jurisdiction segregated from each other. Paragraph (c) of item 8A only applies to a transaction that is recorded by a derivative trade repository in the records of a single jurisdiction.
- RG 251.132 Paragraph (c) of item 8A does not prescribe the processes by which the operator of the derivative trade repository generates a UTI. The process may be, for example:

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- (a) reports are submitted without a UTI and the operator of the derivative trade repository generates a UTI and assigns it to the records of each of the reports that it has received; or
- (b) the operator of the derivative trade repository requires that one or both of the counterparties apply to receive a UTI generated by the operator and then the counterparties include that UTI in the reports that they submit to the derivative trade repository.

RG 251.133 Subparagraph (c)(ii) of item 8A allows the operator of the derivative trade repository to require the reporting entity and the other counterparty to satisfy the operator's requirements for generating a UTI (such as applying for a UTI in a particular manner), provided these requirements are reasonable.

Reporting deadline for UTI purposes—T+2 Sydney

RG 251.134 Rule 2.2.9(4) provides that, for the purposes of item 6, 7 and 8 in Table 2, the reporting deadline in this jurisdiction for a reportable transaction is the end of the second business day in Sydney after the day on which the reportable transaction occurs.

RG 251.135 The general reporting deadline under Rule 2.2.3 of the derivative transaction rules (reporting) for a particular reportable transaction is referenced to the business days of the jurisdiction in which the reportable transaction is entered into—it can be that the reporting deadline for a reportable transaction is two business days in the foreign jurisdiction in which the reportable transaction is entered into but this is three Sydney business days.

RG 251.136 To avoid unnecessary complexity in determining, for UTI purposes, the jurisdiction with the earliest reporting deadline, Rule 2.2.9(4) sets out a singular reporting deadline for the purposes of item 6, 7 and 8 in Table 2 as the end of the second business day in Sydney.

Timely provision of a UTI

RG 251.137 Rule (5) of the UTI rule requires a reporting entity that is the UTI generating entity to generate the UTI and to provide the UTI to the other counterparty as soon as practicable. Under the derivative transaction rules (reporting), the ordinary deadline for reporting has been extended to T+2 (from T+1). In addition, the deadline for reporting package transactions (other than FX swaps) has been extended to T+4. The relaxed deadlines for reporting have reduced the imperative for a specific deadline by which a reporting entity must provide the UTI to its counterparty—rather, the requirement is to do so 'as soon as practicable'. We expect reporting entities' systems and processes to be designed to facilitate timely transmission and ingestion of UTIs.

Non-receipt of a UTI in sufficient time for reporting

- RG 251.138 Subrule (6) of the UTI rule deals with the situation that the reporting entity is not the UTI generating entity for the reportable transaction and does not receive a UTI from the UTI generating entity determined under subrule (3) in sufficient time to enable the reporting entity to report the UTI for the reportable transaction in accordance with Rule 2.2.3. It addresses situations of either ‘temporary’ or ‘permanent’ non-receipt of a UTI and respective requirements.
- RG 251.139 Rule 2.2.9(6)(a) deals with the temporary non-receipt of a UTI from the UTI generating entity, such as where the UTI generating entity does not promptly provide the UTI to the reporting entity. This may be, for example, a situation of an irregular technical or other form of interruption where ordinarily a UTI is received from the UTI generating entity. Under this scenario the reporting entity must generate a UTI and report that UTI. For further information about re-reporting an ‘interim UTI’ as a ‘permanent UTI’ please see the Schedule 1 technical guidance, Section D, ‘Item 1—Unique transaction identifier (UTI)’.
- RG 251.140 Rule 2.2.9(6)(b) and (c) deal with the permanent non-receipt of a UTI from the UTI generating entity, such as where, for example, a foreign central counterparty is determined to be the UTI generating entity but the foreign jurisdiction of the central counterparty does not impose UTI generating obligations on the central counterparty. Rule 2.2.9(6)(b) requires the reporting entity to ‘use its best endeavours to determine the UTI generating entity (new UTI generating entity) according to the next applicable item in Table 2 in subrule (3)’. Broadly, Rule 2.2.9(6)(c) requires the reporting entity to generate a UTI and report that UTI if it is either the new UTI generating entity or it does not receive a UTI from the new UTI generating entity in sufficient time to enable reporting in compliance with the reporting deadline.
- RG 251.141 The expression ‘in sufficient time’ is not defined in specific temporal terms but rather in relation to sufficient time to enable the reporting entity to report the UTI for the reportable transaction in accordance with the requirements of Rule 2.2.3. It is anticipated that reporting entities will have capabilities to delay the ordinary reporting of a transaction pending receipt of a UTI to the extent that this delay does not unduly disrupt the transaction reporting processes of the reporting entity.
- RG 251.142 We expect reporting entities to act reasonably, by, for example:
- (a) if using real-time or near real-time reporting processes—temporarily diverting the transaction from that process and rescheduling it in a manner that balances allowing time to receive a UTI with the operational risks of non-standard processes;

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- (b) if using batch-style reporting processes—allowing at least the time until the cut-off time for a batch to be formed or diverting to a subsequent batch;
- (c) in the meantime, taking proactive steps to follow up with the UTI generating entity to obtain the UTI, particularly where the UTI generating entity ordinarily and regularly provides a UTI; and
- (d) where the non-receipt is of a ‘permanent’ nature that no further amount of time will resolve, and there is no ‘next applicable method’—immediately, upon entering into the transaction, using the fallback of generating its own UTI.

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E Derivative transaction data that must be reported

Key points

This section gives key guidance on the derivative transaction data that must be reported (i.e. derivative transaction information) and reporting requirements. For more detail guidance, please refer to the Schedule 1 technical guidance and worked examples.

Derivative trade data

- RG 251.143 A reporting entity must report information about its reportable transactions, referred to as ‘derivative transaction information’. It is important to note that the requirements of the derivative transaction rules (reporting) for data elements are often more stringent than the requirements expressed by a trade repository’s inbound message validation specifications.
- RG 251.144 The derivative transaction information, and changes to the information, must be reported to a trade repository in accordance with Rule 2.2.3—generally no later than the end of the second business day after the requirement to report arises. In the case of package transactions excluding FX swaps, the reporting deadline is extended to no later than the end of the fourth business day after the requirement to report arises.
- RG 251.145 A reporting entity is required to report derivative transaction information in accordance with an applicable ISO 20022 message definition using XML tags: Rule 2.2.4.

Derivative transaction information

- RG 251.146 Part S1.3 of Schedule 1 of the derivative transaction rules (reporting) specifies a set of data elements that must be reported to a trade repository for each reportable transaction, subject to applicability based on asset class and contract type. These elements include, but are not limited to:
- (a) the economic terms of the transaction;
 - (b) product, transaction and entity identifiers;
 - (c) information on whether the transaction is centrally cleared; and
 - (d) valuation (mark-to-market, mark-to-model or central counterparty valuation) and collateral information.

Note: In this document, ‘Part S1.3’ (for example) refers to a particular part of Schedule 1 of the derivative transaction rules (reporting).

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Changes to information previously reported

RG 251.147 A reporting entity must also report changes to information previously reported, including changes to valuation and collateral valuation information: Rule 2.2.2.

Note: For further information, see Part S1.3 of the derivative transaction rules (reporting).

Schedule 1 technical guidance and worked examples

RG 251.148 For detailed guidance about the data elements in Schedule 1 of the derivative transaction rules (reporting) please refer to our Schedule 1 technical guidance which sets out ASIC's guidance and expectations for the way in which data elements should be reported. It provides our guidance and expectations in relation to:

- (a) the individual data elements themselves;
- (b) the minimum validations we expect a derivative trade repository to apply to those data elements, noting the often higher standards of the rules requirements;
- (c) reporting the data elements for certain product types and transaction types;
- (d) Action types and Event types and their use cases; and
- (e) re-reporting transactions under Rule 2.4.1 Re-reporting requirement.

RG 251.149 The worked examples spreadsheet also sets out examples of data elements and allowable values included in new trade messages for common product transaction scenarios in each prescribed asset class.

Identifying parties to a derivative transaction—legal entity identifier

RG 251.150 Broadly, the international derivative transaction reporting standard is that all entities are identified by an LEI, except for natural persons who are not eligible to obtain an LEI unless they trade in derivatives in a business capacity.

RG 251.151 A current, not lapsed, LEI is required to be reported for:

- (a) Reporting entity;
- (b) Counterparty 1; and
- (c) Central counterparty.

RG 251.152 An LEI (that need not be current) is also required, subject to the provisions of Rule S1.3.1(2), for the following relevant entities:

- (a) Counterparty 2;
- (b) Beneficiary 1;

- (c) Broker;
- (d) Execution agent of Counterparty 1;
- (e) Clearing member;
- (f) Other payment payer;
- (g) Other payment receiver; and
- (h) Report submitting entity;

Refer to the Schedule 1 technical guidance for further information about individual data elements, including for the particular kinds of reports for which the requirement for a minimum status of an LEI is further relaxed.

- RG 251.153 The derivative transaction rules (reporting) include a provision that allows the reporting of a non-LEI entity identifier when an LEI is applied for within two business days (the 'grace period') after the requirement to report the entity identifier arises (see S1.3.1(2)(ii)).
- RG 251.154 For joint or joint and several counterparties to a reportable transaction, other than a partnership because a partnership is eligible for an LEI, the LEI of one of the joint counterparties is reportable as the entity identifier.

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F Derivative transaction reporting breaches

Key points

Generally, reporting entities have obligations to report breaches (and likely breaches) of regulatory requirements to ASIC under financial services and credit licensing obligations, including in respect of breaches of the derivative transaction rules (reporting).

This guidance is intended to supplement existing ASIC breach reporting guidance and recommends more standardised breach reporting practices across reporting entity types.

The quality of data reported by, or on behalf of, reporting entities is critical to ensuring reliable data for analytics and usability for regulatory purposes.

Reporting entity types and breach reporting obligations

- RG 251.155 What you need to do to comply with your breach reporting obligations will vary according to the nature, scale and complexity of your business—see Regulatory Guide 78 *Breach reporting by AFS licensees and credit licensees* ([RG 78](#)) at RG 78.139. Generally, a reporting entity has existing obligations to report breaches (and likely breaches) of regulatory requirements to ASIC under its financial services licence or credit licence.
- RG 251.156 The scope of reporting entities with requirements under the derivative transaction rules (reporting) covers a range of both domestic and foreign entity types: see Table 1 of the derivative transaction rules (reporting) and also Section C ‘Who the reporting obligations apply to’.
- RG 251.157 Generally, Australian entities that are Australian ADIs (see item 1(a) of Table 1 of the derivative transaction rules (reporting)) are also AFS licensees or Australian credit licensees.
- RG 251.158 AFS licensees and Australian credit licensees, (see items 1(b) and 3(b) of Table 1 of the derivative transaction rules (reporting)) are required to submit notifications about reportable situations (previously breach reports) to ASIC: see RG 78.
- RG 251.159 AFS licensees represent the greatest number of reporting entities by entity type with obligations under the derivative transaction rules (reporting) and hence the extensive existing guidance set out in RG 78 forms the basis for this derivative transaction reporting breaches guidance. However, we also encourage other reporting entity types to apply this guidance and report breaches of the derivative transaction rules (reporting).
- RG 251.160 Regulatory Guide 211 *Clearing and settlement facilities: Australian and overseas operators* ([RG 211](#)) provides licensing and compliance guidance to CS facility operators (see items 1(c) and 2 of Table 1 of the derivative

transaction rules (reporting)), including in relation to dealing with actual or suspected breaches.

RG 251.161 Foreign entities that are required to be registered under Div 2 of Pt 5B.2 of the Corporations Act and which are foreign ADIs with an Australian branch, (see item 3(a) of Table 1 of the derivative transaction rules (reporting)) are also AFS licensees, foreign AFS licensees or foreign financial services providers (FFSPs).

RG 251.162 Information Sheet 157 *Foreign financial services providers: Licensing relief (INFO 157)* provides guidance in respect of the regulatory framework for FFSPs that wish to provide financial services to wholesale clients or professional investors in Australia, including in respect of exempt foreign licensees (see item 3(c) of Table 1 of the derivative transaction rules (reporting)). Appendix 5 of INFO 157 describes an FFSP's ongoing notification obligations, including breaches and significant changes.

Note: At the date of publishing this guidance, the Australian Government is proposing a new legislative regime for FFSPs, to commence from 1 April 2025: see Schedule 7 of *Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023*.

RG 251.163 To ensure consistency across reporting entity types, all reporting entities are encouraged to apply this guidance when assessing breaches (including likely breaches) of the derivative transaction rules (reporting) and reportability to ASIC.

Reportable situations regime for AFS licensees

RG 251.164 [RG 78](#) sets out breach reporting guidance for AFS licensees. For the benefit of all reporting entity types, the main characteristics of the reportable situations regime are:

- (a) the regime applies to AFS and credit licensees, together referred to as 'licensees';
- (b) licensees must generally report all reportable situations to ASIC via the prescribed form available on the [ASIC Regulatory Portal](#), including:
 - (i) significant breaches or likely significant breaches of 'core obligations';
 - (ii) investigations into whether there is a significant breach or likely breach of a 'core obligation' if the investigation continues for more than 30 days;
 - (iii) the outcome of such an investigation, including if it discloses there is no significant breach or likely breach of a core obligation;
 - (iv) conduct that constitutes gross negligence or serious fraud; and
 - (v) conduct of representatives of other licensees who provide personal advice in certain prescribed circumstances;

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- (c) a number of situations are deemed to be significant and therefore reportable (e.g. a contravention of a civil penalty provision that is not excluded from deeming under the regulations); and
- (d) licensees must notify ASIC of reportable situations, generally within 30 calendar days after the licensee first knows, or is reckless with respect to whether, there are reasonable grounds to believe that a reportable situation has arisen.

RG 251.165 Under reg 7.6.02A(2)(ii) of the Corporations Regulations, certain breaches of civil penalty provisions are exempt in respect of the requirement under s912D(4)(b) for a breach of a core obligation to be taken to be, or ‘deemed’, significant, including s901E. As such, a breach of the derivative transaction rules (reporting) is not reportable solely on the basis that it is a contravention of a civil penalty provision under the Corporations Regulation carve-out—rather, it requires an assessment as to whether it is significant.

Determining whether a breach is significant

- RG 251.166 Whether a breach (or likely breach) of the derivative transaction rules (reporting) is significant should be determined by considering the factors set out in s912D(5) of the Corporations Act that are applicable to derivative transaction reporting, that is:
- (a) the number or frequency of similar breaches;
 - (b) the extent to which the breach indicates that the financial services licensee’s arrangements to ensure compliance with those obligations are inadequate; and
 - (c) any other matters prescribed by regulations made for the purposes of s912D(5), noting that at the time of writing there are no such prescribed matters.
- RG 251.167 [RG 78](#) sets out in Table 3 factors that determine whether a breach (or likely breach) is ‘significant’ under s912D(5) of the Corporations Act or s50A(5) of the *National Consumer Credit Protection Act 2009* (National Credit Act) and how the factors may be applied: see ‘Other breaches that are significant’ at RG 78.45–RG 78.47 and Tables 3–5.
- RG 251.168 The greater the number or frequency of similar breaches, the more likely it will be that the new breach will be significant. The repeat of a breach may also indicate a continuing underlying systemic problem—see item 1 of Table 3 in [RG 78](#). Reporting entities should maintain a breach register to ensure they have adequate arrangements in place to take into account the number or frequency of derivative transaction rules (reporting) breaches when determining whether a breach (or likely breach) is significant.

Note: For a discussion of breach registers, including the types of information they might include and good compliance practices for breach registers, see Report 594 *Review of selected financial services groups’ compliance with the breach reporting obligation* ([REP 594](#)).

- RG 251.169 We generally would not regard limited and infrequent derivative transaction reporting errors and omissions that are identified and corrected within a reasonable period of first occurring, as reportable to ASIC, subject to a reporting entity's broader s912D considerations.

Note: [CFTC Letter No. 22-06](#), dated 10 June 2022, provides instructions about reporting errors and omissions when a swap execution facility, designated contract market or reporting counterparty determines that it is unable to correct an error in a timely manner. ASIC considers seven business days after discovery is an example of a reasonable period.

Examples of breaches that may or may not be significant

- RG 251.170 Table 4 of RG 78 sets out examples of breaches that may be significant under s912D(5) of the Corporations Act or s50A(5) of the National Credit Act, followed by Table 5 'Examples of breaches that may not be significant'.
- RG 251.171 Similarly, Table 4 and Table 5 below set out some limited, illustrative examples of derivative transaction reporting issues that we consider may or may not be significant.

Note: These examples are for illustrative purposes only. A determination of significance for a particular breach, or likely breach, will depend on the licensee's individual circumstances.

Table 4: Examples of derivative transaction reporting breaches that may be significant under s912D of the Corporations Act

Summary	Specific example
Example 1(a): Failure to differentiate requirements under the derivative transaction rules (reporting) from lower level derivative trade repository submission validation requirements	<p>A reporting entity submits daily trade activity files to a derivative trade repository which are acknowledged (ACKD) by the derivative trade repository as meeting the validation requirements over a six-month period</p> <p>During a review of the business rules for reporting, the reporting entity realises that it should have been reporting a field required under Schedule 1 Information requirements of the derivative transaction rules (reporting), (e.g. item 11 'Next floating reference reset date—Leg 1'). However, the information has not been mapped for reporting by the reporting entity (or its delegates) and the derivative trade repository's requirements treat the field as optional</p> <p>This breach would likely be significant as it likely indicates that a reporting entity's arrangements to ensure compliance are inadequate. The number or frequency of similar breaches should also be considered</p> <p>We expect that, when considering the extent to which the breach or likely breach indicates that the licensee's arrangements to ensure compliance with those obligations are inadequate, you would ask yourself questions such as the length of time the incident went undetected, to what extent the compliance arrangements helped in identifying the breach, and the time it took to investigate and assess the incident as a breach—see item 1 of Table 3 in RG 78</p>

Summary	Specific example
Example 1(b): Failure to apply appropriate controls and checks to change implementations resulting in persistent errors	<p>A reporting entity changes source systems used for derivative transaction reporting (e.g. in respect of a subset of clients or products). In doing so, the consequential impacts to trade reporting are not fully identified. Further, on implementation of the new system(s), reconciliations are insufficient to detect discrepancies against source systems and previously reported data resulting in stale and missing derivative information for a period of more than one month</p> <p>This breach would likely be significant as it likely indicates that a reporting entity's arrangements to ensure compliance are inadequate. The number or frequency of similar breaches should also be considered</p>
Example 1(c): Failure to report terminations	<p>A reporting entity that is a retail OTC derivatives issuer transacts contracts for difference (CFDs) with its retail client base in products that have long-dated expiration dates or may be perpetual</p> <p>The books and records of the retail OTC derivatives issuer show no outstanding derivatives with one hundred clients that have subsequently ceased trading. However, the trade state records held by the derivative trade repository continue to show outstanding derivatives for these clients</p> <p>This breach would likely be significant as it likely indicates that a reporting entity's arrangements to ensure compliance are inadequate. The number or frequency of similar breaches should also be considered</p>

Table 5: Examples of derivative transaction reporting breaches that may not be significant

Summary	Specific example
Example 2(a): Isolated late reporting	<p>As an isolated issue, a reporting entity fails to submit valuation and collateral reports within the T+2 reporting deadline for two consecutive days. However, following prompt identification of the issue, timely reporting resumes by T+5</p> <p>This breach would likely not be significant as it likely indicates that a reporting entity's arrangements to ensure compliance are otherwise adequate—the issue is promptly identified and rectified. The number or frequency of similar breaches should also be considered</p> <p>Where limited and infrequent derivative transaction reporting errors are identified and within a reasonable period of first occurring, an assessment to determine whether the breach in isolation is significant may not be required subject to the reporting entity's broader s912D considerations</p>

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Summary	Specific example
Example 2(b): Isolated incomplete reporting	<p>A reporting entity executes package transactions for its clients on a regular basis and has systems, processes and controls established to record and report these packages</p> <p>On a particular day, and due to human error (i.e. failing to record a new variation to a package structure) the reporting entity executes a package transaction and reports the individual components of the package without also correctly allocating and reporting a package identifier. As a result, five additional data elements related to 'packages and links' are absent from the transaction reports. Subsequent transactions of this kind of package are reported completely</p> <p>This breach would likely not be significant as it likely indicates that a reporting entity's arrangements to ensure compliance are otherwise adequate. However, the number or frequency of similar breaches should also be considered</p>
Example 2(c): Isolated errors in respect of accuracy of reporting	<p>A reporting entity commences reporting trades with several new low-turnover corporate clients and under the provisions of Rule 2(a)(ii) of the derivative transaction rules (reporting) applies for LEIs within the two business days 'grace period'. In due course, the LEIs are issued and published by the Global Legal Entity Identifier Foundation (GLEIF). The reporting entity would ordinarily have systems and processes to upgrade the initially reported identifier to an LEI within two business days following publication on the GLEIF website. However, on this occasion, the systems or processes have failed to flag the requirement to report the modification. As part of a monthly identifier type indicator check, the issue is flagged resulting in:</p> <ul style="list-style-type: none"> • reporting modifications to upgrade the entity identifiers; and • updates to systems and process to reinstate and/or improve the reporting workflow and reduce the likelihood of the issue reoccurring <p>This breach would likely not be significant as it likely indicates that a reporting entity's arrangements to ensure compliance are otherwise adequate. The number or frequency of similar breaches should also be considered</p>

Reporting breaches outside the scope of the reportable situation regime

- RG 251.172 Reporting entities that are outside of the scope of the reportable situation regime are encouraged to provide to ASIC notifications about significant breaches of the derivative transaction rules (reporting) by:
- (a) lodging a notification via the [ASIC Regulatory Portal](#); or
 - (b) providing a written description of the issue by email to the OTCD mailbox at otcd@asic.gov.au.

What to include in a reportable situation or breach notification

- RG 251.173 The purpose of the derivative transaction reporting regime is to provide regulators with transparency in relation to trading activity and counterparty

exposures, which helps regulators to identify financial system vulnerabilities, conduct market surveillance, monitor market metrics and practices, and inform policy developments and assess outcomes. We seek to have high quality, reliable data for our data analytics and use cases. Where errors or omissions exist, it is important that we can assess the potential impacts to data quality. Greater consistency of information set out in reportable situations and breach notifications will assist with this.

RG 251.174 Breaches of the derivative transaction rules (reporting) should be grouped in a single report to ASIC, where appropriate. The information provided in the breach issue (outlined below) should clearly identify the distinct issues, impacts and remediation plans.

RG 251.175 Table 8 of [RG 78](#) sets out an overview of the content of the reportable situation prescribed form. Any notification to ASIC that does not use the 'reportable situation prescribed form' is required to address similar information requirements, including:

- (a) the date of the breach:
 - (i) when it first arose; and
 - (ii) when you first knew that there were reasonable grounds to believe that a breach had arisen;
- (b) a description of the breach(es) including the section of the relevant law that sets out the relevant obligation, including any relevant law or legislation and any relevant licence condition;
- (c) how the breach(es) was or were identified. For example, the breach may have been identified through your compliance arrangements, an audit or a review of an ASIC query or a client query;
- (d) how long the breach lasted and relevant details, including whether the breach is still continuing;
- (e) whether and how the breach(es) has or have been rectified, including:
 - (i) when you expect to complete the rectification (or complete a plan for rectifying the breach(es)); and
 - (ii) how it will be achieved; and
- (f) steps planned or taken to ensure future compliance with derivative transaction reporting requirements.

RG 251.176 For all breaches of the derivative transaction rules (reporting), whether reported under the reportable situations regime in the prescribed form or separately, the following information should be addressed as part of the description of the breach(es) on a best efforts basis:

- (a) a statement clarifying the extent to which the breach(es) relate to derivative transaction data that was:
 - (i) previously reported to a trade repository (errors);

- (ii) not reported to a trade repository (omissions); or
- (iii) both;
- (b) the impacted asset class(es) and product type(s) to which the breach(es) pertain;
- (c) the number of outstanding or expired or terminated derivative transactions impacted by the breach(es), including:
 - (i) a reasonable estimate of the percentage of impacted transactions over the duration of the breach; and
 - (ii) a reasonable estimate of the percentage of impacted transactions by asset class over the duration of the breach; and
- (d) whether the breach(es) relates or relate to delegated reporting arrangements (e.g. where an issue exists in a third-party vendor's systems).

Correcting errors and omissions (back reporting)

- RG 251.177 A reporting entity must take all reasonable steps to ensure that the reported information for which it is responsible is and remains at all times complete, accurate and current: Rule 2.2.6. In general, reporting errors and omissions in relation to both outstanding and expired or terminated derivative transactions must be corrected as part of the breach rectification process as soon as is technically feasible.
- RG 251.178 Reporting entities must back report all identified missing and incorrect data to the derivative trade repository for a period of at least two years prior to the date of correction. Where errors exist over a significant period, corrections should prioritise the most current reporting to least current.
- RG 251.179 Following substantial amendments to the information and technical requirements under the 2024 Rules, as compared to the 2022 Rules, we will take a measured approach to compliance and not require back reporting of derivatives that expired or were terminated before 21 October 2024. Collateral and valuation messages for such expired or terminated derivative transactions are likewise not required.
- RG 251.180 In circumstances where rectifying reporting errors and omissions requires a large volume of submissions to be made to the derivative trade repository, we recommend that you notify your derivative trade repository in advance to avoid any data processing issues.

How we assess breaches

- RG 251.181 The key outcome that we seek is high-quality, reliable data for our regulatory purposes. Where there are errors or omissions, all reasonable steps are required to be taken to ensure they are promptly identified and corrected.

- RG 251.182 [RG 78](#) sets out what we will do after we receive your report (see RG 78.117–RG 78.118) and our regulatory and enforcement response to reports (see RG 78.119–RG 78.122). We do not take action on all matters reported to ASIC. Guidance about factors underlying our decisions about whether to take enforcement action about a matter is set out in Information Sheet 151 *ASIC's approach to enforcement* ([INFO 151](#)).
- RG 251.183 Where ASIC identifies significant errors or omissions in a reporting entity's derivative transaction reporting which have not been self-identified or notified to ASIC by the reporting entity, this will be considered by ASIC in determining whether to take enforcement action.
- RG 251.184 We base our initial derivative transaction rules (reporting) breach assessment on an adaption of the relevant key factors and considerations discussed in Regulatory Guide 216 *Markets Disciplinary Panel* ([RG 216](#)). Such factors and considerations are outlined in Table 1 of RG 216 and the relevant considerations for OTC transaction reporting include:
- (a) character of the conduct—its nature (whether intentional, reckless or careless) and its duration;
 - (b) consequences of the conduct—the impact of the errors or omissions on our regulatory objectives and whether the entity repeated the breach when acting as the delegate of another;
 - (c) compliance culture—the adequacy of internal controls, whether the issue is promptly self-reported, cooperation with ASIC during the assessment, and past compliance history; and
 - (d) remediation—prompt correction of reporting going forward and any steps taken to ensure the conduct does not reoccur.
- RG 251.185 We would generally see isolated derivative transaction reporting errors and omissions that do not materially impact our regulatory objectives as being at the low end of the severity scale, particularly where prompt rectification and remediation is undertaken.

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Appendix: Accessible versions of figures

RG 251.186 This appendix is for people with visual or other impairments. It provides the underlying data for the figures presented in this guide.

Table 6: ASIC reportable transaction UTI generation flowchart 1

Transactional circumstance	Determination sequence	Determination outcome
1. Is an authorised clearing facility a counterparty?	If yes, go to outcome If no, go to 2	The operator of the authorised clearing facility (end)
2. Is the clearing member a counterparty?	If yes, go to outcome If no, go to 3	The clearing member (end)
3. Is the transaction entered into through a trading facility?	If yes, go to outcome If no, go to 4	The operator of the trading facility (end)
4. Does the reporting entity know that the transaction is not reportable in a foreign jurisdiction?	If yes, go to 4(a) If no, the transaction is, or may be, reportable in a foreign jurisdiction, and go to 5	
4(a) Is the transaction electronically affirmed or confirmed on a platform?	If yes, go to outcome If no, go to 4(b)	The operator of the confirmation or affirmation platform (end)
4(b) Is the other counterparty a reporting entity required to report the transaction?	If no, go to outcome If yes, go to 4(c)	The reporting entity (end)
4(c) Do the counterparties agree who is the UTI generator?	If yes, go to outcome If no, go to outcome	The UTI generating entity determined as agreed by the counterparties (end) The counterparty whose LEI with the characters reversed would appear first if sorted in alphanumeric order, or the only counterparty with an LEI (end)
5. Do the counterparties agree who is the UTI generator in accordance with the requirements of the other jurisdiction(s)?	If yes, go to outcome If no, go to Flowchart 2 in Figure 2	The UTI generating entity determined as agreed by the counterparties (end)

Note: This table shows the data contained in Figure 1.

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Table 7: ASIC reportable transaction UTI generation flowchart 2

Transactional circumstance	Determination sequence	Determination outcome
The transaction is required to be reported in this jurisdiction and one or more foreign jurisdiction(s) and the counterparties have not agreed who is the UTI generator at Step 5 in Flowchart 1	Go to 6	
6. Is Australia the jurisdiction with the earliest reporting deadline?	If yes, go to 6A(a) If no, go to 7	
6A(a) Is the transaction electronically affirmed or confirmed on a platform?	If yes, go to outcome If no, got to 6A(b)	The operator of the confirmation or affirmation platform (end)
6A(b) Do the counterparties agree who is the UTI generator?	If yes, go to outcome If no, got to outcome	The UTI generating entity determined as agreed by the counterparties (end) The counterparty whose LEI with the characters reversed would appear first if sorted in alphanumeric order, or the only counterparty with an LEI (end)
7. Is a foreign jurisdiction the jurisdiction with the earliest reporting deadline?	If yes, go to outcome If no, go to 8	The UTI generating entity determined according to the requirements of that foreign jurisdiction (end)
8. There is no jurisdiction with an earliest reporting deadline	Go to 8A(a)	
8A(a) Do the counterparties agree who is the UTI generator?	If yes, go to outcome If no, go to 8A(b)	The UTI generating entity determined as agreed by the counterparties (end)
8A(b) Is the transaction electronically affirmed or confirmed on a platform?	If yes, go to outcome If no, go to 8A(c)	The operator of the confirmation or affirmation platform (end)
8A(c) Will the transaction be reported by both counterparties to a single derivative trade repository in the records of a single jurisdiction?	If yes, go to outcome If no, go to outcome	The operator of the derivative trade repository (end) The counterparty whose LEI with the characters reversed would appear first if sorted in alphanumeric order, or the only counterparty with an LEI (end)

Note: This table shows the data contained in Figure 2.

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Key terms

Term	Meaning in this document
ADI	Authorised deposit-taking institution
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s9 of the Corporations Act.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: A definition of 'financial services licensee' is contained in s9 of the Corporations Act.
Amendment Instrument 2024/416	ASIC Derivative Transaction Rules (Reporting and Clearing) Amendment Instrument 2024/416
ASIC	Australian Securities and Investments Commission
Australian derivative trade repository licence	Australian derivative trade repository licence granted under s905C of the Corporations Act that authorises a person to operate a trade repository
Australian entity	An entity (including a corporation, managed investment scheme, partnership or trust) that is incorporated or formed in Australia
CCIV	A company that is registered as a corporate collective investment vehicle under the Corporations Act.
CDE Technical Guidance	CPMI-IOSCO, Technical guidance: Harmonisation of critical OTC derivatives data elements (other than UTI and UPI) (PDF 1.01 MB)
CFTC	US Commodity Futures Trading Commission
Corporations Act	<i>Corporations Act 2001</i> , including any regulations made for the purposes of that Act
Corporations Regulations	<i>Corporations Regulations 2001</i>
CPMI	Committee on Payments and Market Infrastructures, formerly the Committee on Payment and Settlement Systems (CPSS)
CFD	Contract for difference
CS facility	A clearing and settlement facility as defined by s768A of the Corporations Act

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Term	Meaning in this document
CS facility licence	An Australian CS facility licence under s824B of the Corporations Act that authorises a person to operate a CS facility in Australia
CS facility licensee	A person who holds a CS facility licence Note: This is a definition contained in s761A of the Corporations Act
derivative trade data	Means: <ul style="list-style-type: none"> information about derivative transactions; or information (including statistical data) that is created or derived from this information
derivative transaction	Means: <ul style="list-style-type: none"> the entry into of an arrangement that is a derivative; the modification or termination of such an arrangement; the assignment, by a party to such an arrangement, of some or all of the party's rights and obligations under the arrangement; or any other transaction that relates to a derivative and that is in a class of transactions prescribed by the regulations
derivative transaction information	Information about derivative transactions
derivative transaction rules (reporting)	<i>ASIC Derivative Transaction Rules (Reporting) 2024</i> —rules made by ASIC under s901A of the Corporations Act that deal with reporting requirements and requirements that are incidental or related to the reporting obligation
FFSP	Foreign financial services providers
foreign ADI	Has the meaning given by s5 of the <i>Banking Act 1959</i>
FSB	Financial Stability Board
G20	Group of 19 of the world's largest economies, and the European Union
GLEIF	Global Legal Entity Identifier Foundation
INFO 151 (for example)	An ASIC information sheet (in this example numbered 151)
IOSCO	International Organization of Securities Commissions
ISIN	International securities identification number
legal entity identifier (LEI)	A 20-character, alphanumeric code that connects to key reference information that enables clear and unique identification of entities participating in global financial markets
licensed trade repository	A licensed derivative trade repository as defined in s9 of the Corporations Act and licensed by ASIC

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Term	Meaning in this document
Ministerial determination	<i>Corporations (Derivatives) Determination 2023</i>
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
OTC	Over the counter
OTC derivative transaction	An arrangement that is an OTC derivative under the derivative transaction rules (reporting)
Part 2.4 (for example)	A part of the derivative transaction rules (reporting) (in this example numbered 2.4), unless otherwise specified
Pt 7.5A (for example)	A part of the Corporations Act (in this example numbered 7.5A)
prescribed trade repository	A trade repository that is a facility (or is in a class of facilities) prescribed by the Corporations Regulations for the purpose of s901A(6) of the Corporations Act
REP 594 (for example)	An ASIC report (in this example numbered 594)
reportable transaction	As defined in Rule 1.2.5, a derivative transaction that is entered into by a reporting entity under the circumstances outlined in Rule 1.2.5
reporting entity	An entity that is referred to in Rule 1.2.5 that may be subject to the reporting obligation
reporting obligations	The obligations of a reporting entity to report derivative trade data in accordance with the requirements of the derivative transaction rules (reporting)
RG 78 (for example)	An ASIC regulatory guide (in this example numbered 78)
ROC	Regulatory Oversight Committee of the Global Legal Entity Identifier System
Rule 1.2.5 (for example)	A rule of the derivative transaction rules (reporting) (in this example numbered 1.2.5)
Schedule 1 technical guidance	<i>ASIC Derivative Transaction Rules (Reporting)—Schedule 1 technical guidance</i>
s903A (for example)	A section of the Corporations Act (in this example numbered 903A)
trade repository	A licensed or prescribed derivative trade repository—a facility to which information about derivative transactions, or about positions relating to derivative transactions, can be reported
UPI Guidance	CPMI-IOSCO, Technical guidance: Harmonisation of the unique product identifier (PDF 602 KB)

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Term	Meaning in this document
UPI Service	The service, operated by The Derivatives Service Bureau (DSB) Limited, that enables the creation and retrieval of ISO 4914 Unique product identifiers (UPIs)
UTI Guidance	CPMI-IOSCO, Technical guidance: Harmonisation of the unique transaction identifier (PDF 570 KB)
worked examples	<i>ASIC Derivatives Transaction Reporting—worked examples</i>

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Related information

Headnotes

asset class, cleared transaction, CPMI–IOSCO, CS facility, data elements, derivative transaction, derivative transaction information, electricity derivative, exemption, licensed trade repository, nexus derivative, prescribed trade repository, reporting entity, reporting obligation, technical guidance, trade repository, unique product identifier, unique transaction identifier

Regulatory guides

[RG 78](#) *Breach reporting by AFS licensees and credit licensees*

[RG 104](#) *AFS licensing: Meeting the general obligations*

[RG 211](#) *Clearing and settlement facilities: Australian and overseas operators*

[RG 216](#) *Markets Disciplinary Panel*

[RG 265](#) *Guidance on ASIC market integrity rules for participants of securities markets*

Legislation

Corporations Act, Pt 7.5A, s761D, 907D

Corporations Regulations, reg 7.5A.30

ASIC rules

ASIC Derivative Trade Repository Rules 2013

ASIC Derivative Trade Repository Rules 2023

ASIC Derivative Transaction Rules (Reporting) 2013

ASIC Derivative Transaction Rules (Reporting) 2022

ASIC Derivative Transaction Rules (Reporting) 2024

Class exemptions

[ASIC Derivative Transaction Rules \(Nexus Derivatives\) Instrument 2024/603](#)

Consultation papers and reports

[CP 201](#) *Derivative trade repositories*

[CP 205](#) *Derivative transaction reporting*

[CP 221](#) *OTC derivatives reform: Proposed amendments to the ASIC Derivative Transaction Rules (Reporting) 2013*

[CP 334](#) *Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): First consultation*

[CP 361](#) *Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): Second consultation*

[CP 361a](#) *ASIC Derivative Transaction Rules (Reporting) 2024: Follow-on consultation on changes to data elements and other minor amendments*

[CP 370](#) *Proposed remake of the ASIC Derivative Trade Repository Rules 2013*

[CP 375](#) *Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): Third consultation*

[REP 309](#) *Report on the Australian OTC derivatives market: October 2012*

[REP 356](#) *Response to submissions on CP 201 Derivative trade repositories*

[REP 357](#) *Response to submissions on CP 205 Derivative transaction reporting*

[REP 422](#) *Response to submissions on CP 221 Proposed Amendments to ASIC Derivative Transaction Rules (Reporting) 2013*

[REP 755](#) *Response to submissions on CP 361 Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): Second consultation*

[REP 792](#) *Response to submissions on CP 375 Proposed changes to the ASIC Derivative Transaction Rules (Reporting): Third consultation*

Information sheets

[INFO 151](#) *ASIC's approach to enforcement*

[INFO 157](#) *Foreign financial services providers: Licensing relief*

Media and other releases

[Media Release \(13-066MR\)](#) *ASIC consults on trade reporting obligations for OTC derivatives (28 March 2013)*

[Media Release \(13-171MR\)](#) *OTC derivatives reform: ASIC implements reporting regime* (11 July 2013)

[ASIC consults on changes to OTC derivative transaction rules](#), news item, (15 February 2024)

International standards

CPMI-IOSCO, [Technical guidance: Harmonisation of critical OTC derivatives data elements \(other than UTI and UPI\)](#) (PDF 1.01 MB)

CPMI-IOSCO, [Technical guidance: Harmonisation of the unique product identifier](#) (PDF 602 KB)

CPMI-IOSCO, [Technical guidance: Harmonisation of the unique transaction identifier](#) (PDF 570 KB)

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