

(11 October 2018 – to date)

## **FINANCIAL MARKETS ACT 19 OF 2012**

*(Government Notice 70 in Government Gazette 36121 dated 1 February 2013. Commencement date: 3 June 2013 [Proc. No. 12, Gazette No. 36485])*

## **FMA CONDUCT STANDARD 3 OF 2018**

### **CONDUCT STANDARD FOR REPORTING OBLIGATIONS IN RESPECT OF TRANSACTIONS IN OVER-THE-COUNTER DERIVATIVES**

The Financial Sector Conduct Authority under section 58 of the Financial Markets Act, 2012 (Act No. 19 of 2012), read with paragraph 3 of the Regulations hereby prescribes reporting obligations in respect of transactions in over-the-counter derivatives.

(Signed)

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**For THE FINANCIAL SECTOR CONDUCT AUTHORITY**

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## **SCHEDULE**

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## 1. Definitions

In this Schedule, **“the Act”** means the Financial Markets Act, 2012 (Act No. 19 of 2012) and **“the Regulations”** means the Regulations prescribed under section 5(1)(a) of the Act, and any word or expression to which a meaning has been assigned in the Act or in the Regulations, bears the meaning so assigned to it; and unless the context otherwise indicates -

**“central counterparty”** means a licensed central counterparty, a licensed external central counterparty,;[sic]

**“ISO 8601”** means the international standard for the representation of dates and times which describes an internationally accepted manner to represent dates and times using numbers;

**“LEI”** is the legal entity identifier and means a 20 character, alpha-numeric code that uniquely identifies the counterparties to the financial transactions; the international standard for the LEI is outlined in ISO 17442:2012 Financial Services-Legal Entity Identifier;

**“open source”** means critical software and other relevant elements that are defined and made available publicly without any licensing, intellectual property or similar restrictions;

**“provider”** means an authorised OTC derivative provider;

**“scalable”** means that the identifier must allow for growth in the volume of identifiers without having to reuse numbers or change the structure;

**“trade repository”** means a licensed trade repository, a licensed external trade repository;

**“unique product identifier”** means a code that uniquely identifies and describes the derivative asset class; and

**“unique transaction identifier”** means a code that identifies the derivative transaction, provided by a trade repository or as identified by the two counterparties, or central counterparty, as the case may be.

## 2. Application of the Conduct Standard

The reporting obligations set out in this Conduct Standard are binding on providers or central counterparties, where applicable.

## 3. Reporting Obligation: asset classes

A provider must report the details of the OTC derivative transactions, whether confirmed or not, that it has executed or of any modification or termination of the transaction, in the following asset classes to a trade repository:

- (a) Commodity derivatives;
- (b) credit derivatives;
- (c) foreign exchange derivatives;
- (d) equity derivatives; and
- (e) interest rate derivatives.

#### **4. Reporting Obligation: reporting entities**

- (1) Where an OTC derivative transaction is cleared through a central counterparty, the central counterparty must provide the report contemplated in paragraph 5.
- (2) Where a counterparty to an OTC derivative transaction is another authorised OTC derivative provider, the obligation to report is on both providers.
- (3) A provider or a central counterparty, where applicable, which is subject to the reporting obligation may delegate that obligation.

#### **5. Report**

- (1) The report must contain at least the information set out in Annexure A.
- (2) A provider or central counterparty must ensure that data reported to the trade repository is accurate.
- (3) A provider must keep a record of any concluded derivative transaction and any modification thereto for a period of at least five years following the termination of the transaction.

#### **6. Frequency of reporting**

- (1) A provider must provide the report by the end of the business day following the day of the conclusion, modification or termination of the contract.
- (2) A provider must report mark-to-market or mark-to-model valuations of contracts to a trade repository daily based on the relevant closing market data from the previous business day.

- (3) Any other reporting elements as set out in item 100 of Annexure A must be reported at least on a daily basis, or as they occur, whatever the case may be.

## **7. Requirements for identifiers**

### **7.1 Identification of counterparties and other entities using an LEI**

A report must contain an LEI to identify -

- (a) the reporting provider;
- (b) non-reporting counterparties;
- (c) the central counterparty, where the trade was cleared.

### **7.2 Identification of derivative instruments**

- (1) A report must identify a derivative instrument using a unique product identifier based on the taxonomy of the derivative which is -
- (a) internationally recognisable;
  - (b) unique;
  - (c) neutral;
  - (d) reliable;
  - (e) open source;
  - (f) scalable;
  - (g) accessible;
  - (h) available at a reasonable cost basis; and
  - (i) subject to an appropriate governance framework.
- (2) Where international or industry standards for a unique product identifier are not reasonably available for a particular sub-type of derivative at the time a report is made under this Conduct Standard, a reporting counterparty must assign a unique product identifier to the derivative using its own methodology or incorporating a unique product identifier previously assigned to the derivative.

### **7.3 Unique transaction identifier**

- (1) A report must identify a derivative transaction using a unique transaction identifier which is -
  - (a) unique;
  - (b) neutral;
  - (c) reliable;
  - (d) open source;
  - (e) scalable;
  - (f) accessible;
  - (g) available at a reasonable cost basis; and
  - (h) subject to an appropriate governance framework.
- (2) Where the counterparties to the trade are both authorised OTC derivative providers, the reporting provider must allocate the unique transaction identifier and the non-reporting counterparty must adopt the same identifier to avoid duplication.
- (3) The allocation of the unique transaction identifier must occur at the earliest possible point in the trade flow.
- (4) Where the trade is cleared, the central counterparty must allocate the unique transaction identifier.

### **8. Operational standards for aggregation and comparison of data across trade repositories**

The counterparties to a trade must generate a unique transaction identifier for each derivative contract to enable trade repositories to aggregate and compare data across different trade repositories.

### **9. Reporting start date and transitional arrangements**

- (1) The obligation to comply with the reporting obligation in accordance with this Conduct Standard by a provider or a central counterparty, as the case may be, commences six months from the effective date of this Standard (the reporting start date).
- (2) All transactions entered into 18 months before the reporting start date, -

- (a) that are still open on the reporting start date, must be back-loaded within 180 days after the reporting start date; and
- (b) concluded before the reporting start date must be reported to a trade repository within five years of the reporting start date.

**10. Commencement date**

This Conduct Standard comes into effect on the date determined by the Authority.

Item	Data field	Data Format and Description
	Counterparty Data	
1.	Reporting timestamp	Date and time of reporting to the trade repository ISO 8601 date in the format and Coordinated Universal Time (UTC) time format YYYY-MM-DDThh:mm:ssZ
2.	Identifier of reporting counterparty	ISO 17442 LEI of the reporting counterparty or, in case of an individual, a unique client code issued by the reporting counterparty
3.	Type of ID of the other counterparty	"LEI" for ISO 17 442 Legal Entity Identifier (LEI) "CLC" for Client code
4.	Nature of the reporting counterparty	Indicate if the reporting counterparty is a CCP, a financial, non-financial counterparty or other type of counterpartyF = Financial Counterparty N = Non-Financial Counterparty C = Central Counterparty O = Other
5.	Corporate sector of the reporting counterparty	Nature of the reporting counterparty's company activities. If the Reporting Counterparty is a Financial Counterparty, this field shall contain all necessary codes included in the Taxonomy for Financial Counterparties and applying to that Counterparty. If the Reporting Counterparty is a Non- Financial Counterparty, this field shall contain all necessary codes included in the Taxonomy for Non-Financial Counterparties and applying to that Counterparty. Where more than one activity is reported, the codes shall be populated in order of the relative importance of the corresponding activities
6.	Identifier of non-reporting counterparty	ISO 17 442 LEI of the non-reporting counterparty or business identifier code if no LEI or, in case of an individual, a unique client code issued by the reporting counterparty
7.	Broker ID	In the case a broker acts as intermediary for the reporting counterparty without becoming a counterparty himself, the reporting counterparty shall identify this broker by a unique code.
8.	Country of non-reporting counterparty	Jurisdiction of non-reporting counterparty - Using ISO 3166 - 2 character country code
9.	Trading capacity of reporting counterparty	Identifies whether the reporting counterparty has concluded the contract as principal on own account (on own behalf or behalf of a client) or as agent for the account of and on behalf of a client.

Item	Data field	Data Format and Description
10.	Counterparty side	Indicate whether the reporting counterparty was the buyer or seller. In the case of swaps, other than credit default swaps, the buyer will represent the payer of leg 1 and the seller will be the payer of leg 2 B= Buyer S= Seller
11.	Identity of entity submitting report	In the case where the reporting counterparty has delegated the submission of the report to a third party or to the other counterparty, this entity has to be identified in this field by a unique code. Otherwise this field shall be left blank.  ISO 17 442 Legal Entity Identifier (LEI) 20 alphanumeric character code
12.	Unique product identifier	Unique product identification code based on the taxonomy of the product
13.	Type of ID of the Beneficiary	Type of the code used to identify the Beneficiary.
14.	Beneficiary ID	The party subject to the rights and obligations arising from the contract. Where the transaction is executed via a structure, such as a trust or fund, representing a number of beneficiaries, the beneficiary should be identified as that structure. Where the beneficiary of the contract is not a counterparty to this contract, the reporting counterparty has to identify this beneficiary by a unique code or, in case of a private individual, by a client code used in a consistent manner as assigned by the legal entity used by the private individual.
15.	Inter-affiliate	Indicate whether the derivative is between two affiliated entities.
16.	Collateralisation	Indicate whether the derivative is collateralised. Field Values: FC=Fully collateralised (initial and variation margin required to be posted by both counterparties); PC= Partially collateralised (variation only required to be posted by both counterparties); OC= One-way collateralised (one party will be required to post some form of collateral); U= Uncollateralised.
17	Collateral portfolio	Indicate whether collateralisation of reported transaction was performed on a portfolio basis Y= Yes No= No
18.	Collateral portfolio code	If item 20 is applicable, include a unique code identifying the portfolio that is determined by the reporting counterparty



Item	Data field	Data Format and Description
19.	Initial margin posted/received	Value of initial margin posted by the reporting counterparty to the other counterparty. Include overall value of initial margin posted or received, if received or posted on portfolio basis.  Up to 20 numerical characters including decimals. The decimal mark is not counted as a numerical character. If populated, it shall be represented by a dot.
20.	Currency of initial margin posted/received	Specify currency of initial margin ISO 4217 Currency Code, 3 alphabetical characters
21.	Variation margin posted or received	Value of the variation margin posted/received, including cash settled, by the reporting counterparty to the other counterparty. Where variation margin is posted/received on a portfolio basis, this field should include the overall value of variation margin posted/received for the portfolio.  Up to 20 numerical characters including decimals. The decimal mark is not counted as a numerical character. If populated, it shall be represented by a dot.
22.	Currency of variation margin posted	ISO 4217 Currency Code, 3 alphabetical characters
	Common data - Contract details	
	Contract Type	
23.	Contract or instrument type	The name of the contract or instrument type e.g: CD = Financial contracts for difference FR = Forward rate agreements FU = Futures FW = Forwards OP = Option SB = Spreadbet SW = Swap ST = Swaption OT= Other
24.	Underlying asset identifier 1	The unique identifier of the asset referenced in the derivative. Using ISO 6166
25.	Underlying asset identifier 2	The unique identifier of the second asset referenced in the derivative, if more than one. Using ISO 6166

Item	Data field	Data Format and Description
		If more than two assets identified in the derivative, report the unique identifiers for those additional underlying assets.
26.	Asset class	Major asset class of the product - IR = Interest Rate CR = Credit CO = Commodity, CU = Currency Equity = Equity.
Details on the transaction		
27.	Unique transaction identifier	The unique transaction identifier as provided by the trade repository or the identifier as identified by the two counterparties, or central counterparty
28.	Complex trade component identifier	Internal to the reporting firm, to identify and link all the reports related to the same derivative contract composed of a combination of derivative contracts.  The code must be unique at the level of the counterparty to the group of transaction reports resulting from the derivative contract.  Field applicable only where a firm executes a derivative contract composed of two or more derivative contracts and where this contract cannot be adequately reported in a single report.
29.	Electronic trading venue identifier	LEI of the electronic trading venue where the transaction was executed, if applicable
30.	Effective date or start date	The date the derivative becomes effective or starts. ISO 8601 date in the format YYYY-MM-DD 28
31.	Maturity date	Original date of expiry of the reported contract. An early termination shall not be reported in this field. ISO 8601 date in the format YYYY-MM-DD
32.	Termination date	Termination date in the case of an early termination of the reported contract. ISO 8601 date in the format YYYY-MM-DD
33.	Settlement date	Date of settlement of the underlying. If more than one, further fields may be used. ISO 8601 date in the format YYYY-MM-DD
34.	Master agreement type	The type of master agreement, if used for the reported derivative (ISDA Master Agreement or any other Master Agreement).

Item	Data field	Data Format and Description
		Free Text, field of up to 50 characters, identifying the name of the Master Agreement used, if any
35.	Master agreement version	Year of the version of the master agreement. ISO 8601 date in the format YYYY
36.	Payment frequency or dates	The dates or frequency the derivative requires payments to be made (e.g., quarterly, monthly).
37.	Reset frequency or dates	The dates or frequency at which the price resets (e.g. quarterly, semi-annually, annually).
38.	Day count convention	Factor used to calculate the payments (e.g., 30/360, actual/360).
39.	Delivery type	Indicate whether derivative is settled physically or in cash.
40.	Price 1	The price, rate, yield, spread, coupon or similar characteristic of the derivative. This may not include any premiums such as commissions, collateral premiums or accrued interest.
41.	Price 2	The price, rate, yield, spread, coupon or similar characteristic of the derivative. This may not include any premiums such as commissions, collateral premiums or accrued interest.
42.	Price notation type 1	The manner in which the price is expressed (e.g., percentage, basis points).
43.	Price notation type 2	The manner in which the price is expressed (e.g., percentage, basis points).
44.	Price multiplier	The number of units of the underlying reference entity represented by 1 unit of the contract.
45.	Notional currency 1 1	The currency of the notional amount. In the case of an interest rate or currency derivative contract, this will be the notional currency of leg 1.
46.	Notional currency 2	The other currency of the notional amount. In the case of an interest rate or currency derivative contract, this will be the notional currency of leg 2.
47.	Settlement currency	The currency used to determine the cash settlement amount.
48.	Up-front payment	Amount of any up-front payment.
49.	Currency or currencies of up- front payment	The currency or currencies in which any up-front payment is made by one counterparty to another.
50.	Embedded option	Indicate whether the option is an embedded option.
51.	Risk mitigation/Reporting	
52.	Confirmation	Indicate whether the terms of the transaction have been confirmed by both counterparties to the derivatives contract. Form of confirmation - electronic or non-electronic or not confirmed

Item	Data field	Data Format and Description
53.	Confirmation time stamp	Date and time of the confirmation, indicating time zone in which the confirmation has taken place. "ISO 8601 date format UTC time format (Universal Coordinated Time)
	Clearing	
54.	Clearing timestamp	The time and date when clearing took place using ISO. ISO 8601 date in the UTC time format YYYY-MMDDThh:mm:ssZ
55.	Cleared	Indicate whether a contract has been cleared Y= Yes N = No
56.	Central counterparty	Name/ISO 17 442 LEI of the central counterparty.
57.	Clearing member name and Identifier	Name of clearing member and ISO 17 442 LEI of the clearing member, if the reporting counterparty is not the clearing member.
58.	Clearing exemption	Indicate whether one or more of the counterparties to the contract transaction are exempted from a mandatory clearing requirement, and specify which party is so exempted
59.	Intragroup	Y= Yes N = No
<b>C. Additional Asset Information</b>		These fields are required to be reported for the respective types of derivatives set out below, even if the information is entered in a Common Data field above.
<b>(i) Interest rate derivatives</b>		
60.	Fixed rate leg 1	The rate used to determine the payment amount for leg 1 of the derivative.  Up to 10 numerical characters including decimals expressed as percentage where 100 % is represented as "100". The decimal mark is not counted as a numerical character. If populated, it shall be represented by a dot. The negative symbol, if populated, is not counted as a numerical character.
61.	Fixed rate leg 2	The rate used to determine the payment amount for leg 2 of the derivative.  Up to 10 numerical characters including decimals expressed as percentage where 100 % is represented as "100". The decimal mark is not counted as a numerical character. If populated, it shall be

Item	Data field	Data Format and Description
		represented by a dot. The negative symbol, if populated, is not counted as a numerical character.
62.	Floating rate leg 1	The floating rate used to determine the payment amount for leg 1 of the derivative.
63.	Floating rate leg 2	The floating rate used to determine the payment amount for leg 2 of the derivative.
64.	Fixed rate day count convention leg 1/2	Factor used to calculate the fixed payer payments (e.g., 30/360, actual/360).
65.	Fixed leg payment frequency or dates	Frequency or dates of payments for the fixed rate leg of the derivative (e.g., quarterly, semi-annually, annually).
66.	Floating leg payment frequency or dates	Frequency or dates of payments for the floating rate leg of the derivative (e.g., quarterly, semi-annually, annually).
67.	Floating rate reset frequency or dates	The dates or frequency at which the floating leg of the derivative resets (e.g., quarterly, semi-annually, annually). MNTH = Monthly QURT = Quarterly MIAN = Semi-annually YEAR = Yearly
<b>(ii) Currency derivatives</b>		
68.	Exchange rate	Contractual rate(s) of exchange of the currencies.-expressed[sic] as a price of base currency in the quoted currency.
69.	Delivery Currency 2	Cross currency if different from the delivery currency
70.	Forward exchange rate	The agreed forward exchange rate expressed as a price of the base currency in the quoted currency.
71.	Exchange rate basis	Indicate currency codes for the base currency and quote currency
<b>(iii) Commodity derivatives</b>		
72.	Sub-asset class	Specific information to identify the type of commodity derivative
73.	Quantity	Total quantity in the unit of measure of an underlying commodity.
74.	Unit of measure	Unit of measure for the quantity of each side of the derivative (e.g., barrels, bushels).
75.	Grade	Grade of product being delivered (e.g., grade of oil).
76.	Delivery point	The delivery location.
<b>(v) Credit Derivatives</b>		
<i>Note – Numbering as published</i>		
77.	Identifier of counterparty-buyer	LEI of the counterparty buying the CDs

Item	Data field	Data Format and Description
78.	Name of counterparty - buyer	Name of the counterparty buying the CDs
79.	Identifier of counterparty - seller	LEI of the counterparty selling the protection
80.	Name of counterparty-seller	Name of the counterparty selling the protection
81.	Reference entity	Identification of the underlying reference entity ISO 3166 - 2 character country code or ISO 3166-2 – 2 character country code followed by dash “-” and up to 3 alphanumeric character country subdivision code or ISO 17 442 Legal Entity Identifier (LEI) 20 alphanumeric character code
82.	Index attachment point	The value of the index attachment point at which the level of the losses in the underlying portfolio reduces the notional of the tranche.
83.	Index detachment point	The value of the index detachment point beyond which the losses in the underlying portfolio no longer reduce the notional of the tranche.
84.	Payment frequency	Frequency of the interest payments MNTH = Monthly QURT = Quarterly MIAN = Semi-annually YEAR = Yearly
85.	Calculation basis	Calculation basis of the interest rate - Numerator/Denominator where both, Numerator and Denominator are numerical characters or alphabetic expression “Actual”, e.g. 30/360 or Actual/365
86.	Index factor	The value/factor that applies to the notional for credit events adjustments Up to 10 numerical characters including decimals. The decimal mark is not counted as a numerical character. If populated, it shall be represented by a dot.
87.	Tranche	Indication of whether the credit derivative contract is tranced. T = Tranced U = Untranced
88.	Series Number	The series number for the composition of the index; if applicable.
<b>C Options</b>		
89.	Option exercise date	The date(s) on which the option may be exercised.
90.	Option premium	Fixed premium paid by the buyer to the seller.
91.	Strike price (cap/floor rate)	The strike price of the option.

Item	Data field	Data Format and Description
92.	Option exercise style	Indicate whether the option can be exercised on a fixed date or anytime during the life of the derivative
93.	Option type	<p>Put/call or other (if undetermined)</p> <p>Indication as to whether the derivative contract is a call (right to purchase a specific underlying asset) or a put (right to sell a specific underlying asset) or whether it cannot be determined whether it is a call or a put at the time of execution of the derivative contract.</p> <ul style="list-style-type: none"> <li>- In case of swaptions it shall be:</li> <li>- "Put", in case of receiver swaption, in which the buyer has the right to enter into a swap as a fixed-rate receiver,</li> <li>- "Call", in case of payer swaption, in which the buyer has the right to enter into a swap as a fixed-rate payer.</li> <li>- In case of Caps and Floors it shall be:</li> <li>- "Put", in case of a Floor,</li> <li>- "Call", in case of a Cap</li> </ul>
<b>D. Event Data</b>		
94.	Action	<p>Describes the type of event to the derivative (e.g., new transaction, modification or early termination of existing derivative, error, correction, compression, valuation update).</p> <p>N = New M = Modify E = Error C = Early Termination R = Correction Z = Compression V = Valuation update P = Position component</p>
95.	Execution timestamp	The time and date of execution of a transaction on a platform.
96.	Reporting timestamp	The time and date the transaction was submitted to the trade repository, expressed using UTC time format
<b>E. Valuation data</b>		
These fields are required to be reported on a continuing basis for all reported derivatives, including reported preexisting derivatives.		
97.	Value of the contract calculated by the reporting counterparty	Mark-to-market valuation or mark-to-model valuation of the derivative. For a cleared trade, use the CCPs valuation.
98.	Valuation currency	Indicate the currency used when reporting the value of the derivative.
99.	Valuation date	Date of the latest mark-to-market or mark-to-model valuation.
<b>F. Other details</b>		

Item	Data field	Data Format and Description
100.	Other details	Where the terms of the derivative cannot be effectively reported in the above prescribed fields, provide any additional information that may be necessary.