



Monetary Authority of Singapore

**SECURITIES AND FUTURES ACT
(CAP. 289)**

**FREQUENTLY ASKED QUESTIONS ON THE SECURITIES AND
FUTURES (REPORTING OF DERIVATIVES CONTRACTS)
REGULATIONS 2013**

Disclaimer: These FAQs are meant to provide guidance to the industry on MAS' policy and administration of the Securities and Futures Act and regulations. They do not constitute legal advice. If in doubt, MAS expects industry participants to seek independent legal opinion on how they should comply with the requirements under the SFA.

Updated on 02 January 2019

SECURITIES AND FUTURES ACT (CAP.289)

SECURITIES AND FUTURES (REPORTING OF DERIVATIVES CONTRACTS) REGULATIONS 2013 FREQUENTLY ASKED QUESTIONS

Part VIA of the Securities and Futures Act (SFA) sets out the regulatory framework for reporting of over-the-counter (OTC) derivatives contracts, with the detailed requirements in the [Securities and Futures \(Reporting of Derivatives Contracts\) Regulations 2013](#) (SF(RDC)R). Generally, financial institutions and other persons with significant derivatives activities may be subject to reporting obligations. Specified derivatives contracts which are traded in Singapore and/or booked in Singapore are in scope of the reporting obligations.

Under the reporting obligations, the prescribed information must be reported to a licensed trade repository (LTR) or licensed foreign trade repository (LFTR), within two business days of the execution of the specified derivatives contracts. Specified persons should ensure that the accuracy of information reported to the LTR or LFTR is maintained, and make timely amendments to the reported information where necessary. The list of LTRs and LFTRs can be found on the [MAS Financial Institutions Directory](#).

These FAQs are to aid implementation of the reporting obligations and elaborate on MAS' intent for some of the requirements set out under the SF(RDC)R.

CONTENTS

(1) IDENTIFYING REPORTING OBLIGATIONS	1
Q1.1 Who is subject to reporting obligations?	1
Q1.2 Who is exempted from the reporting obligations?.....	1
Q1.3 Who is a significant derivatives holder (SDH)?.....	3
Q1.4 When does a person cease to be an SDH?	3
Q1.5 How is the aggregate gross notional amount calculated?	4
Q1.6 What derivatives contracts are relevant for the calculation of the aggregate gross notional amount?	5
Q1.7 Do both parties to a derivatives contract need to report?	6
Q1.8 Who is required to report if a derivatives contract is entered into by an agent?	6
Q1.9 Can a reporting entity report derivatives contracts that are outside the scope of the reporting obligations?	6
Q1.10 What happens after a reporting entity is no longer subject to the reporting obligations?	7
(2) IDENTIFYING REPORTABLE DERIVATIVES CONTRACTS	8
Q2.1 What derivatives contracts need to be reported (reportable derivatives contracts)?.....	8
Q2.2 Do derivatives contracts entered into before the reporting commencement date need to be reported?.....	8
Q2.3 Do futures contracts, block futures contracts or other exchange-traded derivatives contracts need to be reported?	9
Q2.4 Are inter-branch transactions exempted from reporting?	9
Q2.5 Are intra-group transactions exempted from reporting?.....	9
Q2.6 Is there an exemption for transactions with certain types of counterparties, e.g. central banks?	9
Q2.7 How should derivatives contracts with rollover of expiry, such as contracts for difference or foreign exchange (FX) accumulators, be reported?	10
Q2.8 Do derivatives contracts which expired or is terminated within T+2 need to be reported?	10
Q2.9 Under what circumstances does a FX contract need not be reported?	10

Q2.10	An FX swap can be seen as a combination of two contracts (i.e. a spot contract and a forward contract). Do reporting entities need to report the spot leg of the swap even if it is settled within T+2?	11
Q2.11	Are equity options which are linked to performance or compensation of employees and directors reportable derivatives contracts?.....	12
(3)	REPORTING NEXUS	13
Q3.1	When is a derivatives contract considered to be booked in Singapore?.....	13
Q3.2	When is a derivatives contract considered to be traded in Singapore?.....	13
Q3.3	When will a trader be considered a Singapore Trader for the purposes of the definition of “traded in Singapore”?.....	14
Q3.4	How should the “trader location” field be filled in?	14
(4)	INFORMATION TO BE REPORTED	15
Q4.1	What information needs to be reported?.....	15
Q4.2	Where a counterparty to the derivatives contract has a new legal entity identifier (LEI), does the reporting entity need to amend the reported trade to reflect the change?	15
Q4.3	How frequently should a reporting entity update the valuation fields?	15
Q4.4	Can a bank in Singapore report counterparty information to meet its reporting obligations?	15
Q4.5	Are precious metals derivatives contracts considered foreign exchange or commodity derivatives contracts?.....	16
Q4.6	If a reporting entity is a branch located outside the jurisdiction of its head office, which LEI should it use when reporting derivatives contracts?	16
(5)	CROSS-BORDER ACTIVITIES	17
Q5.1	If a derivatives contract is subject to reporting in multiple jurisdictions, can the trade be taken to have been reported in Singapore as long as it has been reported in a foreign jurisdiction?	17
Q5.2	How should a reporting entity comply with reporting obligations if it is prevented from reporting customer or counterparty information under foreign laws?.....	17
Q5.3	What happens if a reporting entity needs some time to adapt to changes in foreign laws that previously prohibited the reporting of customer or counterparty information?	19

Q5.4 How may a reporting entity demonstrate that it has undertaken reasonable efforts to obtain the necessary consent of its customer or counterparty? 20

(1) IDENTIFYING REPORTING OBLIGATIONS

Q1.1 Who is subject to reporting obligations?

A1.1:

The following persons are subject to reporting obligations:

- (a) any bank in Singapore licensed under the Banking Act;
- (b) any subsidiary of a bank incorporated in Singapore;
- (c) any merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;
- (d) any finance company licensed under the Finance Companies Act;
- (e) any insurer licensed under the Insurance Act;
- (f) any holder of a capital markets services licence (CMSL); and
- (g) any significant derivatives holder (SDH) as set out in regulation 6 of the SF(RDC)R.

However, there are exemptions from reporting if certain criteria are met. Please refer to Q1.2 for more information.

For the purpose of this FAQ, the term “reporting entity” will be used to refer to persons with reporting obligations.

References:

- Section 124 of the SFA
- Regulation 6 of the SF(RDC)R

Q1.2 Who is exempted from the reporting obligations?

A1.2:

The following persons are exempted from the reporting obligations:

- (a) an approved trustee mentioned in section 289 of the SFA;
- (b) a licensed trust company that entered into the specified derivatives contract as a trustee;
- (c) a subsidiary of a bank incorporated in Singapore –
 - (i) which has carried on its business or operations for less than 4 consecutive quarters; or
 - (ii) if the conditions in regulation 10C(4) of the SF(RDC)R are met;
- (d) a licensed insurer –
 - (i) which has carried on its business or operations for less than 4 consecutive quarters; or
 - (ii) if the conditions in regulation 10C(4) of the SF(RDC)R are met;
- (e) a CMSL –
 - (i) which has carried on its business or operations for less than 4 consecutive quarters;
 - (ii) if the conditions in regulation 10A(4) of the SF(RDC)R are met¹; or
 - (iii) which is licensed to carry on the business of fund management or real estate investment trust (REIT) management, if the conditions in regulation 10B(4) of the SF(RDC)R are met²; and
- (f) persons specified in the Fourth Schedule to the SF(RDC)R, including the Singapore government, central banks, multilateral development agencies and international organisations.

The exemption granted to licensed fund managers and REIT managers under regulation 10B of the SF(RDC)R is a temporary relief to allow a more gradual phasing-in of the

¹ Regulation 10A of the SF(RDC)R incorporated the exemption provided in the [Securities and Futures \(Reporting of Derivatives Contracts\) \(Exemption\) Regulations 2014](#), which was repealed with effect from 1 April 2018.

² Regulation 10B of the SF(RDC)R incorporated the exemption provided in the [Securities and Futures \(Reporting of Derivatives Contracts\) \(Exemption\) Regulations 2014](#), which was repealed with effect from 1 April 2018.

reporting commencement dates by CMSLs. MAS intends to repeal this relief on 1 October 2019.

References:

- Regulations 10, 10A, 10B, and 10C of the SF(RDC)R
- Fourth Schedule to the SF(RDC)R

Q1.3 Who is a significant derivatives holder (SDH)?

A1.3:

An SDH is a person who meets all of the following conditions:

- (a) he is not licensed by MAS (i.e. does not meet paragraphs (a) to (g) of the definition of “specified person” in section 124 of the SFA);
- (b) he is a resident in Singapore; and
- (c) his aggregate gross notional amount of specified derivatives contracts which are booked or traded in Singapore for the year exceeds \$8 billion.

The aggregate gross notional amount for the year is to be assessed on the last day of every quarter. When a person meets these conditions, he will be given 3 months to meet the reporting obligations. For example, if a person meets the conditions on 31 March 2016, his reporting obligations as an SDH commences on 1 July 2016.

References:

- Section 124 of the SFA
- Regulation 6 of the SF(RDC)R

Q1.4 When does a person cease to be an SDH?

A1.4:

A person ceases to be an SDH if –

- (a) he becomes licensed by MAS (i.e. meets one of paragraphs (a) to (g) of the definition of “specified person” in section 124 of the SFA);
- (b) he ceases to be a resident in Singapore; or

- (c) his aggregate gross notional amount of specified derivatives contracts which are booked in or traded in Singapore for the year does not exceed \$8 billion.

Reference:

- Regulation 6(3) of the SF(RDC)R

Q1.5 How is the aggregate gross notional amount calculated?

A1.5:

The calculation of aggregate gross notional amount is relevant for identifying an SDH under regulation 6 of the SF(RDC)R, and may be relevant to a CMSL, a subsidiary of a bank incorporated in Singapore, and a licensed insurer for assessing applicable exemptions under regulations 10A and 10C of the SF(RDC)R.

The aggregate gross notional amount is calculated by summing the gross notional amount of relevant derivatives contracts for four calendar quarters. The gross notional amount for each quarter is assessed on the last day of that quarter. Please refer to Q1.6 for more information on the relevant derivatives contracts.

In the case of an SDH, the calculation of the aggregate gross notional amount includes only derivatives contracts to which the SDH is a party.

In the case of a CMSL for the purpose of regulation 10A, the calculation of the aggregate gross notional amount –

- (a) excludes derivatives contracts where a party to the contract is not an accredited investor or institutional investor; and
- (b) includes both derivatives contracts to which the CMSL is a party and to which the CMSL has entered into on behalf of another person, as set out in regulation 10A(6).

In the case of a subsidiary of a bank incorporated in Singapore and a licensed insurer for the purpose of regulation 10C, the calculation of the aggregate gross notional amount includes both derivatives contracts to which the bank subsidiary or insurer is a party and to which the bank subsidiary or insurer has entered into on behalf of another person.

For the avoidance of doubt, the calculation of the aggregate gross notional amount includes intra-group transactions but excludes inter-branch transactions.

References:

- Regulations 6, 10A(4)(b), 10A(5), 10A(6), 10C(4), 10C(5) and 10C(6) of the SF(RDC)R

Q1.6 What derivatives contracts are relevant for the calculation of the aggregate gross notional amount?

A1.6:

Different derivatives contracts are relevant for the calculation of the aggregate gross notional amount in different years due to the phased approach taken for the introduction of reporting obligations. The table below sets out the contracts to be included for the calculation:

Applicable period: Where the last day of the quarter is –	Relevant derivatives contracts
Between 1 August 2015 and 1 April 2019	<ul style="list-style-type: none"> • Interest rate derivatives contracts booked in Singapore • Credit derivatives contracts booked in Singapore
Between 1 April 2019 and 1 April 2020	<ul style="list-style-type: none"> • Interest rate derivatives contracts traded in or booked in Singapore • Credit derivatives contracts traded in or booked in Singapore
After 1 April 2020	<ul style="list-style-type: none"> • All specified derivatives contracts traded in or booked in Singapore

References:

- Regulation 6(4A) of the SF(RDC)R
- Second Schedule to the SF(RDC)R

Q1.7 Do both parties to a derivatives contract need to report?

A1.7:

As reporting obligations are imposed on the reporting entities, if a derivatives contract is entered into between two reporting entities, both parties need to report.

If a derivatives contract is entered into between a reporting entity and a party who is not a reporting entity, only the reporting entity needs to report.

A reporting entity may give consent to the counterparty of a derivatives contract, or any other third party, to report on its behalf.

Reference:

- Section 125 of the SFA

Q1.8 Who is required to report if a derivatives contract is entered into by an agent?

A1.8:

A reporting entity needs to report a derivatives contract for which it is a party to regardless of whether the contract is entered into by an agent on its behalf.

For a reporting entity (Agent A) that has entered into a derivatives contract on behalf of another party (Party B), Agent A –

- (a) need not report the contract if Party B is a reporting entity; and
- (b) needs to report the contract if Party B is not a reporting entity.

Reference:

- Section 125 of the SFA.

Q1.9 Can a reporting entity report derivatives contracts that are outside the scope of the reporting obligations?

A1.9:

A reporting entity should not report derivatives contracts that are not required to be reported. However, it may choose to report derivatives contracts ahead of the reporting

commencement dates. Any voluntary reporting should nonetheless be done in accordance with regulatory requirements, and information on the reported contracts should be maintained until expiry or withdrawal from the trade repository.

Q1.10 What happens after a reporting entity is no longer subject to the reporting obligations?

A1.10:

A reporting entity need not continue reporting if it is no longer subject to the reporting obligations. In this case, it should inform the trade repository of the cessation and follow the procedure of the trade repository regarding the cessation.

However, it may wish to consider continuing reporting if it sees itself being subject to reporting obligations again in the future. In this case, it should ensure that reporting be done in accordance with regulatory requirements, and information on the reported contracts be maintained until expiry or withdrawal from the trade repository.

(2) IDENTIFYING REPORTABLE DERIVATIVES CONTRACTS

Q2.1 What derivatives contracts need to be reported (reportable derivatives contracts)?

A2.1:

The following types of derivatives contracts which are booked in Singapore or traded in Singapore are to be reported:

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

As MAS has taken a phased approach in implementing the reporting regime, the Second Schedule to the SF(RDC)R sets out the timetable for each type of reporting entity and its corresponding reportable derivatives contracts.

References:

- Regulation 5 of the SF(RDC)R
- Second Schedule to the SF(RDC)R

Q2.2 Do derivatives contracts entered into before the reporting commencement date need to be reported?

A2.2:

Derivatives contracts which are booked in Singapore with a remaining maturity of at least one year as at the applicable reporting commencement date need to be reported. A reporting entity needs to report such derivatives contracts within 6 months from the applicable reporting commencement date.

References:

- Regulation 9 of the SF(RDC)R

- Third Schedule to the SF(RDC)R

Q2.3 Do futures contracts, block futures contracts or other exchange-traded derivatives contracts need to be reported?

A2.3:

The reporting regime applies only to over-the-counter derivatives activity. Exchange-traded derivatives contracts, including futures contracts and block futures contracts, are not in the scope of the regime and thus need not be reported.

Q2.4 Are inter-branch transactions exempted from reporting?

A2.4:

Inter-branch transactions are conducted within the same legal entity, and therefore not subject to reporting obligations.

Q2.5 Are intra-group transactions exempted from reporting?

A2.5:

There is no exemption for intra-group transactions. Derivatives contracts entered into between different legal entities within the same group are to be reported.

Q2.6 Is there an exemption for transactions with certain types of counterparties, e.g. central banks?

A2.6:

Derivatives contracts where a party to the contract is the Government of Singapore, a statutory board, central bank, multilateral development agency, or international organisation are exempted from reporting. The full list of such exempted persons can be found in the Fourth Schedule to the SF(RDC)R.

Derivatives contracts entered into between a CMSL and a person who is not an accredited or institutional investor are also exempted from reporting.

References:

- Regulations 10 and 10A of the SF(RDC)R

- Fourth Schedule to the SF(RDC)R

Q2.7 How should derivatives contracts with rollover of expiry, such as contracts for difference or foreign exchange (FX) accumulators, be reported?

A2.7:

A rollover trade should be considered as a contract with amendments to the expiry date, and should not involve changes to the unique transaction identifier (UTI).

Q2.8 Do derivatives contracts which expired or is terminated within T+2 need to be reported?

A2.8:

There is no exemption for reportable derivatives contracts that are short-term whether by design or due to occurrence of trigger events. For instance, options which have a 2-day expiry and options which are exercised within 2 business days of the execution are both reportable.

However, certain FX contracts have been excluded from the definition of FX derivatives contracts, hence such contracts are not in scope and need not be reported. Please refer to Q2.9 for more information.

Q2.9 Under what circumstances does a FX contract need not be reported?

A2.9:

The definition of FX derivatives contracts excludes certain FX contracts (termed “excluded currency contract” in SF(RDC)R), hence such contracts are not in scope and need not be reported. The intent is to exclude from the reporting regime spot FX contracts and FX contracts which arise due to the sale and purchase of securities in a different currency.

The definition of “excluded currency contract” can be found in regulation 2 of SF(RDC)R. The table below summarises such FX contracts.

	Contract Type	Settlement Period
1	FX contracts settled by actual delivery of underlying currency, involving currency pairs between:	Within 2 business days

	<ul style="list-style-type: none"> • Euro • US Dollar • Japanese Yen • Australian Dollar • Swiss Franc • Hong Kong Dollar • New Zealand Dollar • Singapore Dollar • Norwegian Krone • Mexican Peso 	
2	FX contracts settled by actual delivery of underlying currency, involving any other currency pairs	<p>Within the earlier of –</p> <p>(i) the longer of the two customary spot settlement periods of the currency pair; or</p> <p>(ii) 7 business days.</p>
3	FX contracts for the sole purpose of buying or selling a security denominated in another currency	<p>Within the earlier of –</p> <p>(i) the settlement period of the underlying security; or</p> <p>(ii) 7 business days.</p>

Reference:

- Regulation 2 of the SF(RDC)R

Q2.10 An FX swap can be seen as a combination of two contracts (i.e. a spot contract and a forward contract). Do reporting entities need to report the spot leg of the swap even if it is settled within T+2?

A2.10:

Yes, a swap contract should be viewed in its entirety, hence the spot leg should also be reported. It is important that both legs of the contract are reported to the trade repository in a manner that allows MAS to identify that the reported contracts form a single swap contract.

Reporting entities can approach the trade repository to seek clarification on how the reporting of each leg should be done such that they can be linked together as the same contract.

Q2.11 Are equity options which are linked to performance or compensation of employees and directors reportable derivatives contracts?

A2.11:

It is not the intent of MAS for reporting entities to report stock options that they issue to their employees or directors as part of their remuneration package or other similar stock options which are tied to performance. Hence, such options need not be reported.

(3) REPORTING NEXUS

Q3.1 When is a derivatives contract considered to be booked in Singapore?

A3.1:

A derivatives contract is considered to be booked in Singapore if the derivatives contract exposure is reflected on the balance sheet or the profit and loss accounts of a person whose place of business is in Singapore.

Reference:

- Regulation 2 of the SF(RDC)R

Q3.2 When is a derivatives contract considered to be traded in Singapore?

A3.2:

Generally, a derivatives contract is considered to be traded in Singapore if a contract is executed by a trader who is employed in Singapore (Singapore Trader). Please refer to Q3.3 for more information on what a “Singapore Trader” means.

Examples of executing a contract could include the offering of quotes or making decisions to enter into a contract. When several traders are involved in the execution of a contract, the reporting entity should assess whether any trader is a Singapore Trader. As long as one of the traders is a Singapore Trader, the reporting entity should treat the contract as “traded in Singapore”. The Singapore Trader should also be able to address any queries from MAS relating to details of the trade.

The same principle applies regardless of the mode of execution, whether electronically or otherwise. For instance, in the case of algorithmic trading or market-making on an electronic platform, the reporting entity should assess whether a Singapore Trader is responsible for the contract executed.

Reference:

- Regulation 2 of the SF(RDC)R

Q3.3 When will a trader be considered a Singapore Trader for the purposes of the definition of “traded in Singapore”?

A3.3:

If a reporting entity is unable to clearly identify whether the trader is employed in Singapore, the reporting entity should report derivatives contracts which are entered into by the trader from the 31st day, if the trader is in Singapore for more than 30 days.

In the case where a trader is seconded to the reporting entity, if it is clear that his place of employment is in Singapore during that secondment period, all derivatives contracts entered into by the trader during his secondment in Singapore needs to be reported. Otherwise, the reporting entity should report derivatives contracts entered into by the trader from the 31st day onwards if the trader is in Singapore for more than 30 days.

In the case where a trader is seconded out of Singapore, derivatives contracts entered into by the trader would not be deemed as “traded in Singapore”.

Reference:

- Regulation 2 of the SF(RDC)R

Q3.4 How should the “trader location” field be filled in?

A3.4:

The “trader location” field reflects the location of the trader who executes the contract, and is meant to correspond with the “traded in Singapore” concept.

As long as one of the traders executing the contract is a Singapore Trader, the reporting entity should treat the contract as “traded in Singapore”, and indicate “Singapore” under the “trader location” field.

Reference:

- First Schedule to the SF(RDC)R

(4) INFORMATION TO BE REPORTED

Q4.1 What information needs to be reported?

A4.1:

Information to be reported is set out in the Second Schedule to SF(RDC)R, according to the asset class of the derivatives contracts and the type of reporting entity. Any changes to that information need to be reported.

References:

- Regulation 7 of the SF(RDC)R
- Second Schedule to SF(RDC)R

Q4.2 Where a counterparty to the derivatives contract has a new legal entity identifier (LEI), does the reporting entity need to amend the reported trade to reflect the change?

A4.2:

Yes, the change in the counterparty LEI has to be reflected as long as the reported trade is still an open position.

Q4.3 How frequently should a reporting entity update the valuation fields?

A4.3:

The valuation fields should be updated as and when the valuation of a derivatives contract is updated. Reporting entities should take guidance from the [Guidelines on Risk Management Practices – Market Risk](#) in formulating their valuation policies, including how frequently valuations should be updated to reflect the mark-to-market/model value.

Q4.4 Can a bank in Singapore report counterparty information to meet its reporting obligations?

A4.4:

Prior to 8 October 2018, banks in Singapore were required under the Banking Act to obtain consent from their counterparties before they can report counterparty information for the derivatives contracts. A relief to defer reporting of counterparty

information under certain conditions has been provided for. Please refer to Q5.2 and Q5.3 for more information.

Where a bank has relied on the relief to defer reporting of counterparty information, the counterparty information in relation to these derivatives contracts is to be reported (“unmasked”) by 1 July 2019. Such reporting of counterparty information is only necessary for derivatives contracts that remain outstanding as of 1 July 2019.

Since 8 October 2018, banks in Singapore need not obtain consent from counterparties under the Banking Act in order to report counterparty information under MAS’ reporting regime, including for the requirement to unmask by 1 July 2019. However, banks in Singapore are required to obtain consent from counterparties for the purposes of reporting counterparty information under foreign reporting regimes.

References:

- Section 125(6) of the SFA
- Regulation 11 of the SF(RDC)R
- Fifth Schedule to the SF(RDC)R

Q4.5 Are precious metals derivatives contracts considered foreign exchange or commodity derivatives contracts?

A4.5:

Precious metals are a type of commodity as defined under the SFA. Information to be reported for commodity derivatives contracts is found in the First Schedule to the SF(RDC)R.

References:

- Section 2 of the SFA
- First Schedule to the SF(RDC)R

Q4.6 If a reporting entity is a branch located outside the jurisdiction of its head office, which LEI should it use when reporting derivatives contracts?

A4.6:

Where possible, a reporting entity should report a LEI which uniquely identifies itself as a Singapore branch. Similarly, where a reporting entity’s counterparty is a branch, the reporting entity should report the branch LEI of its counterparty where possible.

(5) CROSS-BORDER ACTIVITIES

Q5.1 If a derivatives contract is subject to reporting in multiple jurisdictions, can the trade be taken to have been reported in Singapore as long as it has been reported in a foreign jurisdiction?

A5.1:

As long as a derivatives contract is subject to reporting obligations in Singapore, it has to be reported to a trade repository licensed by MAS. For example, if a reporting entity is a Singapore branch of a foreign incorporated entity and the reporting entity has a reportable derivatives contract that is already included in its Head Office's reporting under a foreign jurisdiction's reporting obligations, the same derivatives contract is still required to be reported to a trade repository licensed by MAS.

In the case where the Head Office has reported the derivatives contract to a trade repository licensed by MAS, the trade repository should be made aware that the derivatives contract is also being reported pursuant to reporting obligations in Singapore.

Q5.2 How should a reporting entity comply with reporting obligations if it is prevented from reporting customer or counterparty information under foreign laws?

A5.2:

There are two main scenarios where a reporting entity may defer the reporting of customer or counterparty information.

Scenario A: A jurisdiction allows a reporting entity to report customer or counterparty information only with the consent of its customer or counterparty, and the reporting entity had made reasonable efforts to obtain the necessary consent but was unable to obtain it by the time reporting is due. The reporting entity is to continue trying to obtain the necessary consent, and report the customer or counterparty information when it is obtained.

The relief in Scenario A is only applicable for a derivatives contract entered into before 1 January 2019³. The reporting entity is required to report customer or counterparty information by 1 July 2019, unless the reporting entity continues to be subject to the requirement to seek consent and was unable to obtain the

³ There is no relief provided for derivatives contracts entered into on or after 1 January 2019.

necessary consent despite having made reasonable efforts. In this case, the reporting entity is to report the customer or counterparty information within a month from the date that (i) the necessary consent is obtained, or (ii) the requirement to seek consent is no longer applicable to the derivatives contract in question, whichever is earlier.

Scenario B: A jurisdiction specified in the Fifth Schedule of the SF(RDC)R prohibits a reporting entity from reporting customer or counterparty information at the time reporting is due.

If the law of the applicable jurisdiction subsequently no longer prohibits the reporting of customer or counterparty information relating to the derivatives contract in question, the reporting entity is required to report customer or counterparty information by 1 July of the following year. For example, where such a change in law occurs in 2018, the reporting entity is required to report customer or counterparty information by 1 July 2019. However, the reporting entity may continue to defer the reporting of customer or counterparty information if the effect of the change in law is such that the reporting entity is allowed to report customer or counterparty information only with the consent of its customer or counterparty, and the reporting entity had made reasonable efforts to obtain the necessary consent but was unable to obtain it. In this case, the reporting entity is to report the customer or counterparty information within a month from the date that (i) the necessary consent is obtained, or (ii) the requirement to seek consent is no longer applicable to the derivatives contract in question, whichever is earlier.

In all of the above-described circumstances, reporting of customer or counterparty information is only required for derivatives contracts which remain outstanding as at the applicable reporting deadline.

Please also refer to Q5.4 for more information on the requirement for reporting entities to seek customer or counterparty consent.

References:

- Regulations 11, 11A and 11C of the SF(RDC)R
- Fifth Schedule to the SF(RDC)R

Q5.3 What happens if a reporting entity needs some time to adapt to changes in foreign laws that previously prohibited the reporting of customer or counterparty information?

A5.3:

If a reporting entity is relying on the deferment relief provided for in Scenario B in A5.2, and the jurisdiction subsequently changes its law such that the reporting entity is no longer prohibited from reporting customer or counterparty information, a transition period is provided for the reporting entity dealing with the change. A reporting entity may continue to enter into derivatives contracts and defer the reporting of customer or counterparty information until 1 July of the year following the change in law. For instance, where the change in law occurs in 2018, the reporting entity may continue to enter into derivatives contracts until 1 July 2019 with deferred reporting of customer or counterparty information.

However, the reporting entity is required to report customer or counterparty information by the end of the transition period (i.e. 1 July 2019 in the given example), unless the effect of the change in law is such that the reporting entity is allowed to report customer or counterparty information only with the consent of its customer or counterparty, and the reporting entity had made reasonable efforts to obtain the necessary consent but was unable to obtain it. In this case, the reporting entity is to report the customer or counterparty information within a month from the date that (i) the necessary consent is obtained, or (ii) the requirement to seek consent is no longer applicable to the derivatives contract in question, whichever is earlier.

In all of the above-described circumstances, reporting of customer or counterparty information is only required for derivatives contracts which remain outstanding as at the applicable reporting deadline.

Please also refer to Q5.4 for more information on the requirement for reporting entities to seek customer or counterparty consent.

References:

- Regulations 11B and 11C of the SF(RDC)R
- Fifth Schedule to the SF(RDC)R

Q5.4 How may a reporting entity demonstrate that it has undertaken reasonable efforts to obtain the necessary consent of its customer or counterparty?

A5.4:

A reporting entity should establish written policy and procedures as well as internal controls to seek the requisite consent from its customer or counterparty. Such policy and procedures should provide guidance on when or how often to request or to repeat requests for consent, e.g. upon changes in law, or when the customer or counterparty requests to enter into new trades, or on a certain time frequency.

The policy and procedures should also provide guidance on the actions that a reporting entity should take towards a customer or counterparty who has yet to provide the requisite consent or refuses to provide consent, e.g. to suspend trading relationships until consent is obtained.

References:

- Regulations 11 and 11C of the SF(RDC)R