



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street,
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827,
Brisbane QLD 4001

Tel: +61 1300 935 075
Fax: +61 1300 729 000

www.asic.gov.au

Mr Robert Sugden
Analyst
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
1 National Circuit
BARTON ACT 2600
By email to: helpdesk-obpr@pmc.gov.au

19 September 2022

Dear Mr Sugden,

Certification of ASIC's Review: proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting)

I am writing to certify that the Australian Securities and Investments Commission (ASIC) has undertaken a process and analysis equivalent to a Regulatory Impact Statement (**RIS**) in deciding whether to make proposed changes to the ASIC *Derivative Transaction Rules (Reporting) 2013 (current ASIC Rules)*.

I certify that the review has adequately addressed all seven RIS questions. This letter and its attachments are submitted to the Office of Best Practice Regulation in anticipation of a final policy decision.

The background to this matter is outlined in **Attachment A** to this letter.

We are proposing:

- to update the current ASIC Rules so that they are harmonised to international standards, resulting in reduced ongoing cost and complexity for industry, improved data quality for the Australian regulators more comprehensive and fit-for-purpose trade details and improved inter-jurisdictional data handling and aggregation.
- to simplify the current ASIC Rules by removing outdated transitional provisions and by consolidating a number of associated exemptions within the rules.
- changes to ensure that the rules are fit-for-purpose as to the scope of entities, derivative products and types of transactions that are subject to the rules. The changes will also clarify the roles and responsibilities of entities submitting derivative transaction reports.

The key proposed changes to be implemented in the ASIC Rules 2024 are summarised in Table 1 of **Attachment A**.

We intend to seek the Minister's consent to make the changes to the current ASIC Rules in December 2022, with a deferred commencement on 1 October 2024 to provide businesses with at least 18 months to implement systems and process

changes – these rules would be made as the *ASIC Derivative Transaction Rules (Reporting) 2024 (ASIC Rules 2024)*.

The current ASIC Rules are scheduled to sunset on 1 October 2023. To bridge the gap between 1 October 2023 and 1 October 2024, we are proposing to seek the Minister's consent to repeal the Current ASIC Rules and remake them without any changes to the *ASIC Derivative Transaction Rules (Reporting) 2022 (ASIC Rules 2022)* to allow the current reporting regime to continue as-is until the intended implementation date of 1 October 2024.

This assessment has been informed by:

- a consultation process during the period from 27 November 2020 to 15 March 2021, during which ASIC consulted publicly through [Consultation Paper 334 Proposed changes to simplify the ASIC Derivative Transaction Rules \(Reporting\): First consultation](#). In this consultation ASIC received 40 submissions from various stakeholders including reporting entities, global legal entity identifier (LEI) system entities, industry bodies and associations, derivative trade repository, central clearing counterparty, and service providers;
- a consultation process during the period from 16 May 2022 to 8 July 2022, during which ASIC consulted publicly through [Consultation Paper 361 Proposed changes to simplify the ASIC Derivative Transaction Rules \(Reporting\): Second consultation](#). In this consultation, ASIC received 11 submissions from various stakeholders including reporting entities, industry bodies and associations, derivative trade repository, and central clearing counterparty; and
- additional bilateral consultations with industry associations, reporting entities and the sole ASIC-licensed derivative trade repository.

I enclose a copy of CP 334 and CP 361 for your information. CP 361 is a combined feedback report in relation to feedback received in CP 334 and consultation paper.

The feedback from industry stakeholders has been broadly supportive of our proposals to implement the proposed changes in Table 1 of Attachment A. However, the feedback widely supported a single-stage implementation instead of the proposed two stages of rule changes in CP 361, whereby:

- upon the sunset of the Current ASIC Rules on 1 October 2023, the provisions for LEI, unique transaction identifiers, extended reporting of intra-day trades and some partial implementation of the critical data elements would commence; and
- followed 6 months later on 1 April 2024 by the implementation of the balance of the proposed changes.

We have responded to this feedback by deciding to seek the Minister's consent to make rules that reflect:

- deferring all changes to the later stage only; and
- deferring this later stage a further 6 months to 1 October 2024.

For each of the policy options considered in our analysis, the regulatory burden to business, community organisation or individuals has been quantified using the Australian Government's Regulatory Burden Measurement framework. These have been self-assessed by ASIC and a summary is set out in the attached estimate of regulatory compliance burden.

A regulatory offset has been identified for the policy options and is also set out in the attached estimate of regulatory compliance burden.

Accordingly, I am satisfied that the attached documents evidence that ASIC's process and analysis meet best practice consistent with the Australian Government Guide to Regulation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Aldridge', written in a cursive style.

Calissa Aldridge
Senior Executive Leader
Australian Securities and Investments Commission

Attachments

- A. Estimate of the regulatory compliance burden of changes to the ASIC Derivative Transaction Rules (Reporting)
- B. Consultation Paper 334 *Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): First consultation (CP 334)*
- C. Consultation Paper 361 *Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): Second consultation (CP 361)*