

## EUROPEAN MARKET INFRASTRUCTURE REGULATION (“EMIR”) - REPORTING OBLIGATION

### Overview

The European Market Infrastructure Regulation (“EMIR”) is a European Union (“EU”) and United Kingdom (“UK”) Regulation setting out reporting requirement for both “Over the Counter” (“OTC”) derivative contracts and Exchange Traded / Listed derivatives (“ETD”). Its main objective of increasing transparency in the derivative markets and allowing regulators to monitor systemic risk.

Under EMIR, the details of any conclusion, modification or termination of a derivative contract are to be reported to a registered or recognized Trade Repository (“TR”) no later than the business day following the conclusion, modification, or termination of such contract.

### Who is required to report under EMIR?

EMIR reporting obligations apply to counterparties established in the EEA zone and in the United Kingdom (UK). Since Brexit, there is an EU EMIR and a UK EMIR regime. The EU EMIR regime applies to the EEA zone and the UK EMIR regime applies to the UK zone. Generally, EEA counterparties will have to report to an EU authorized/recognised TR and UK counterparties will have to report to a UK authorized/recognised TR.

The exact reporting obligation will depend on each entity’s categorisation under EMIR and on the exemptions elected by entities under EMIR.

### When did the reporting obligation under EMIR first begin?

ETD and OTC derivatives reporting requirements have been in place since 12 February 2014. Since then, ESMA introduced some technical amendments on 17 June 2019 which changed the way counterparties report derivatives. Most recently, ESMA and the FCA have announced significant changes to reporting requirements under EMIR, these changes are referred to as “EMIR Refit” and come into force on 29 April 2024 for ESMA (EU EMIR) and 30 September 2024 for the FCA (UK EMIR).

### Can I delegate my reporting to a third-party?

Yes, however you remain responsible for the accuracy completeness and timeliness of the EMIR reports submitted on your behalf.

*Note: Société Générale has been offering this reporting delegation service since February 12, 2014, if you would like to benefit from it, please contact us.*

## SOCIETE GENERALE ‘S ENTITIES

Société Générale wholesale banking entities offering delegated or assisted reporting services to clients:

| Legal Name                             | Entity Identifier (LEI) | EMIR Reporting Obligation | EMIR Refit Classification | FC corporate sector | GLEIF Link  |
|--|-------------------------|---------------------------|---------------------------|---------------------|---|
| SOCIETE GENERALE                       | O2RNE8IBXP4R0TD8PU41    | Yes under ESMA            | FC+                       | CDTI                | <a href="https://search.gleif.org/#/record/O2RNE8IBXP4R0TD8PU41">https://search.gleif.org/#/record/O2RNE8IBXP4R0TD8PU41</a> |
| SOCIETE GENERALE INTERNATIONAL LIMITED | 0IKLU6X1B10WK7X42C15    | Yes under FCA             | FC+                       | INVF                | <a href="https://search.gleif.org/#/record/0IKLU6X1B10WK7X42C15">https://search.gleif.org/#/record/0IKLU6X1B10WK7X42C15</a> |
| SG AMERICAS SECURITIES, LLC            | 549300F35UE0BOM1WJ55    | No                        | FC+                       | INVF                | <a href="https://search.gleif.org/#/record/549300F35UE0BOM1WJ55">https://search.gleif.org/#/record/549300F35UE0BOM1WJ55</a> |

## EMIR Refit

The European Commission published EU EMIR Refit new transaction reporting standards within the [Regulatory Technical Standards](#) (“RTS”) on 7 October 2022. The compliance date for the changes is 29 April 2024 whereby new derivatives contracts should comply with the new rules. Outstanding live derivatives as of **29 April 2024** have 180 days to comply with the new rules: trades can be updated using the Event Type ‘Update’ provided there is no modification to the derivative within that transition period.

The UK Financial Conduct Authority and the Bank of England published a [joint policy statement](#) on 24 February 2023 regarding the final amendments to [Technical Standards](#) in relation to the revised UK EMIR Refit reporting requirements. The compliance date for the changes is **30 September 2024**.

### Main changes to the data to be reported:

- ISO 20022: all reports must now be in the **new ISO 20022 XML format**, previous standards used to report will no longer be accepted. Collateral data are reported on separate margins report which are no longer part of the derivative trade report.
- EMIR Refit requires additional fields, such as **on counterparty data**:
  1. **Nature of Counterparty 2**: FC, NFC, CCP, Other.
  2. **Corporate Sector of Counterparty 1 & 2**: required for FC or NFC. Left blank for CCPs and entities in third countries or without EMIR reporting obligation.
  3. **Clearing Threshold of Counterparty 2**: True or False depending on whether above or below Clearing threshold.
  4. **Reporting Obligation of Counterparty 2**: True or False.
  5. **Entity Responsible for Reporting (“ERR”)** <sup>1</sup>  
Voluntary delegated reporting: ERR is the LEI of Counterparty 1 having delegated its reporting to SG.  
Mandatory delegated reporting with NFC-: ERR is the LEI of the FC reporting for the NFC-. However, if an NFC- moves to being an NFC+ during the life of the trade, the NFC will have to inform the FC in a timely manner of its status change and no later than the date when its status change becomes effective. <sup>2</sup>
  6. **UK EMIR** introduced an additional optional field **Execution Agent** in the EMIR reporting to allow to identify the entity that executed the trade on behalf of the counterparty.
- Some examples of new or amended fields under EMIR Refit: “**Event date**”, “**Custom basket code**”, “**Delta**” for changes in derivative price vs. change in price of the underlier for options and swaptions, extension of **collateralization categories, pre-haircut** and post-haircut margins, standard ESMA codes for underlying index, trade direction “MAKE” or “TAKE” (previously payer/ receiver).
- Increased **granularity in trade life cycle events** reporting, with new combinations of action types and event types to provide more details of the underlying action (trade, early termination, allocation, clearing, corporate event...), linking IDs to allow identification of reports related to the same life cycle events (Prior UTI, Post-Trade Risk Reduction Identifier, Subsequent position UTI).

### Counterparty identifiers and Legal Entity Identifier (“LEI”)

If the LEI is not available, or not renewed, trade reports will start getting rejected for [counterparties that are not natural persons](#)<sup>3</sup>.

<sup>1</sup> In the case of delegation with funds, SG will apply [EMIR Refit regulation Article 9.1 \(b\), 9.1 \(c\), 9.1 \(d\)](#) to determine as ERR, the Alternative Investment Fund Manager (AIFM) legally liable for reporting on behalf of an AIF. Similarly, the management company is the entity responsible for the reporting on behalf of the UCITS, and the entity responsible for managing and acting on behalf of an IORP reports for that pension fund. (cf. scenarios examples Annex III of <https://amafi.fr/download/pages/Q3rGxNrambvukYwRkQ5AR3OfMGHrseoRbNOlaSx.pdf>).

<sup>2</sup> Please note, mandatory delegated reporting does not apply to ETDs listed on EEA or [Third-Countries equivalent markets](#).

<sup>3</sup> Physical persons do not need an LEI, however the client code identifying them must be pre-fixed by the LEI of the counterparty 1 to the trade.

If you do not have an LEI with a correct status, or if you do not share your LEI with us, it is likely that our reports facing you will be “rejected”.

To the extent that you have delegated your reporting to us, this will impact your reporting obligations. The LEI code *“should be duly renewed and maintained according to the terms of any of the endorsed LOUs (Local Operating Units) of the Global Legal Entity Identifier System”*. It is therefore critical that you ensure that you provide us with your active LEI if not done already and ensure that your LEI is renewed in accordance with the terms of your accredited LEI issuer.

### Identification of OTC derivatives

EMIR Refit introduces a requirement to report the [Unique Product Identifier \(UPI\) code](#) for OTC derivatives if the International Securities Identification Number (ISIN) code is not applicable.

The ISIN code is used to identify derivatives a) that are admitted to trading or traded on a trading venue, or b) are traded on a systematic internaliser and its underlying is admitted to trading or traded on a trading venue, or c) the underlying is an index or basket trading on a trading venue. **All other derivatives shall be identified and reported using a Unique Product Identifier (UPI) code.**

UPI is administered by ANNA DSB. Trade repositories will cross reference the ANNA DSB database to ensure that the UPI reported is administered by ANNA DSB and the value is an accurate value.

### Unique Transaction Identifier (“UTI”)

The UTI, which is mandatory for all reportable trades, must now have an LEI as a preface of the UTI generating party. This further emphasizes the importance regulators have placed on the LEI as a critical data element. For pre-existing transactions and positions, 6-month tolerance period to upgrade to the Global UTI format after EMIR Refit go live.

In order to agree on the entity responsible for generating the UTI for their transactions, counterparties subject to EMIR are required to follow the UTI waterfall tree, in accordance with [Article 7 of the ITS EMIR Refit Reporting](#) and the [ESMA Guidelines section 4.11](#). For deals concluded bilaterally, counterparty agreement will not preempt steps described within the regulatory UTI waterfall.

Under this new EMIR Refit approach, counterparties are required to generate and exchange the UTI before **10:00 AM UTC** on the business day following the date on which the derivative contract is entered into.

### Errors & Omissions (E&O) Notifications

EU EMIR brings a renewed focus on data quality for completeness, accuracy, and timeliness of reports through a new Errors & Notifications process. Notifications to the [National Competent Authorities](#) (“NCAs”) by the “Entities Responsible for Reporting” (ERRs) are required when significant issues with EMIR reports having crossed ESMA thresholds are identified. Notifications will also have to be sent by Report Submitting Entities to their delegated clients which remain responsible for their reporting. The template for E&O notification to the NCAs has been published on the ESMA [website](#).

Similarly, UK EMIR also brings focus on data quality and embeds a requirement to notify the FCA (or the Bank of England for CCPs) of errors and omissions relating to UK EMIR reporting. The FCA and the Bank of England already have existing processes for submitting errors and omissions and these will remain as part of UK EMIR Refit. The FCA and the Bank of England have mandated for each entity to determine the materiality threshold.

As part of the E&O notification requirement under EMIR, Report Submitting Entities (“RSEs”) will have to notify the ERR of errors for their reports in a timely manner in order for the ERR to be able to submit a notification to their NCAs in the EU, and the FCA/Bank of England in the UK.

**Master Regulatory Reporting Requirement (MRR)** governing delegated reporting under EMIR is expected to adapt to EMIR Refit new requirements. There is an on-going analysis in order to comply with EMIR Refit new obligations in coordination with industry initiative on the topic.

### Resources made available by the regulators

ESMA has published a Guideline document which provides guidance on reporting under REFIT. The document is available on ESMA's EMIR reporting website which is linked further below in this communication.

The FCA has published its Policy Statement (PS23/2) which provides some insights into the FCA's approach to REFIT. Additionally, the FCA has communicated to trade associations that it will be setting up a UK EMIR Reporting Industry Engagement Group with industry participants where the FCA is expected to provide further guidance to the industry.

### Useful Links

ESMA's EMIR Reporting Page: [EMIR Reporting \(europa.eu\)](https://www.esma.europa.eu/press-material/press-conferences-and-materials/2023/04/emir-reporting)

FCA's EMIR Page: [UK EMIR | FCA](https://www.fca.org.uk/emir)

### Disclaimer

This document is for information purposes only subject to change without notice.

This document is issued by Prime Services & Clearing, a division of Global Markets within Société Générale ("SG"). THIS DOCUMENT IS FOR THE EXCLUSIVE USE OF INVESTORS ACTING ON THEIR OWN ACCOUNT AND CATEGORISED EITHER AS "ELIGIBLE COUNTERPARTIES" OR "PROFESSIONAL CLIENTS" WITHIN THE MEANING OF MARKETS IN FINANCIAL INSTRUMENTS DIRECTIVE 2014/65/EU (EU MIFID) AND THE AMENDED, ONSHORED VERSION OF EU MIFID AND ITS ACCOMPANYING REGULATION UNDER THE EU (WITHDRAWAL) ACT 2018 AND THE MARKETS IN FINANCIAL INSTRUMENTS (AMENDMENT) (EU EXIT) REGULATIONS 2018 (COLLECTIVELY, UK MIFID). IT CANNOT BE DISCLOSED TO YOUR CLIENTS OR ANY OTHER THIRD PARTY.

Use of this communication with or by any other party is prohibited. The contents of this document are given for purely indicative purposes and have no contractual value. The information herein is not intended to be a recommendation, advice, an offer to buy or sell, or a solicitation of an offer to buy or sell any financial product.

SG makes no representation or warranty that the information contained herein is accurate, current, complete, fair or correct or that any transaction is appropriate for any person and it should not be relied on as such. SG accepts no liability for any direct, indirect, incidental or consequential damages or losses arising from the use of this report or its content. This report is not to be construed as providing investment services in any jurisdiction where the provision of such services would be illegal.

This document may be sent to you via the Internet. Accordingly, you hereby accept the risks related to the use of this means of communication. In particular, but without limitation, SG shall in no way be liable to you in the event of any network or Internet access disruption or failure, or for any connection timeouts or delays. Societe Generale is a French credit institution (bank) that is authorised and supervised by the European Central Bank (ECB) and the Autorité de Contrôle Prudentiel et de Résolution (ACPR) (the French Prudential Control and Resolution Authority) and regulated by the Autorité des marchés financiers (the French financial markets regulator) (AMF).

For any complaint you may have, please contact us using the following link :

<https://wholesale.banking.societegenerale.com/en/compliance-regulatory-information/useful-information/client-claim/>

As a consequence of the current geopolitical turmoil involving Russia and Ukraine financial markets are going through a severe market downturn marked by distressed asset valuations, increased volatility and high uncertainty on potential future evolutions. In these troubled market conditions investors should thoroughly analyze the risks and benefits of their financial decisions, taking into consideration all potential implications of the particular current situation.

**NOTICE TO U.S. INVESTORS:**

IRS CIRCULAR 230 DISCLOSURE: SG does not provide tax advice. Please note that (i) any discussion of US tax matters contained in this communication cannot be used by you for the purpose of avoiding tax penalties; (ii) this communication was written to support the promotion or marketing of the matters addressed herein; (iii) you should seek advice based on your particular circumstances from an independent tax advisor.

Dodd-Frank Disclaimer: If you are a “U.S. person” (as defined by the U.S. Commodity Futures Trading Commission), please visit <http://swapdisclosure.sgcib.com> for important information with respect to derivative products. By transacting with Societe Generale, you are deemed to acknowledge that you have read and accepted the information provided on the website.

**NOTICE TO CLIENTS OF SG AMERICAS SECURITIES LLC:** This document is for information purposes only and has no contractual value. To the maximum extent possible at law, SG Americas Securities, LLC (“SGAS”) does not accept any liability arising from the use of this document or information contained herein.

This document does not constitute an offer, or an invitation to make an offer, from SGAS to subscribe for, purchase or sell a product or to execute a product referred to in this document.

The accuracy, completeness or relevance of the information which has been drawn from external sources is not guaranteed although it is drawn from sources reasonably believed to be reliable. Subject to any applicable law, SGAS shall not assume any liability in this respect. In addition, the views reflected herein may change without notice and SGAS’s sales personnel and traders may issue at any time other material (including on the same product or issuer) that are inconsistent with, and reach different conclusions from, the information presented herein. No updates to this document are planned. In the event that the reader is unsure as to whether the facts in this document are up-to-date at the time of their proposed investment, then they should seek independent advice.

Additional information is available upon request. This document is proprietary and should not be reproduced, published or redistributed without the prior written consent of SGAS or its affiliates.

SGAS is a wholly-owned subsidiary of SG Americas Securities Holdings, LLC, which is a wholly-owned subsidiary of Société Générale, a French bank. SG is a U.S.-registered broker-dealer, futures commission merchant, and a member of the National Futures Association, Financial Industry Regulatory Authority and numerous U.S. and foreign futures and securities exchanges and clearing organizations.

**NOTICE TO RECIPIENTS IN EMEA:** Societe Generale International Limited (“SGIL”) is a wholly owned subsidiary of Société Générale. SGIL is authorised and regulated by the Financial Conduct Authority. SGIL does not deal with, or for, Retail Clients (as defined by the 2014/65/EU Directive on markets in financial instruments). SGIL is a Swap Dealer registered with the CFTC and NFA.

Due to international regulations not all financial instruments/services may be available to all clients. You should be aware of and observe any such restrictions when considering a potential investment decision.

THE DISTRIBUTION OF THIS DOCUMENT IN CERTAIN JURISDICTIONS MAY BE PROHIBITED OR RESTRICTED BY LAW AND PERSONS WITH ACCESS TO THIS DOCUMENT MUST OBSERVE ANY SUCH PROHIBITIONS AND RESTRICTIONS. BY ACCEPTING THIS DOCUMENT YOU AGREE TO BE BOUND BY THE FOREGOING.

© 2022 Société Générale and its affiliates. All rights reserved.