



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Derivative Transaction Rules (Nexus Derivatives Repeal) Instrument 2024/602

ASIC Derivative Transaction Rules (Nexus Derivatives) Instrument 2024/603

This is the Explanatory Statement for *ASIC Derivative Transaction Rules (Nexus Derivatives Repeal) Instrument 2024/602 (Nexus Repeal Instrument)* and *ASIC Derivative Transaction Rules (Nexus Derivatives) Instrument 2024/603 (Nexus Instrument)*.

The Explanatory Statement is approved by the Australian Securities and Investments Commission (*ASIC*).

Summary

1. The Nexus Repeal Instrument is made under paragraph 907D(2)(a) of the *Corporations Act 2001* (the **Corporations Act**) and repeals the *ASIC Derivative Transaction Rules (Nexus Derivatives) Class Exemption 2015* (the **2015 Nexus exemption**) on 21 October 2024.
2. The Nexus Instrument is made under paragraph 907D(2)(a) of the *Corporations Act* and remakes the 2015 Nexus exemption in substantively like manner and subject to like conditions, so as to continue the provisions of the 2015 Nexus exemption from its 21 October 2024 repeal until the start of 20 October 2025.
3. The 2015 Nexus exemption provided relief to certain foreign reporting entities under the *ASIC Derivative Transaction Rules (Reporting) 2022* (the **2022 Reporting Rules**) from the requirement to report over-the-counter (**OTC**) derivative transactions that are ‘entered into in this jurisdiction’, provided they report OTC derivative transactions based on an alternative test (referred to in this Explanatory Statement as the **Nexus Test**) focused on the location of persons performing particular functions in relation to an OTC Derivative.
4. On 21 October 2024, the 2022 Reporting Rules are repealed and replaced by the *ASIC Derivative Transaction Rules (Reporting) 2024* (the **2024 Reporting Rules**) and, from 20 October 2025, *ASIC Derivative Transaction Rules (Reporting and Clearing) 2024 Amendment Instrument 2024/416* (the **2024 Rules amendment**) amends the 2024 Reporting Rules to permanently substitute

the form of the Nexus Test in place of the ‘entered into in this jurisdiction’ test for determining a reportable OTC derivative transaction.

5. The 2015 Nexus exemption was due to sunset on 1 April 2025 and in order to effectively continue its provisions until the Nexus Test commences under the 2024 Reporting Rules:
 - (a) the Nexus Repeal Instrument repeals the 2015 Nexus exemption on 21 October 2024; and
 - (b) the Nexus Instrument commences on 21 October 2024 and is repealed from the start of 20 October 2025.

Purpose

6. The purpose of the Nexus Repeal Instrument is to allow for the remaking of the 2015 Nexus exemption.
7. The purpose of the Nexus Instrument is to maintain the existing relief for certain foreign reporting entities under the 2024 Reporting Rules from the requirement to report OTC derivative transactions that are ‘entered into in this jurisdiction’ until that provision is removed from the 2024 Reporting Rules on 20 October 2025 and replaced by the form of the Nexus Test.
8. The Nexus Instrument also enables foreign entities to opt-in to switch from reporting using the ‘entered into in this jurisdiction’ test to reporting using the Nexus Test, consistent with the settings under the 2015 Nexus exemption and prior to the Nexus Test replacing the ‘entered into in this jurisdiction test’ in the 2024 Reporting Rules on 20 October 2025.

Background

9. The 2015 Nexus exemption commenced on 2 February 2015 and the Explanatory Statement (the *2015 Nexus exemption Explanatory Statement*) sets out the then background as, in summary:
 - (a) On 26 March 2014, ASIC granted time-limited relief until 1 February 2015 to certain foreign reporting entities from the requirement to report OTC derivative transactions in that are 'entered into by the Reporting Entity in this jurisdiction' (see ASIC Instrument [14/0234]);
 - (b) The purpose of the relief was to provide additional time for ASIC and reporting entities to reach a shared understanding on the meaning of ‘entered into by the Reporting Entity in this jurisdiction’, and for reporting entities to develop and implement the required information technology, systems and processes to identify such reportable OTC derivative transactions;
 - (c) On 6 June 2014, ASIC released FAQ 4¹ that gave guidance that the ordinary principles of Australian contract law apply to determining

¹ Now ‘SUPERSEDED FAQ 4’ available at the FAQs: OTC derivatives webpage

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- whether an OTC Derivative is ‘entered into by the Reporting Entity in this jurisdiction’;
- (d) On 31 October 2014, the International Swaps and Derivatives Association, Inc. (*ISDA*) made an application on behalf of its members, for relief from the reporting requirements in relation to OTC derivative transactions ‘entered into in this jurisdiction’, arguing that implementing the requirements on the basis set out in ASIC FAQ 4 would be challenging for reporting entities, and would not produce a net regulatory benefit; and
 - (e) ISDA instead proposed an approach based on the location of the person performing what is commonly referred to as the ‘sales’ or ‘trading’ function of reporting entities as the basis for the Nexus Test.
10. Following further consultation with ISDA, the 2015 Nexus exemption was made on 29 January 2015 and commenced on 2 February 2015.
 11. Since that time, multiple foreign entities have opted into the 2015 Nexus exemption and their reports using the Nexus Test account for nearly 95% of all reports made by foreign entities under the 2022 Reporting Rules.
 12. As such, ASIC considered that the Nexus Test represents the mainstream interpretation by foreign reporting entities of an in-scope reportable transaction, and that the Nexus Test should be added to the 2024 ASIC Rules and consistently applied to all foreign reporting entities.
 13. Consequently, on 15 February 2024, ASIC published Consultation Paper 375 *Proposed changes to the ASIC Derivative Transaction Rules (Reporting): Third consultation (CP 375)* that included proposals to:
 - (a) Amend the 2024 Reporting Rules to substitute the meaning of a reportable transaction that is ‘All OTC Derivatives entered into by the Reporting Entity in this jurisdiction’ with ‘All OTC Derivatives that are a Nexus Derivative’; and
 - (b) Add a definition of Nexus Derivative, adapting the Nexus Test text of paragraph 9(a) of the 2015 Nexus exemption.
 14. Taking into account industry feedback to CP 375 that a 12 to 18 months implementation lead time should be provided, the 2024 Rules amendment amends the 2024 Reporting Rules to, from 20 October 2025, permanently substitute the form of the Nexus Test in place of the ‘entered into in this jurisdiction’ test for determining a reportable OTC derivative transaction.
 15. Consequently, this Nexus Instrument maintains the existing relief of the 2015 Nexus exemption available to foreign reporting entities under the 2024 Reporting Rules until 20 October 2025.

Consultation

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16. As noted in paragraphs 9-10, the 2015 Nexus exemption was made following an application for relief from ISDA, and further consultation with ISDA. This included, as noted in the 2015 Nexus exemption Explanatory Statement, several meetings between ASIC, ISDA and its members to discuss the proposed relief, various matters relating to the transitional implications of the relief and seeking comments on drafts of the legislative instrument.
 17. As further noted in paragraph 13, in CP 375, ASIC consulted on proposals to include the Nexus Test within the 2024 Reporting Rules in substitution of the ‘entered into in this jurisdiction’ test.
 18. ASIC response to industry’s submissions was set out in Report 790 *Response to submissions on CP 375 Proposed changes to the ASIC Derivative Transaction Rules (Reporting): Third consultation*, including that, in summary:
 - (a) The existing ‘trader, sales or financial risk manager’ regulatory perimeter of the 2015 Nexus exemption is the appropriate setting for the 2024 Reporting Rules to maximise regulatory transparency of financial services in derivatives provided in Australia;
 - (b) A longer implementation lead time is provided by deferring the commencement of the amendments until 20 October 2025;
 - (c) Reporting entities will be allowed to commence reporting on the changed scope at an earlier time by extending the 2015 Nexus exemption from its current 1 April 2025 sunset to 20 October 2025—this will continue to allow reporting entities to opt-in to nexus reporting at any time before 20 October 2025.
 19. ASIC has consulted with the Reserve Bank of Australia (RBA) and the Australian Prudential Regulation Authority (APRA) in relation to the proposals made in CP 375. The RBA and APRA support the 2024 Rules amendments.
 20. ASIC has consulted with the Office of Impact Analysis (OIA) in relation to whether an Impact Analysis (IA) would be required. OIA advised that the preparation of an IA was not required because it assessed the proposals as unlikely to have a more than minor regulatory impact.

Operation of the Nexus Repeal Instrument

21. The Nexus Repeal Instrument operates to repeal the 2015 Nexus exemption to allow the Nexus Instrument to be made on substantively similar terms. The commencement of the Nexus Repeal Instrument is intended to coincide with the commencement of the 2024 Reporting Rules.
22. Section 1 provides that the name of the Nexus Instrument is the *ASIC Derivative Transaction Rules (Nexus Derivatives Repeal) Instrument 2024/602*.
23. Section 2 provides that the Nexus Instrument commences on the later of:
 - (a) 21 October 2024; and

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- (b) the day after it is registered on the Federal Register of Legislation.
24. Section 3 provides that the Nexus Instrument is made under paragraph 907D(2)(a) of the *Corporations Act 2001*.
25. Section 4 provides that each instrument that is specified in the Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.
26. Item 1 of Schedule 1 repeals the whole of the 2015 Nexus exemption.

Operation of the Nexus Instrument

27. The Nexus Instrument operates in substantively like manner and subject to like conditions as the 2015 Nexus exemption. There are changes in the Nexus Instrument from the 2015 Nexus exemption that are necessary or appropriate for consistency with the operation of the 2024 Reporting Rules and the removal of outdated transitional provisions, in particular the removal of:
- (a) References to ‘outstanding position’ and ‘Reportable Position(s)’ which are not terms in the 2024 Reporting Rules;
 - (b) The application of the exemption to all Relevant Reporting Entities from 2 February 2015 to 24 February 2015;
 - (c) The position reporting requirement;
 - (d) The provisions in Exemption 2 of the 2015 Nexus exemption relating to conditions of ASIC Instrument [14/0234] as this instrument was repealed on 21 April 2023.
28. The Nexus Instrument retains the exception for alternative reporting provided in the 2015 Nexus exemption, but removes the provision requiring the designation of information reported under alternative reporting requirements. In practice, designating, or tagging, that the information was reported under alternative reporting requirements is not the common nor universal means by which trade repositories of other jurisdictions identify reported information that is made available to regulators under international data access regimes.

Part 1—Preliminary Note

29. Section 1 of Part 1 provides that the name of the Nexus Instrument is the *ASIC Derivative Transaction Rules (Nexus Derivatives) Instrument 2024/603*.
30. Section 2 of Part 1 provides that the Nexus Instrument commences on the later of:
- (c) 21 October 2024; and
 - (d) the day after it is registered on the Federal Register of Legislation.

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31. Section 3 of Part 1 provides that the Nexus Instrument is made under paragraph 907D(2)(a) of the *Corporations Act 2001*.
 32. Subsection 4(1) of Part 1 provides that in the Nexus Instrument, unless contrary intention appears, capitalised terms have the same meaning as in the 2024 Reporting Rules
 33. Subsection 4(2) of Part 1 of the Nexus Instrument defines the terms:
 - (a) **Relevant Reporting Entity** as meaning a Foreign approved deposit-taking institution (**ADI**) that has a branch located in this jurisdiction or a foreign company that is required to be registered under Division 2 of Part 5B.2 of the Corporations Act; and
 - (b) **Rules** as meaning the *ASIC Derivative Transaction Rules (Reporting) 2024*.
 34. The Nexus Instrument makes relief available to Relevant Reporting Entities. As defined in Section 4, these are Reporting Entities that are required, under the 2024 Reporting Rules, to report only OTC derivative transactions that are booked to the profit or loss account of a branch of the Reporting Entity located in this jurisdiction or, until 20 October 2025, entered into by the Reporting Entity in this jurisdiction.
 35. The Nexus Instrument no longer excludes applying the relief to foreign subsidiaries of an Australian entity that is an Australian ADI or Australian financial services (**AFS**) Licensee, as such entities are subject to the 2024 Reporting Rules in the same manner as any other foreign entity.

Part 2—Exemption

36. Section 5 provides that a Relevant Reporting Entity does not have to comply with subrule 2.2.1(1) of the 2024 Reporting Rules to the extent that subrule requires the Relevant Reporting Entity to report a Reportable Transaction in an OTC Derivative that was:
 - (a) entered into by the Relevant Reporting Entity in this jurisdiction; and
 - (b) not booked to the profit or loss account of a branch of the Relevant Reporting Entity located in this jurisdiction.
37. Relevant Reporting Entities will be required to continue to report all Reportable Transactions in an OTC Derivative that was booked to the profit or loss account of a branch of the Relevant Reporting Entity located in this jurisdiction, as required under the 2024 Reporting Rules.
38. Subsection 6(1) provides that a Relevant Reporting Entity may give to ASIC a written notice (an **Opt-In Notice**) setting out all of the following:
 - (a) the name of the Relevant Reporting Entity;

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- (b) the Prescribed Class or Prescribed Classes (each, an ***Opt-In Class***) for which the Relevant Reporting Entity is giving the written notice (for example, commodity derivatives that are not electricity derivatives, credit derivatives, equity derivatives, foreign exchange derivatives and interest rate derivatives); and
- (c) the date (***Effective Date***) from which the Relevant Reporting Entity will rely on the exemption in section 5 in relation each Opt-In Class named in the notice, being a date no earlier than the date the Opt-In Notice is given to ASIC.
39. Subsection 6(2) provides that a Relevant Reporting Entity that has given an Opt-In Notice under subsection 6(1) may withdraw the Opt-In Notice in relation to one or more Opt-In Classes, by lodging a written notice (the Withdrawal Notice) with ASIC setting out all of the following:
- (a) the name of the Relevant Reporting Entity;
- (b) the name of each Opt-In Class for which the Relevant Reporting Entity is lodging the written notice; and
- (c) the date (***Withdrawal Effective Date***) from which the Relevant Reporting Entity will cease to rely on the exemption in section 5 in relation to each Opt-In Class named in the notice, being a date not less than 30 calendar days from the date the Withdrawal Notice is given.
40. An Opt-In Notice or Withdrawal Notice may be given in relation to all asset classes. The ability to opt-in by class accommodates Relevant Reporting Entities who enter into Nexus Derivatives in some asset classes but enter into OTC derivatives that are not Nexus Derivatives in other asset classes.
41. Section 7 provides that the exemption in section 5 applies to a Relevant Reporting Entity in relation to an Opt-In Class from the Effective Date specified in the Opt-In Notice given in accordance with subsection 6(1) in relation to that Opt-In Class, until the Withdrawal Effective Date specified in the Withdrawal Notice (if any) given in accordance with subsection 6(2) in relation to that Opt-In Class.
42. The opt-in arrangements under sections 6 and 7 provide certainty to ASIC and Relevant Reporting Entities as to when a Relevant Reporting Entity is relying on the exemption in section 5.
43. Section 8 provides that, subject to subsection 8(2), a Relevant Reporting Entity to which the exemption in section 5 applies must, commencing from the date (defined in the Nexus Instrument as the ***Relevant Reporting Date***) that is the Effective Date specified in an Opt-In Notice in relation to an Opt-In Class report Derivative Transaction Information about each 'Nexus Transaction' within the relevant Opt-in Class, as if the Nexus Transaction was a Reportable Transaction under the Rules.

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44. A Nexus Transaction is defined in section 8 as the entry into, modification, termination or assignment of an arrangement that is a ‘Nexus Derivative’. Section 8 defines a ‘Nexus Derivative’ as an OTC Derivative to which the Relevant Reporting Entity is a counterparty, where:
- (a) one or more of the following functions in relation to the OTC Derivative:
 - (i) determining the price, level, rate or other economic terms (collectively, *Terms*) on which the Relevant Reporting Entity is willing to enter into the OTC Derivative, including by determining the proposed Terms or range of proposed Terms which may be communicated to the proposed counterparty or agreeing the final Terms on which the Relevant Reporting Entity will enter into the OTC Derivative with the proposed counterparty;
 - (ii) communicating to the proposed counterparty one or more of the Terms on which the Relevant Reporting Entity is willing to enter into the OTC Derivative;
 - (iii) offering to enter into the OTC Derivative with the proposed counterparty or inviting the proposed counterparty to offer to enter into the OTC Derivative with the Relevant Reporting Entity;
 - (iv) agreeing to enter into the OTC Derivative with the proposed counterparty;
 - (v) managing the financial risk arising from the OTC Derivative;is or will be performed on behalf of the Relevant Reporting Entity by a person who is:
 - (vi) ordinarily resident or employed in this jurisdiction (that is, regardless of whether the person is employed by the Relevant Reporting Entity or one of its associates); or
 - (vii) acting as part of a desk, office or branch of the Relevant Reporting Entity, or of an entity that is an associate (within the meaning of section 9 of the Corporations Act) of the Relevant Reporting Entity, where that desk, office or branch is located in this jurisdiction; and
 - (b) if the OTC Derivative was executed through an automated electronic trading facility, the function of determining the Terms of the OTC Derivative, or managing the financial risk arising from the OTC Derivative, is or will be performed on behalf of the Relevant Reporting Entity by a person who is:
 - (i) ordinarily resident or employed in this jurisdiction (that is, regardless of whether the person is employed by the Relevant Reporting Entity or one of its associates); or

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- (ii) acting as part of a desk, office or branch of the Relevant Reporting Entity, or of an entity that is an associate (within the meaning of s9 of the Corporations Act) of the Relevant Reporting Entity, where that desk, office or branch is located in this jurisdiction.
45. Subsection 8(1) requires Relevant Reporting Entities that opt-in to the relief to report transactions in ‘Nexus Derivatives’ within each Opt-in Class. 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.
46. Subsection 8(2) provides that a Relevant Reporting Entity to which the exemption in section 5 applies is not required to comply with the conditions in subsection 8(1) that would otherwise apply to the Relevant Reporting Entity in relation to a Nexus Transaction, if, at the time the Relevant Reporting Entity would otherwise be required to comply with the condition, the Relevant Reporting Entity is subject to ‘Alternative Reporting Requirements’ in one or more ‘Foreign Jurisdictions’ (as defined in the Nexus Instrument) and either:
- (a) the Relevant Reporting Entity or another entity has reported information about the Nexus Transaction to a Prescribed Repository, in compliance with the Alternative Reporting Requirements in at least one Foreign Jurisdiction; or
- (b) the Relevant Reporting Entity is exempt from the requirement in all of the Foreign Jurisdictions to report information about the Nexus Transaction, or there is no requirement in any of the Foreign Jurisdictions to report information about the Nexus Transaction.
47. ‘Alternative Reporting Requirements’ is defined in paragraph 8(2)(a) to mean reporting requirements that are substantially equivalent to the Reporting Requirements under the 2024 Reporting Rules and that cover OTC derivatives of the same Prescribed Class as the Nexus Transaction.
48. Subsection 8(2) reflects existing relief in subrule 2.2.1(3) of the 2024 Reporting Rules, which provides that a Reporting Entity other than an Australian Entity or a responsible entity (*RE*) or Trustee acting in its capacity as RE or Trustee of an Australian Entity, is not required to comply with the Reporting Requirements where the Reporting Entity is complying with substantially equivalent requirements in a Foreign Jurisdiction and the Reporting Entity either reports the Reportable Transaction to a Prescribed Repository, or is not required to report the Reportable Transaction or Reportable Position under those requirements.

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49. Subsection 8(2) allows Relevant Reporting Entities that would normally have the benefit of the exemption in subrule 2.2.1(3) of the 2024 Reporting Rules, to also have the benefit of 'alternative reporting' in relation to their Nexus Transactions.
 50. Section 9 provides that the Nexus Instrument is repealed at the start of 20 October 2025, which is the date on which the 2024 Rules amendment commences to provide that the Nexus Test fully replaces the 'entered into in this jurisdiction test' in the 2024 Reporting Rules.

Legislative instrument and primary legislation

51. The subject matter and policy implemented by the Nexus Instrument is more appropriate for a legislative instrument rather than primary legislation because:
 - (a) the effect of the Nexus Instrument is to maintain, until the beginning of 20 October 2025, the existing relief provided by the 2015 Nexus exemption for certain foreign reporting entities to report OTC derivative transactions under the 2024 Reporting Rules on the basis of the Nexus Test instead of on the basis of the 'entered into in this jurisdiction' test. The 2024 Reporting Rules are themselves a legislative instrument rather than primary legislation; and
 - (b) the Nexus Instrument utilises powers given by Parliament to ASIC that allow ASIC to affect the operation of the 2024 Reporting Rules to provide a tailored and flexible regulatory environment that is fit for purpose.
52. The duration of the Nexus Instrument is until the beginning of 20 October 2025, which is the day that the 2024 Rules amendment commences to provide that the Nexus Test replaces the 'entered into in this jurisdiction' test in the 2024 Reporting Rules.

Legislative authority

53. ASIC makes each of these Legislative Instruments (that is, the Nexus Repeal Instrument and Nexus Instrument) under paragraph 907D(2)(a) of the Corporations Act.
54. Under paragraph 907D(2)(a) of the Corporations Act, ASIC may exempt a person or class of persons from all or specified provisions of the 2024 Reporting Rules made under Part 7.5A of the Corporations Act.
55. Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Statement of Compatibility with Human Rights

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56. The Explanatory Statement for a disallowable legislative instrument must contain a Statement of Compatibility with Human Rights under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility with Human Rights is in the Attachment.

Statement of Compatibility with Human Rights

This Statement of Compatibility with Human Rights is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

ASIC Derivative Transaction Rules (Nexus Derivatives Repeal) Instrument 2024/602

ASIC Derivative Transaction Rules (Nexus Derivatives) Instrument 2024/603

Overview

1. The *ASIC Derivative Transaction Rules (Nexus Derivatives Repeal) Instrument 2024/602* (the ***Nexus Repeal Instrument***) is made under paragraph 907D(2)(a) of the *Corporations Act 2001* (the ***Corporations Act***) and repeals the *ASIC Derivative Transaction Rules (Nexus Derivatives) Class Exemption 2015* (the ***2015 Nexus exemption***) from the beginning of 21 October 2024.
2. The *ASIC Derivative Transaction Rules (Nexus Derivatives) Instrument 2024/603* (the ***Nexus Instrument***) is made under paragraph 907D(2)(a) of the *Corporations Act* and remakes the 2015 Nexus exemption in substantively like manner and subject to like conditions, so as to continue the provisions of the 2015 Nexus exemption from its 21 October 2024 repeal until 20 October 2025.
3. The 2015 Nexus exemption instrument provided relief to certain foreign reporting entities under the *ASIC Derivative Transaction Rules (Reporting) 2022* (the ***2022 Reporting Rules***) from the requirement to report over-the-counter (***OTC***) derivative transactions that are ‘entered into in this jurisdiction’, provided they report OTC derivative transactions based on an alternative test (referred to in this statement as the ***Nexus Test***) focused on the location of persons performing particular functions in relation to an OTC Derivative.
4. The purpose of the Nexus Instrument is to maintain the existing relief for certain foreign reporting entities under the 2024 Reporting Rules from the requirement to report OTC derivative transactions that are ‘entered into in this jurisdiction’ until that provision is removed from the 2024 Reporting Rules on 20 October 2025 and replaced by the form of the Nexus Test.
5. The Nexus Instrument also enables foreign entities to opt-in to switch from reporting using the ‘entered into in this jurisdiction’ test to reporting using the Nexus Test prior to the Nexus Test fully replacing the ‘entered into in this jurisdiction test’ in the 2024 Reporting Rules on 20 October 2025.

Assessment of human rights implications

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6. The Nexus Repeal Instrument and Nexus Instrument do not engage any of the applicable rights or freedoms.

Conclusion

7. The Nexus Repeal Instrument and Nexus Instrument are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.