EMIR Trade Reporting

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Warning!

- Although the level 1 and level 2 legislation is fixed, there are still uncertainties about the implementation in some areas.
- Therefore, some of the information in this presentation is subject to change.

Topics

- The EMIR reporting requirements: who, what, when and where?
- What's in a report?
- The implementation timetable
- Relationship with other reporting regimes
- Outstanding issues

Who reports?

- “Counterparties and CCPs”
- This potentially covers most participants involved in a trade, including clients and clearing brokers, other than natural persons and non-EU entities
- But delegation is possible and can be implemented in a very flexible way

Can I delegate trade reporting?

- “A counterparty or a CCP which is subject to the reporting obligation may delegate the reporting of the details of the derivative contract.”
- Delegation could be to any firm capable of fulfilling the function, e.g. dealer, exchange, CCP, service provider
- Compliance responsibility remains with the delegating firm which should conduct reasonable checks to ensure accurate and timely reports are submitted

What has to be reported?

- “any derivative contract”
- The definition of this is based on MiFID
- Includes both contracts traded on trading venues (see the latest ESMA Q&A for details of how to report these) and OTC derivatives
- Lifecycle events (give-ups, partial terminations etc) have to be reported
- FCs and NFC+s will also have to report valuation updates and collateral posted

When do reports have to be made?

- “no later than the working day following”
- On T or T+1 for the initial report of the trade
- Similarly for amendments and updates

Where are reports made?

- “to an registered [EU] or recognised [non-EU] trade repository”
- Six trade repositories have been registered, others may be in the future
- Free choice of trade repository
- Can report different transactions to different trade repositories
- Counterparties to a trade can use different trade repositories

What’s in a report

- Basic contract information, i.e. counterparties involved, the product, the price etc.; over 80 fields in total (although not all applicable to all reports)
- Divides into Table 1: own information, and Table 2: common information
- Generally, all fields should be completed except when they’re not applicable

Some key Table 1 fields (1)

- Table 1 to be filled in from the perspective of the entity with the reporting obligation
- Own identity
- Other counterparty
- Broker used (if any)
- Clearing member (if a cleared contract)
- Beneficiary

All of the above should use LEIs where available

Some key Table 1 fields (2)

- Trading capacity
- Some information about the nature of the trade (e.g. about the purpose of the trade)
- Valuation updates
- Collateral information

Some key Table 2 fields

Most fields define the derivative contract and would therefore be expected to agree between both parties

- Product identification
- Trade ID
- Venue of execution
- Price and size
- Various timestamps
- Other key parameters

Events and modifications

As well as the original trades, the following should be reported:

- Modifications to any of the reported items
- Cancellations arising from errors
- Terminations (but not on the expected date)
- Compressions
- Valuations and collateral (not applicable to NFC-)
- Other events

Implementation timetable

- All dates are relative to when the first trade repository is registered
- Reporting starts 90 days after publication of the registration decision (12 February 2014)
- Valuation and collateral updates start six months after the start of reporting
- Some old reports must be backloaded

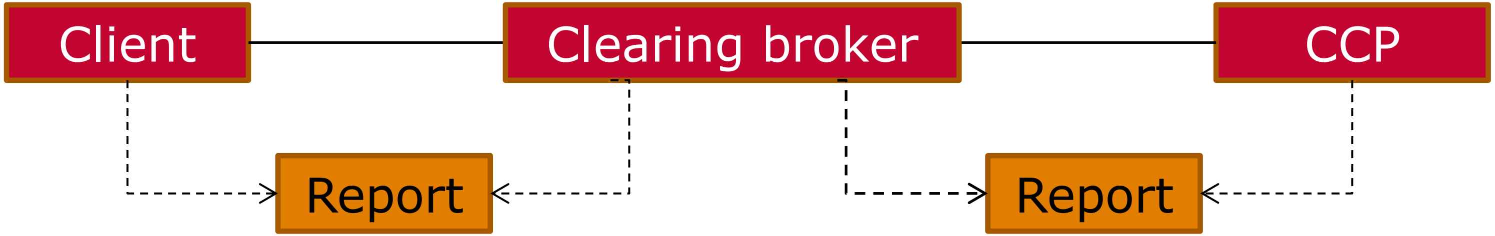
Backloading

- If the contract is open on 12 February 2014, then there are 90 days to report it if it was dealt before 16 August 2012 and one day (T+1) if it was dealt after then
- If the contract was open on 16 August 2012 but is closed by 12 February 2014, then there are three years to report it
- For contracts open as at 12 February 2014, backloading can be done at position level with the status as it is at that point – there is no need to report all the events since the contract was executed. However, subsequent events must be reported in the usual way

How to report ETDs

Trade side:

After clearing:



Other trading scenarios are possible

Reporting at position level

Trades must be reported as individual trades. Position-level reporting can be used in addition provided that:

1. The positions have legally replaced the trades (e.g. through clearing)
2. The trades are updated to be "compressed" and the positions reported as the result of this
3. The trade repository can cope with position reporting

See the ESMA Q&A for more criteria and details

Other reporting regimes

- EU objective to align EMIR reporting with other EU regimes, particularly MiFID
  - But cannot align with MiFIR yet as that is still a moving target
- Similarities and differences with Dodd Frank
  - Different entities have reporting obligation
  - Only one-sided reporting under Dodd Frank
  - “Real time” reporting under Dodd Frank
  - Substituted compliance / equivalence not yet available, but may come in due course

Outstanding issues (1)

- Product identification
- Possibility for ESMA to endorse an approach, but this has not happened yet
- Difficult to assign a code to OTC products that is precise as the ISIN or AII as used for MiFID reporting
- Therefore solutions (for OTC at least) are more likely to involve hierarchical classification schemes

Outstanding issues (2)

Trade IDs / UTIs

- Need for clear rules for who generates the UTI and how it is constructed
- Need for the right level of uniqueness to avoid double-counting problems
- Desirable to have a solution that achieves links between related reports
- Desirable to achieve a globally consistent solution

Outstanding issues (3)

- Reporting of events such as give-ups – who has to report and what reports should be submitted?
- Reporting of blocks and allocations
  - Both have to be reported
  - Some issues over counterparty / client identification where a fund manager is involved

Outstanding issues (4)

Use of delegated reporting

- Is there a mis-match of supply and demand?
- Need for proper agreements to be in place
- Need to consider whether the outsourcing requirements of SYSC 8 apply

Information sources

- ESMA Q&As
- FCA website: www.fca.org.uk/firms/markets/international-markets/emir
- Trade associations