



## EMIR reporting - is the industry ready?

This factsheet is for counterparties looking to comply with the EU Regulation on derivatives, central counterparties and trade repositories (EMIR) Article 9 reporting obligation. It explains the findings from our recent review.

### **Why did we do this review?**

We wanted to find out how ready the industry is for the reporting obligation due to start on 12 February 2014 and to identify challenges that could affect the completeness and accuracy of the reports. We discussed this with counterparties in December 2013 and January 2014.

### **What does this mean for firms?**

The findings of this review are important to counterparties to derivative contracts as they provide insight into common issues faced by their peers in complying with the obligation to report such contracts. The review also highlights how those complying with the requirements are achieving this compliance. We summarise the findings below.

The firms contacted as part of the review are all preparing for the start of reporting on 12 February 2014. They are doing this on the basis of the EMIR legislation, the Q&As from ESMA and discussions with the FCA and trade associations.

Overall, it appears that most firms will be reporting their derivative contracts from the start date. However, there may be issues of various sorts (discussed below) with some firms' reporting at that point and further work will be required in some cases to ensure that all contracts are reported and that they are reported correctly.

### **What did we find?**

#### **Reporting channels**

Firms have generally decided how to report: whether to do it themselves or to delegate, with some more sophisticated firms using a mixture of approaches. From the sample of firms that were included in the review we found that firms intending to report themselves have all picked which trade repository they intend to use.

However, there is an issue for (typically smaller) firms who wish to delegate their reporting in that not all of their dealing counterparties have yet decided whether to offer delegated reporting. This has driven some firms to prepare to do their own reporting.

Firms were generally aware that, when delegating, they should consider how they are able to check that their reports are being correctly submitted to the trade repository. In addition, some firms had considered whether the outsourcing provisions of the FCA Handbook (SYSC 8) would apply.

### **Backloading**

Firms are aware of the requirements for the backloading of outstanding contracts and are preparing for this. In some cases, they will do the backloading before the start of reporting. Issues that have arisen include the need to retrospectively allocate identifiers to old trades – this is being addressed through bilateral contacts between firms, sometimes using system providers.

### **Issues and uncertainties**

The readiness for reporting on the start date is affected by various areas where firms are less well prepared or where there are still uncertainties on exactly how reports should be created. The key examples of this are:

- Each reported derivative contract is required (by Commission Delegated Regulation (EU) No 148/2013) to have a Unique Trade Identifier (UTI). This Regulation includes a requirement that it is unique but does not define how it should be generated or by whom. The uncertainty means it is possible that in some cases UTIs will have to be changed after the initial report. In this situation, the firms we spoke to indicated that they intend to enter a report within the reporting deadline and subsequently modify it (due to issues with the Trade ID or other fields), rather than not to report it at all or to report it late.
- It appears as if not all counterparties have yet applied for Legal Entity Identifiers (LEIs). This is required for EMIR reporting (as defined in Article 3 of Commission Implementing Regulation (EU) No 1247/2012). Counterparties have either already acquired LEIs or are acquiring them from one of the issuers.
- Not all firms appear to have considered the possibility that in meeting the EMIR obligation to identify clients and counterparties on their reports, they may be in breach of the legislation of the country where those clients or counterparties are located. This is not an issue within the EU (because of EMIR Article 9(4)), but could be in certain jurisdictions. Where there is a potential conflict between different jurisdictions, firms are considering what action to take.