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Dodd Frank Financial Reform Regulation Update



Agenda

- **Dodd Frank**
 - Compliance Deadlines
 - No Action Relief Summary
 - What Should I Have Done by Now?
 - Challenges Encountered
- **Looking Forward to EMIR**
 - How EMIR Differs from Dodd Frank
 - What Should I Be Doing Now?
- **Questions**

Dodd-Frank

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What is Dodd-Frank?

In an effort to promote financial stability, the Dodd-Frank Act was signed into law on July 21st, 2010.

Title VII was enacted to reduce risk, increase transparency, and promote market integrity within financial derivatives markets through:

- Registration and comprehensive regulation of Swap Dealers and Major Swap Participants;
- Clearing and trade execution requirements on derivative products;
- Robust recordkeeping and real-time reporting regimes; and
- Enhanced rulemaking and enforcement authority of the CFTC.

Key Dates - Reporting

Dodd-Frank reporting and recordkeeping requirements are in effect!

	Interest & Credit	Commodity, FX & Equity
Report swaps executed on/after this date	July 1, 2013	August 19, 2013
Report swaps executed between April 10 and July 1 / August 19	August 1, 2013	September 19, 2013
Report “historical” swaps executed before April 10	October 31, 2013	

Key Dates - Other

Dodd-Frank reporting and recordkeeping requirements are in effect!

Requirement	Compliance date
Swap Data Recordkeeping	April 10, 2013
Mandatory Clearing	Credit, interest: Sept 9, 2013 Commodity, FX, equity: TBD*
End-User Exemption Election	Credit, interest: Sept 9, 2013 Commodity, FX, equity: TBD*

* The CFTC has not yet made the mandatory clearing determination

Summary of Major No Action Relief: Exemption of FX Swaps & Forwards

FX swaps/forwards that meet a very strict definition are ***exempted*** from certain requirements:

- Mandatory clearing on a DCO and execution on a SEF
- Real-time reporting

These FX swaps/forwards are ***not exempted*** from:

- SDR reporting and recordkeeping
- Business conduct standards (applicable to SDs/MSPs)

Summary of Major No Action Relief: Reporting of Inter-Affiliate Swaps

Inter-affiliate swaps are subject to full SDR reporting, unless certain conditions are met. If these conditions are met, the following applies:

Inter-Affiliate swaps involving
wholly-owned subsidiaries

- Not required to report new and historical swaps
- Full recordkeeping requirements apply

Inter-Affiliate swaps involving
majority-owned subsidiaries

- Report within 30 days after the end of each fiscal quarter
- Not required to report historical swaps
- Full recordkeeping requirements apply

What Should I Have Done by Now?

- Determined your entity classification
- Identified counterparty entity classifications
- Determined reporting and recordkeeping obligations
- Established ongoing reporting processes with counterparties
- Begun reporting of new trades (July 1 / August 19, 2013)
- Reported “interim” swaps (August 1 / September 19, 2013)
- Reported all historical swaps (by October 31, 2013)
- Established record keeping procedures and tools
- Possibly signed up to the ISDA Protocol
- Obtained Board approval for the End User Exemption

Challenges Encountered

- Recordkeeping
 - Collecting data – especially USI
 - Backfilling data
- Reporting
 - Consolidating data from multiple sources
 - Submitting files
- Changes to hedging strategies
 - Instruments
 - Tax implications

Looking Forward to EMIR

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What is EMIR?

The European Market Infrastructure Regulation (EMIR) is the European Union's equivalent to Dodd Frank in the US.

Who is in scope for EMIR?

- Entities that are established in the European Union that trade financial derivatives
- Extraterritoriality rules apply

EMIR - Entity Classifications

Financial
Counterparty

Amongst others: investment firm, credit institution, insurance undertaking

NFC+

Non Financial Counterparty with positions exceeding the clearing threshold

NFC-

Non Financial Counterparty with positions below the clearing threshold

EMIR - Instruments in Scope

EMIR uses the MiFID definition of “derivatives”, covering:

- Derivatives on Interest Rate, FX, Commodities, Credit and Equities
- Physical commodity forward contracts only if traded on a regulated market (only reporting) or MTF
- Exchange traded futures and options on future are **in scope** of reporting obligations of EMIR
- All FX derivatives are in scope except for FX spot transactions

EMIR - Risk Mitigation Measures

Even NFC- companies must implement risk-mitigation measures for non-centrally cleared derivatives.

- Trades need to be confirmed within a certain timeframe
- Portfolio reconciliation for NFCs -needs to be executed either quarterly or annually depending on the number of contracts
- Portfolio compression if a company has over 500 bilateral contracts outstanding
- Written agreements on dispute resolution need to be in place

EMIR – Reporting Requirements

Under EMIR, both counterparties must report a trade, although reporting may be delegated to the counterparty or a third party

What must be reported?

- All transactions in scope, including intra-group trades and exchange traded derivatives
- A list of data elements similar to Primary Economic Terms (PET) data under Dodd Frank

What is the timeframe for reporting?

- End of working day following the day of trade execution

What about historical trades?

- Trades in existence on or after August 16, 2012
- Historical trades must be reported within three years of the reporting commencement date

EMIR – Compliance Deadlines

Requirement	Compliance Date
Record Keeping	August 16, 2012
Confirmations	March 15, 2013
<ul style="list-style-type: none">• Portfolio Reconciliation• Portfolio Compression• Dispute Resolution	September 15, 2013
Reporting of all asset classes	February 12, 2014
Mandatory Clearing	Undetermined
Historical Reporting	February 2017

What Should I Be Doing Now for EMIR?

- Determine legal entities in scope
- Determine trades in scope
- Determine entity and group classification (FC, NFC+, NFC-)
- Determine your counterparties' entity classifications
- Assess the impact on your business
- Determine if inter-group trades are exempt from clearing requirements
- Comply with portfolio reconciliation, compression and dispute resolution requirements
- Sign reporting agreements, if applicable
- Sign ISDA protocol

Questions?



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Presenters



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