

EMIR newsflash

13 November 2013



Dear Madam,
Dear Sir,

The mammoth task of reporting OTC derivative transactions has moved a huge step closer with the authorisation of four trade repositories by the European Securities and Markets Authority (ESMA). This is the final leg of a very long process. In this article, Fiona Syer from our Deloitte EMEA Centre for Regulatory Strategy gives an update on the current status, outlines some of the deadlines firms need to be aware of, as well as highlights some actions they can take to in order to get ready to meet the requirements.

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EMIR OTC derivative reporting Will you be ready in time?

What started out as a political commitment back in September 2009 will become a reality for European counterparties, including corporates, on 12 February 2014 – now confirmed as the date on which reporting obligations under the European Market and Infrastructure Regulation (EMIR) will commence.

At the same time, firms hoping for some reprieve from the commencement of reporting exchange-traded derivatives (ETDs) have been disappointed. The EU Commission has once again flexed its muscles over ESMA and refused its request to extend the reporting start date for these products. ESMA had argued that the reporting fields in EMIR, originally designed for OTC derivatives, gave rise to implementation challenges and warranted a delay. However, this has found little favour with the Commission and ETD transactions will also need to be reported from 12 February 2014.

The reporting of new OTC derivative and ETD transactions (across all asset classes) may seem an immense task in its own right but firms should not lose sight of the fact that any position open on 16 August 2012 and still open on 12 February 2014 will need to be reported by 13 May 2014. In addition, the complex area of collateral reporting will need to be tackled in August 2014.

The key question now facing many firms is whether to report what amounts to more than 80 data fields to a TR directly or delegate the reporting to their counterparty or a third party. Both approaches have challenges. Whilst we know the identity of the four TRs authorised - DTCC, UnaVista, RegisTR and KDPW (a Polish TR) - firms do not yet have a clear picture of the parties willing to offer a delegated reporting service. Furthermore, several other TRs have applied for ESMA authorisation and may well be authorised between now and 12 February.

Firms reporting directly to a TR, if they have not already done so, should be selecting which TR/s they will report to and start the on-boarding and testing process. Firms delegating reporting can delegate the physical reporting of the data to the TR but remain responsible for ensuring the accuracy of the data reported. They will therefore need to consider data governance arrangements. In addition, firms delegating reporting will need to consider how they report their inter-entity trades and daily valuation information (the latter only for financial counterparties and non-financials above the clearing threshold). All firms will need to consider the reporting of historical positions.

Clearly important decisions must be taken and time is running out. What is equally clear is that we can be sure that regulators will have little appetite for firms failing to take the appropriate steps to meet these requirements.



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