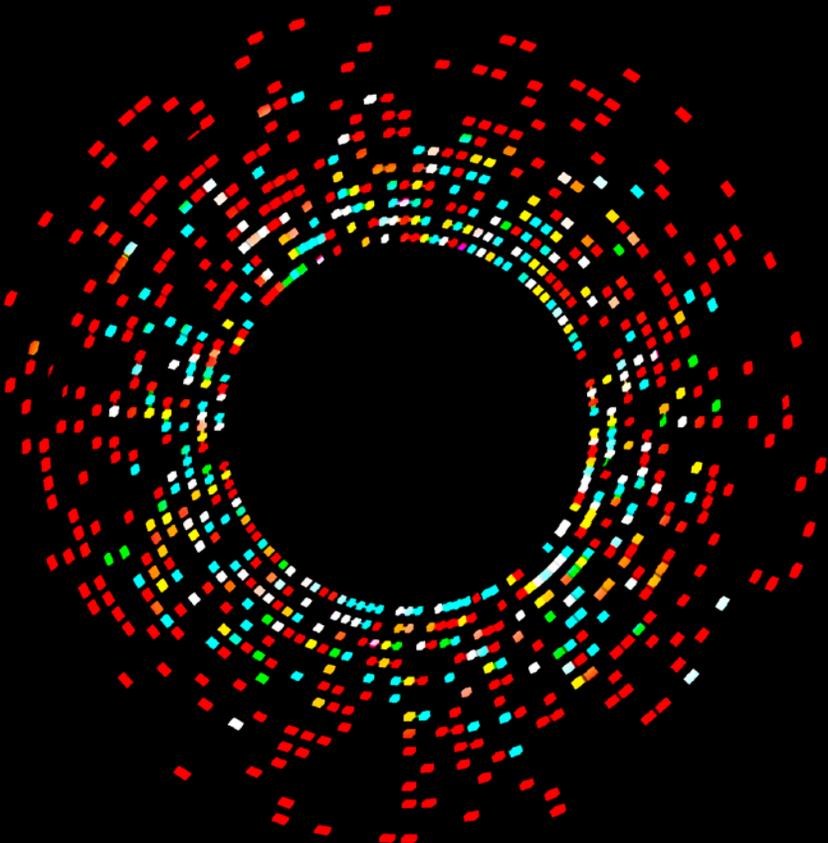


**MiFID II & MiFIR Update
Link`n Learn 2016**



Speakers



Manmeet Rana

Director– Risk Advisory

Deloitte UK

E: mrana@deloitte.co.uk

T: +44 20 7303 8624



Ciara O'Grady

Manager– Audit

Deloitte Ireland

E: cogrady@deloitte.ie

T: +353 1 417 3231



Will McCarte

Manager– Risk Advisory

Deloitte Ireland

E: wmccarte@deloitte.co.uk

T: +44 20 7303 6203

Link`n Learn 2016

Agenda

- 1 **Current State of Level 2 Text**
- 2 **Our Insight on key programme & regulatory challenges**
- 3 **Deep Dive: MiFID II Transaction Reporting**
- 4 **Q&A**

Current State of Level 2 Text

A high level overview

Level 2 finalised in OJ

ITS19: Description of the functioning of MTFs and OTFs

Level 2 adopted by the EU Commission

DD: Safeguarding of financial instruments and funds belonging to clients, product governance, and inducements

DR: Organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive

DR: Definitions, transparency, portfolio compression and supervisory measures on product intervention and positions

RTS1: Transparency requirements for trading venues and investment firms in respect of shares and equity-like instruments

RTS2: Transparency requirements for trading venues and investment firms in respect of non-equity instruments

RTS3: The volume cap mechanism and the provision of information for the purposes of transparency and other calculations

RTS4: Criteria for determining whether derivatives subject to the clearing obligation should be subject to the trading obligation

RTS5: Direct, substantial and foreseeable effect of derivative contracts within the union

RTS6: Specifying the organisational requirements of investment firms engaged in algorithmic trading

RTS7: Specifying the organisational requirements of facilities trading venues allowances and derivatives

RTS8: Specifying the requirements on market making agreements and schemes

RTS9: The ratio of unexecuted orders to transactions

RTS10: Requirements to ensure fair and non-discriminatory co-location services and fee structures

RTS11: Tick size regime for shares, depositary receipts and, exchange traded funds

RTS12: Determination of a material market in terms of liquidity relating to halt notifications

RTS13: Authorization, organisational requirements and the publication of transactions for data reporting service providers

RTS14: Specification of the offering or pre- and post- trade data and the level of disaggregation of data

RTS15: Clearing access in respect of trading venues and central counterparts

RTS16: Access in respect of benchmarks

RTS17: Admission of financial instruments to trading on regulated markets

RTS18: Suspension and removal of financial instruments from trading reporting services providers

RTS22: Reporting of transactions to competent authorities

RTS23: Supply of financial instruments reference data

RTS24: Maintenance of relevant data relating to orders in financial instruments

RTS25: Level of accuracy of business clocks

RTS26: Specifying the obligation to clear derivatives traded on regulate markets and timing of acceptance for clearing (STP)

RTS27: Data to be provided by execution venues on the quality of execution of transactions

RTS28: Annual publication by investment firms of information on the identity of execution venues and on quality of execution

RTS: Information and requirements for the authorisation of investment firms

RTS: Information to be notified by investment firms, market operators and credit institutions on passporting

RTS: Cooperation between authorities

RTS: Registration of third country firms

Level 2 still waiting to be adopted

RTS20: Criteria to establish when an activity is considered to be ancillary to the main business

RTS21: Application of position limits to commodity derivatives

ITS: Standard forms, templates and procedures for granting and refusing requests for authorisation

ITS: Standard forms, templates and procedures regarding the freedom to provide investment services / activities and establishing branches

RTS: An exhaustive list of information to be included by proposed acquirers in the notification of a proposed acquisition of a qualifying holding in an investment firm

ITS: Standard forms, templates and procedures for the consultation between competent authorities relating to acquisition notifications

Our Insight

Programme Challenges

Based on our work with other clients over the past 12 months, we have identified a number of challenges that firms need to work through in order to deliver successful MiFID II programmes. We have set out some of these challenges below.

	Key Challenges	Our Insights
Incremental MiFID II Changes	<ul style="list-style-type: none"> A key issue for many firms is the implementation of MiFID I. There are a number of areas that have been emphasised and focussed upon during the consultation phases of MiFID II (e.g. conflicts of interest) which are not new and were introduced by MiFID I. By focussing on only incremental areas of change under MiFID II, all areas of regulatory focus during the MiFID II process may not be addressed. 	<ul style="list-style-type: none"> All aspects of MiFID II (including MiFID I) should be incorporated into the gap analysis phase of work. This enables the firm to proactively identify any existing issues, whilst ensuring that MiFID II changes are built on strong foundations.
Consistency in Approach	<ul style="list-style-type: none"> There are a number of overlapping requirements from different regulatory changes (e.g. in respect of reporting). A consistent approach should be taken to avoid duplication of effort. Further, lack of alignment between the buy side and sell side in particular areas could lead to increased complexity in implementation. 	<ul style="list-style-type: none"> Wider regulatory linkages should be identified at the outset to ensure consistency. For example, there are overlaps between PRIIPs and the costs and charges requirements under MiFID II. Close alignment to trade associations should drive consistency in approach.
Lack of Level 2 and 3 Clarity	<ul style="list-style-type: none"> Although the level 1 text has been finalised for MiFID II, this does not provide any certainty for firms in terms of how MiFID II will be implemented. For example, requirements in the Directive could be built on by more extensive level 2 measures or superseded by local requirements (e.g. a number of the investor protection changes are being considered by the FCA). 	<ul style="list-style-type: none"> The majority of level 2 requirements are likely to be in the form of regulation, which leaves the FCA with little room for introducing differences through transposition. We will use early drafts (including leaked versions of the delegated acts) to inform our impact assessment work to future proof the work as far as possible.
Delivery of Cross Functional Workstreams	<ul style="list-style-type: none"> Many of the requirements are dependant upon product type (equity vs. non-equity). As such, workstreams may span multiple asset classes, each with slightly different requirements. This will be a key consideration when deciding upon workstream structure. For example, you may wish to consider running a separate "Pre-trade Transparency" workstream for Equities and Fixed Income. As the requirements are largely new for Fixed Income, there is likely to be more change required. Other workstreams, such as "Transaction Reporting" could be run across divisions. 	<ul style="list-style-type: none"> For cross functional workstreams, minimum standards should be applied across all asset classes and then tailored as required from an efficiency perspective and to also ensure consistency. Current state analysis at an asset class level is still important, even with cross functional workstreams, to ensure that business requirements are as specific and granular as possible.

Our Insight

Regulatory Challenges

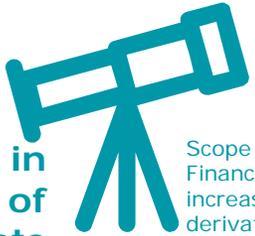
We have set out below are a sample of areas which remain a challenge for firms. These demonstrate some of the areas of top priority for dialogue with regulators. The nuances driving these priorities are at different stages of the negotiation process and some of your peers are actively lobbying in some of these areas.



Deep Dive: MiFID II Transaction Reporting

Key changes to Transaction Reporting regime under MiFID II

Increase in scope of products



Scope of reportable Financial Instruments has increased e.g. commodity derivatives, interest rate derivatives, FX derivatives now included.

Specific definitions for technical terms such as execution transaction, for example, have been provided



Data Fields

Increase in number of data fields from 24 to 65

Data Format



Changes to the format of numerous data fields has been introduced

Branch Activity



Reporting to home state regulator for branches has been introduced. Further, details of branch involvement in a transaction now needs to be captured within reports.

Receiving & Transmission of Orders



Requirements have been set out in relation to receiving & transmission of orders – including specific criteria which must be met in order for there to be no transaction reporting obligation for a transmitting firm.

Regulatory Focus on ARMs



Specific ARM regime is being introduced through MiFID II

Deep Dive: MiFID II Transaction Reporting

Industry challenges

MiFID II Transaction Reporting Challenges

Data & Systems

Volume of data required under MiFID II TR has significantly increased.

With many firms looking to take a top down approach to reporting - in order to avoid downstream tactical solutions – there is now greater dependency on upstream systems to generate and use TR data.

With a number of reporting regimes using the same or similar data it is important firms capitalise on any synergies.

Identifiers

There may be challenges in collecting LEIs for clients who do not have a regulatory obligation to have one. Also bearing in mind that there are associated costs in obtaining and maintaining LEIs. Firms should avoid facing a 'no LEI no trade' situation.

Correct information is required in order to generate natural person IDs. Client outreach may be needed, which could be time consuming where there is a large number of natural person clients.

RTO Services

Requirements need to be met should a transmitting firm place reliance on a receiving firm to report. There is no obligation for receiving firms to offer RTO services and so transmitting firms may need to report their own transactions. This could be significant for those firms currently relying on brokers to report under MiFID I.

There are some industry concern around the type of information that needs to be passed and the associated data confidentiality.

Reference Data

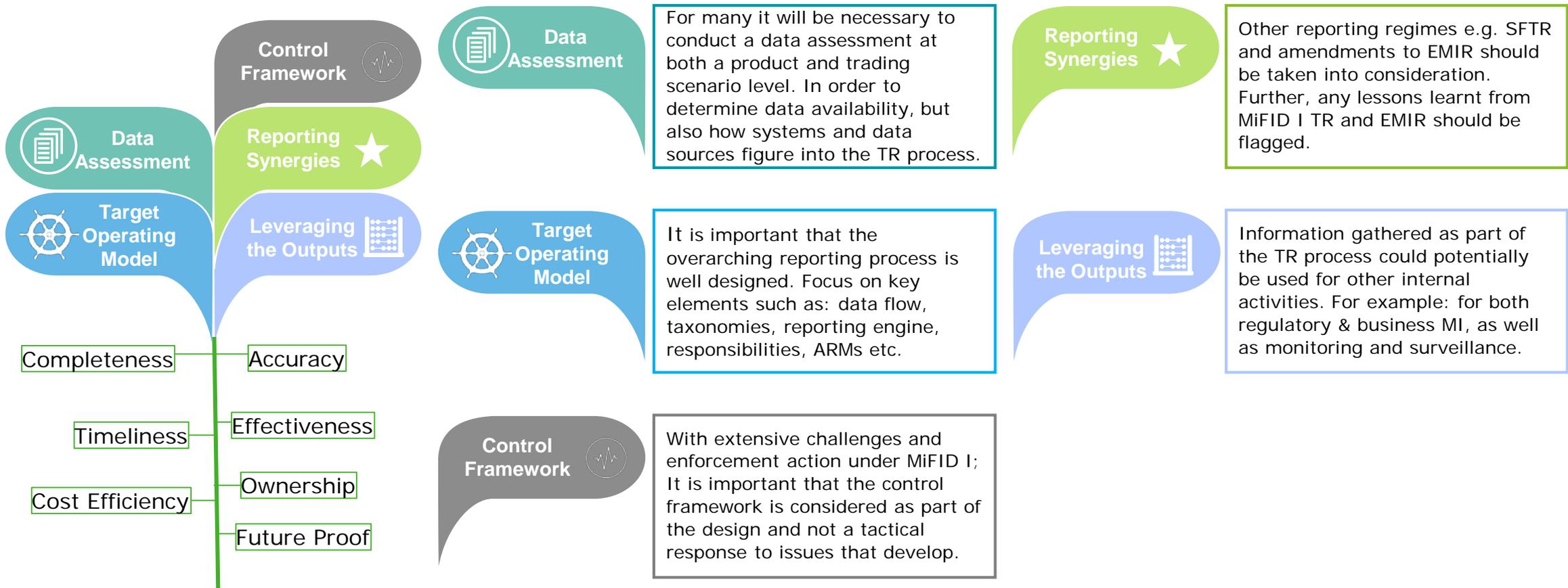
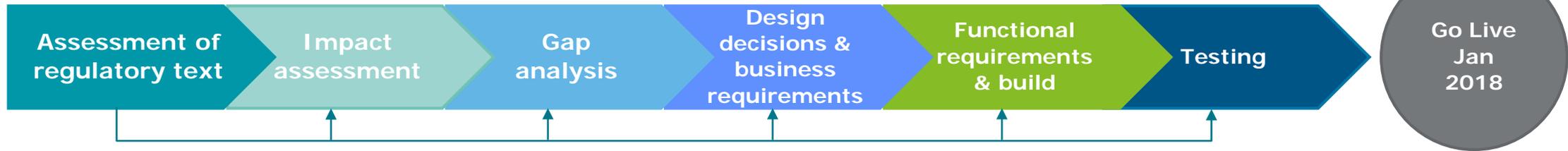
There is significant reliance on suitable reference data being made available to the industry. This is the data that sets out product identifiers, allows firms to understand which financial instruments are traded on a different trading venues etc.

Short Selling

There is some concern that complex position calculations are required in order to populate the short selling flag – which some believe may require more sophisticated position monitoring systems in order to ensure timely reporting.

Deep Dive: MiFID II Transaction Reporting

Approach to implementation







Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.co.uk/about for a detailed description of the legal structure of DTTL and its member firms.

Deloitte LLP is the United Kingdom member firm of DTTL.

This publication has been written in general terms and therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Deloitte LLP would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. Deloitte LLP accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

© 2016 Deloitte LLP. All rights reserved.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 2 New Street Square, London EC4A 3BZ, United Kingdom. Tel: +44 (0) 20 7936 3000 Fax: +44 (0) 20 7583 1198.