DERIVATIVES TRADE REPORTING RULES ROUNDUP

UPCOMING CHANGES IN DERIVATIVES TRADE REPORTING ACROSS THE GLOBE

DTCC
ADVANCING FINANCIAL MARKETS. TOGETHER.™

JULY 2022

WHAT WAS THE ORIGINAL PLAN?

The 2008 financial crisis shone a spotlight on the need for greater transparency in the global derivatives markets to help regulators mitigate systemic risk. In response, at the 2009 G20 Summit in Pittsburgh, policymakers agreed that all derivatives transactions should be reported to trade repositories and made available to regulators.

As early as 2010, before the first trade repositories had gone live, DTCC amongst others, identified the potential issue of derivatives data fragmentation arising between regulatory regimes if the reporting mandates were not synchronised. It was widely agreed that maximum global data harmonization was necessary to deliver the necessary transparency which the G20 policymakers had originally envisaged through the implementation of trade reporting.

WHAT HAPPENED TO THAT PLAN?

Fast forward eleven years – while progress has been made, there remain significant differences between jurisdictions in terms of the data that must be reported, the mechanisms by which reports must be made and the standards to which reported data must conform. These jurisdictional differences fall short of the G20's desired goal, resulting in the inability to effectively monitor the global system risk introduced by derivatives markets.

WHAT IS THE NEW PLAN?

The major jurisdictions continue to make changes to their local policies, procedures and standards via regulatory re-writes that frequently focus on domestic efficiency rather than global alignment. More specifically, the currently proposed changes driving the adoption of critical data elements (CDE) for derivatives trade reporting together with the use of **Unique Transaction Identifiers (UTI), Unique Product Identifiers (UPI) and Legal Entity Identifiers (LEI)** are key for enabling cross-border data aggregation that will meet the G20 original goal of identification and mitigation of cross border systemic risk.

The **CPMI-IOSCO Harmonisation Group (Harmonization Group)** has devised standardized terminology and identified the CDE for derivatives transactions irrespective of where trades are reported, with their final list of 100 CDE published in 2018. However, Harmonisation Group standards are recommendations only, the actual adoption of CDE is within the remit of the local regulatory authority.

The good news is that regulators in two of the world's biggest derivatives markets, the **Commodity Futures Trading Commission (CFTC) in the US, and the European Securities and Markets Authority (ESMA) in Europe**, are aligned on some of the most important CDE of trade reporting and on the usage of standard identifiers, including UTI, UPI, Effective Date, Expiration Date, Notional Amount and Counterparty 1 (reporting counterparty) and Counterparty 2. However, differences remain in reporting fields and approaches which will create implementation burdens for market participants who will need to manage these continuing differences between jurisdictions.

STANDARDIZED MESSAGING FORMATS

The Harmonization Group also advocates an ISO 20022 message structure to ensure data is in a fully standardized format with a view to eliminating the risk of discrepancies due to different message protocols, inconsistent implementation of message protocols, and the existing need for data translation and transformation. The ISO 20022 Derivatives working group [of which DTCC is a member] is currently working on this message definition and imperative to its success will be drawing on the industry's experience of reporting XML standards.

GLOBAL REGULATORY ROADMAP

2022

Q2 — **ISO 20022** Expected Availability

DEC — **NoA Phase 1 Re-Write**

2023

TBC — **UPI** Expected Availability *

OCT — **ASIC Phase 1 Re-Write** LEI & UTI adoption

TBC — ***NoA Phase 2 Re-Write***

2024

APR —
EU-EMIR Refit
ASIC Phase 2 Re-Write ISO 20022 & UPI adoption
JFSA Re-Write LEI, UTI & ISO 20022 adoption
MAS Re-Write CDE, UTI & UPI adoption, ISO 20022 under discussion

TBC — ***HKMA Re-Write***

H2 — ***UK-EMIR Refit***

*From the DSB's February 8, 2022, statement delaying UPI availability: "This revised DSB approach aims to facilitate UAT nine months ahead of any major regulatory mandate, followed by launch of the Production service (with reportable UPIs) three months ahead of any major regulatory reporting mandate."

- Regulatory rule change implementation
- Global data standard availability

WHAT REGULATORY REWRITES ARE COMING AND WHEN ARE THEY DUE?

NORTH AMERICA REPORTING REWRITE:

Given the nature of trade reporting in North America, DTCC's Global Trade Repository service (GTR) will implement all applicable changes for Canada (all 13 regulators) and SEC reporting in alignment with the CFTC's compliance dates.

FROM THE CFTC'S JANUARY 31, 2022 STATEMENT

With respect to the ISO 20022 and UPI data standards, the Division does not believe that this no-action letter necessitates any change to the Commission's previously noted intention to require the use of those standards when they become available. The Division currently expects the use of those standards to be required by the Commission in Q4 2023.

CFTC REWRITE PHASE 1:

Implementation date of December 5, 2022 (delayed from May 25, 2022)

This is the most significant change to trade reporting rules in the US since OTC derivatives reporting was first implemented by the CFTC under the Dodd-Frank Act in 2012.

Notable revisions include:

- ***Changes to data requirements:*** Requirements for reporting new swaps and the definition and adoption of swap data elements that harmonize with international technical guidance are outlined in a CFTC Technical Specifications document. Of note, the CFTC has proposed the adoption of 71% (78 out of 110) of the CPMI-IOSCO Harmonization Group's final list of CDE. Of these 78 CDE, 51 correspond to ESMA's required CDE.

- ***Timing of reporting:*** The regulatory update will require that some reporting counterparties, Swap Dealer (SD), Major Swap Participant (MSP) and Designated Clearing Organization (DCO), for example, report swap continuation data by T+1 following execution date, while others are required to report swap continuation data by T+2, post execution.

- ***Swap data verification:*** (CFTC only) All SD, MSP and DCO reporting counterparties are required to verify either directly or via third party delegation, open swap data at regular intervals. Non- SD, MSP or DCO reporting counterparties are required to verify open swap data once every quarter. Should the reporting counterparty identify errors or omissions in the SDR reports they must correct the reports within seven business days and if unable to, must notify the CFTC's Division of Market Oversight and include a remediation plan.

CANADA REWRITE:

Expected implementation in mid-2024, with potential for delays

It is anticipated that Canadian regulators will align their rewrite with the CFTC's rule changes.

ESMA EMIR REFIT:

Expected Implementation in April 2024, with potential for delays

In December 2020, ESMA published its technical standards, including CDE, under the EMIR Refit regulation, which were approved by the European Commission in June 2022 and are now in the process of being approved by European Union lawmakers. ESMA's proposed timeline for implementation of the new rules is in April 2024, with potential for delays.

The ESMA proposed changes include:

- ***Harmonization of data in June 2022 standards:*** Alignment with the global guidance developed by CPMI IOSCO on the definition, format and usage of key OTC derivatives data elements reported by trade repositories, including UTI, UPI and other CDE. ESMA's EMIR Refit proposes adopting 75% (82 out of 110) of the CDE recommended by CPMI IOSCO. Of these, only 51 correspond to CFTC's required CDE.
- ***End to end reporting in ISO 20022 XML:*** ESMA proposes that XML schemas developed in line with ISO 20022 methodology are adopted for reporting between trade reporting counterparties, as well as for communication between trade repositories and reporting counterparties.

FCA EMIR REFIT:

Expected Implementation in late 2024, with potential for delays

In November 2021 the FCA released a consultation paper regarding 'Changes to reporting requirements, procedures for data quality and the registration of Trade Repositories under UK EMIR'. Whilst this consultation paper did indicate the main concepts of UK EMIR would remain aligned to its EU equivalent there were some areas that may diverge based upon the differing approaches the respective authorities will take, such as the FCA consulting on the Reconciliation fields and tolerances before publishing final guidelines in the FCA handbook.

The FCA's proposed timeline for implementation of the new rules is also in late 2024, with potential for delays.

ASIA-PACIFIC REGION:

Expected Rewrites in H1 2024

In the Asia-Pacific region, regulators are engaging with each other regularly to coordinate the rewrites and adoption of unique transaction and products identifiers and the incorporation of CDE. ASIC have publicly shared that regulators in Australia, Singapore, Japan and Hong Kong have focused on "maximum international alignment", improving data quality, and striking an appropriate balance between commercial considerations, costs for industry, and regulatory needs and outcomes. They are also targeting a common implementation date of April 1, 2024 and maximum alignment with each other's regimes, in addition to alignment with international standards and practices on the UTI, UPI, LEI and CDE.

ASIC REWRITE

The first regulator to kick it off is the Australian Securities and Investment Commission (ASIC) which initiated their first consult in November 2020 to update the ASIC Derivative Transaction Rules (reporting) issued in 2013 to create alignment with international jurisdictions on areas such as UTI and LEI. The second consultation was released in May 2022, consulting on a two phase implementation approach along with UTI, UPI, CDE, ISO 20022 amongst other topics, beginning with the adoption of LEI and UTI in October 2023 and the inclusion of UPI and the ISO 20022 message schema in April 2024.

ASIA-PACIFIC REGION CONT'D.

MAS REWRITE

The Monetary Authority of Singapore (MAS) has started the process to amend the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013. The MAS consultation process kicked off in early July 2021 and the consultation period is now closed. MAS intends to finalise the reportable data fields and the UTI guidelines by Q4 2022 and is targeting H1 2024 for the implementation of the revised requirements.

HKMA REWRITE

The Hong Kong regime is jointly administered by the Securities and Futures Commission and the Hong Kong Monetary Authority shared that they are in progress of issuing a consult for CDE and UPI targeted for H2 2022 but they stayed away from committing on regulatory implementation timelines apart from saying they expect implementation to be sometime in 2024 but not earlier than April 1, 2024.

JFSA REWRITE

For its part, Japan's Financial Services Agency (JFSA) has announced that implementation of (1) Decommissioning Direct Reporting Option and (2) implementation of global harmonization (CDE, UTI) will be April 1, 2024 -- a date chosen to align with other APAC jurisdictions. JFSA hosted a final industry meeting in June 2022 for finalization of data fields and best practice 'Guidelines', which then will be posted for public consultation in July. It is expected that JFSA will finalize the new rules by the end of September of this year.

THE CHALLENGES THESE RULE CHANGES CREATE

In addition to the lack of harmonized data standards to monitor global systemic risk, these revamped trade reporting rules will create fresh challenges for market participants in terms of aligning with new and differing regulatory reporting rules. Challenges include:

CONSTANT REGULATORY CHANGE

Inconsistent adoption of new data requirements – including UTI, UPI and ISO 20022 messaging – by regulators will require firms to continually reassess and update their trade reporting technology processes as the changes roll out. Compliance is and will remain a moving target, with failure potentially leading to penalties and reputational damage.

COST PRESSURE

Operating and maintaining internal trade reporting systems is expensive. The cost of continuously updating infrastructure to accommodate differing reporting timelines and requirements will be even greater, especially if approached in a tactical versus strategic manner.

RESOURCE SKILLSET CHALLENGES

Sourcing regulatory reporting expertise to meet multiple different jurisdictional reporting requirements is challenging for firms.

DTCC

ADVANCING FINANCIAL MARKETS. TOGETHER.™

HOW DTCC CAN HELP

When it comes to firms' reporting infrastructure, controls and processes, firms should consider finding a service that delivers the greatest value and readies them for the regulatory changes taking effect in 2022 and beyond. The **DTCC Report Hub® service** is a highly efficient pre and post trade reporting solution that can help firms manage the complexities of meeting multiple regulatory mandates across jurisdictions. With comprehensive jurisdictional and regulation coverage, the service can help firms mitigate compliance risks, enhance operational efficiencies, and drive down costs.

Learn More

In addition, you can tap into our expertise to help you tackle your reporting challenges and assist in getting you reporting ready. Our **DTCC Consulting Services** is uniquely positioned to provide firms with consulting services that tap into the breadth and depth of our experience to help you transform your post-trade business operations, increase efficiencies, reduce risks and drive down costs. For over 45 years, our clients have trusted us to solve the biggest issues facing the global financial services industry. This unique vantage point has enabled us to develop techniques and tools that can help drive innovation and transformation.

Learn More

See www.dtcc.com for a detailed description of DTCC, its affiliates and the services they offer. 27598-TC07122022 DTCC Public (White)