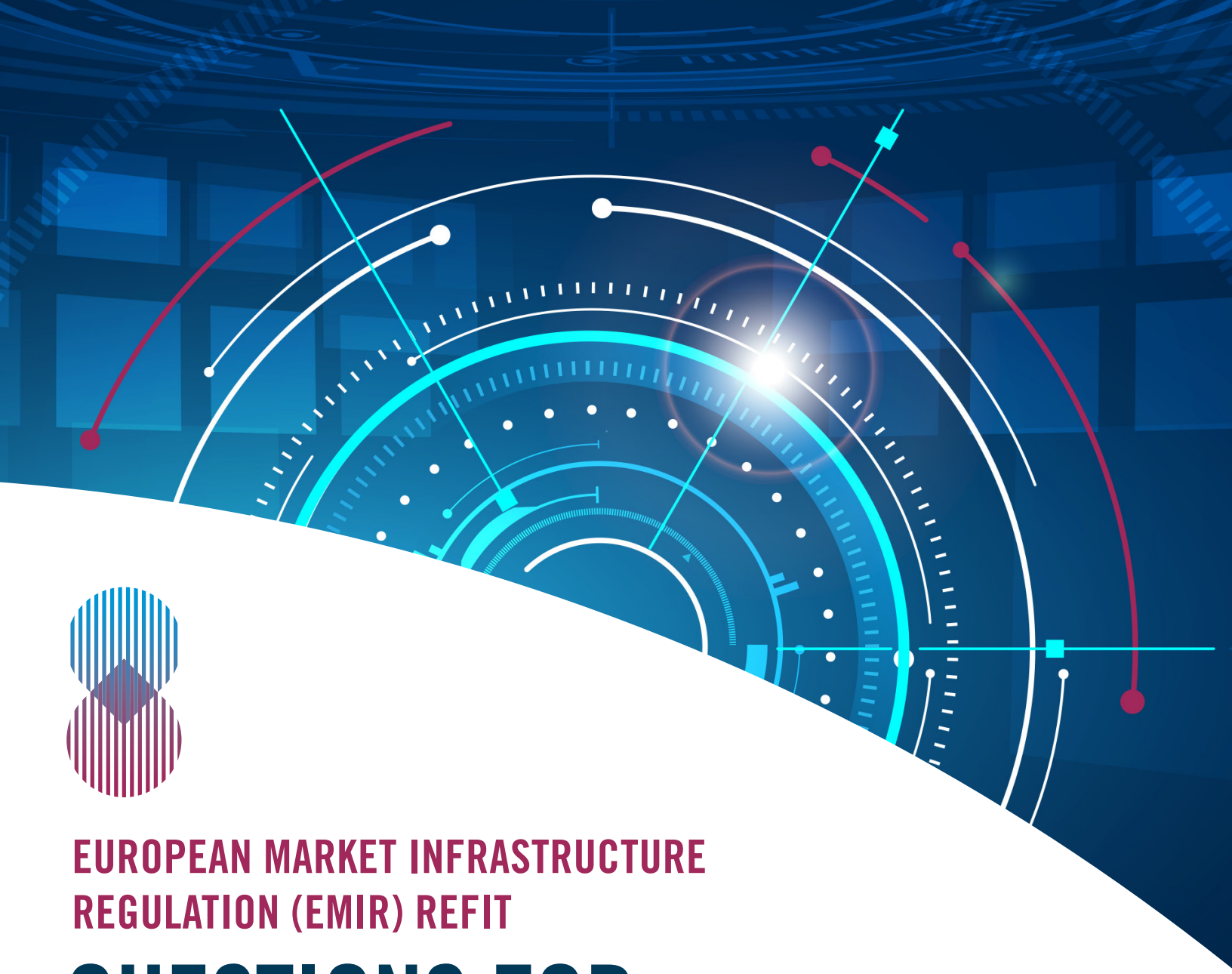

EUROPEAN MARKET INFRASTRUCTURE REGULATION (EMIR) REFIT

QUESTIONS FOR FIRMS TO CONSIDER AS THEY PLAN FOR IMPLEMENTATION

DTCC

ADVANCING FINANCIAL MARKETS. TOGETHER.℠

The European Securities and Markets Authority (ESMA) recently conducted their regulatory fitness and performance programme (Refit) for the European Market Infrastructure Regulation (EMIR). The review found amendments to the regulation are necessary to address rising compliance costs and regulatory transparency issues. The expected production implementation date for EMIR Refit is Q1 or Q2 2023.

The Depository Trust & Clearing Corporation (DTCC), which provides trade reporting services through its licensed trade repositories in 22 jurisdictions, servicing approximately 8,500 clients, has compiled this document to assist firms as they start their planning for the implementation of EMIR Refit. Reporting under EMIR is through DTCC Data Repository (Ireland) Plc (DDRIE). Please note this checklist is not legal or compliance advice related to meeting your EMIR Refit requirements.*

SUBMITTING DATA INTO THE TRADE REPOSITORY

"A key element for the correct functioning of the reporting regime under EMIR and ensuring the quality of derivative reporting is the validation by trade repositories (TRs) of the data submission by the counterparties that are subject to the reporting obligation."

— EMIR Refit Final Report, Paragraph 502

SUB TASK	KEY CONSIDERATIONS
New Technical Standards and Validation Rules	• The number of reportable fields is increasing significantly from 125 to 203. Have you completed the necessary gap analysis on the new reportable fields? • Do you have the relevant operational experience to map data from internal systems to appropriately populate these new fields?
Cutover to the New Technical Standards	• ESMA indicated a six-month transition period for updating trades into the latest format. Do you have all the relevant data to update historic trades into the latest technical standards?
Response Files	• ESMA indicated they will provide a standard set of error codes for use in response files. What does this mean for your control framework if DDRIE's ACK/NACK codes are no longer used post-go live? • Are the new error messages sufficiently granular for your control process?
Use of XML: ISO 20022	• Have you considered how you are going to generate XML reports? • Do you have sufficient experience in-house to implement the move to XML reporting? • Do you require a CSV-to-XML converter?

* The content, information and any materials provided by The Depository Trust and Clearing Corporation ("DTCC") and/or its affiliated companies or subsidiaries in this document is provided on an "as is" basis and for informational purposes only and does not constitute legal or compliance advice, a recommendation, offer or invitation to engage in any investment or other financial activity. DTCC disclaims all warranties, expressed or implied, as to the accuracy of any data provided, including, without limitation, liability for quality, performance and fitness for a particular purpose arising out of the use of the data. DTCC shall not have any liability, duty, or obligation for or relating to the data contained herein, any errors, inaccuracies, omissions, or delays in the data, or for any actions taken in reliance thereon. Any unauthorized use, including but not limited to copying, distributing, transmitting or otherwise of any data appearing herein without written consent is not permitted and may violate the proprietary and intellectual property rights of DTCC under applicable intellectual property laws and associated regulations and statutes.

VALUATION REPORTING

"ESMA proposes to leave the valuation fields and the guidance unchanged. The formats are also to be kept unchanged."

— EMIR Refit Final Report, Paragraph 362

SUB TASK	KEY CONSIDERATIONS
Valuation Reconciliation	• Whilst the reportable valuation fields will remain unchanged, the new valuation reconciliation requirement introduces a new layer of complexity. The point in time when contracts are valued may differ across counterparties; therefore, ESMA recommended that those details be reported at the end of each day. Would this contradict your current process for reporting valuations (i.e., contracts are valued intraday or point in time)?

COLLATERAL REPORTING

"The current Regulatory Technical Standards and Implementing Technical Standards on reporting only require the reporting of margins before haircuts have been applied. However, providing both pre- and post-haircut information would enable authorities to identify emerging risks on derivatives markets due to changes in the applied haircuts."

— EMIR Refit Final Report, Paragraph 366

SUB TASK	KEY CONSIDERATIONS
Pre- and Post-Haircut Collateral Reporting	• Currently, EMIR only requires the reporting of margin before the haircut has been applied. Will your collateral systems support the added complexity of reporting pre- and post-haircut?

END-OF-DAY REPORTS

"Trade Repositories should provide the reporting counterparties, report submitting entities, entities responsible for reporting as well as third parties which have been granted access to information under Article 78(7) EMIR as applicable, with certain end-of-day information which should allow them to enhance the quality of the data reported under EMIR."

— EMIR Refit Final Report, Paragraph 612

SUB TASK	KEY CONSIDERATIONS
Standard Set of End-of-Day Reports (Trade Activity, Trade State, Rejection, Reconciliation, Valuation, Collateral and an Abnormal Values Report)	• Are these seven reports sufficient for reporting counterparties, reporting submitting entities and entities responsible for reporting to manage their data? • These reports will not be in the format of the reports (i.e., the support report, TSR or TAR) that you receive today from DDRIE. Have you budgeted for the technology build to ingest these new report formats?
XML or CSV Reporting	• At this time, it is not clear if TRs will be able to provide a choice of XML or CSV reports back to reporting counterparties, reporting submitting entities and entities responsible for reporting. If CSV reporting is the preference, would you be able to convert XML reports into CSV? Would a CSV-to-XML conversion tool be required? • Have you considered any additional internal tooling operational teams you may require?
End-of-Day Report SLAs	• As indicated in the final report, TRs will be required to provide reports by 6 a.m. UTC on the following working day to which the trade was reported. With the earlier provision of these reports, is there any way operational processes can be enhanced (i.e., correct mismatches earlier in the day)?

KEY NEW FIELDS

"ESMA proposed to leverage on the opportunity to revise the regulatory and implementing technical standards on reporting under Article 9 of EMIR and align, to the extent feasible, the reporting requirements in EU with the global guidance in order to foster the data harmonisation and facilitate the reporting to the entities that must comply also with the reporting requirements in other jurisdiction(s)."

— EMIR Refit Final Report, Paragraph 2

SUB TASK	KEY CONSIDERATIONS
Event Type Versus Action Type and Managing Lifecycle Events	• ESMA indicated that firms must now indicate the action type and the event type, which is a significant change to lifecycle event management. Have you considered the implications to event choreography? • The internal sources of these new event types may sit across multiple applications. Have you mapped these event types to application source and determined how this feeds reporting systems?
Action Type: Revive	• Whilst not a new field, the action type "revive" has been added to provide counterparties with the ability to reopen trades after being terminated or cancelled by mistake. Are changes required in your reporting system to account for reviving a previously closed trade?
UPI	• In the long term, the Unique Product Identifier (UPI) should simplify reporting and data aggregation as it reduces the number of reportable fields. Have you considered how you will incorporate the UPI into reporting applications? • Have you budgeted to pay for the UPI service?
Prior UTI	• Prior Unique Trade Identifiers (UTIs) provide entities the ability to link transactions. Is the prior UTI obtainable for trades that must be upgraded to the latest technical standards? • Have you considered how you would link these transactions and any impact of sourcing the prior UTIs?
PTRR ID	• The PTRR ID will be used to link trades that have been through an event such as a compression. Will all service providers be able to provide this ID with sufficient time to meet T+1 reporting?

Key New Fields (cont.)

SUB TASK	KEY CONSIDERATIONS
Entity Responsible for Reporting	• This field represents the entity responsible and legally liable for reporting. If you are a reporting submitting entity, have you considered the scenarios in which the entity responsible for reporting field is to be populated? • In certain cases, the entity responsible for reporting field must be populated with details of the fund management company. If you are a reporting submitting entity, do you have sufficient details of the fund management company to facilitate this?
Direction of Leg 1 / Leg 2	• As outlined in the final report, there are certain transactions (i.e., equity swaps, FX swaps and FX forwards) where the counterparties should determine the payer and the receiver of each leg as determined at the time of the transaction. Would this information be stored for reporting trades that are open pre-EMIR Refit?
Reporting Obligation of the Counterparty 2	• This field is an indicator of whether the counterparty 2 has the reporting obligation under EMIR. Are you able to determine your counterparties' reporting obligations?
Notional Schedule Fields (Multiple)	• Under the EMIR Refit Final Report firms must report the notional amount schedules up front. Have you considered the implications for how to construct a repeatable notional schedule?
Package Fields (Multiple)	• Under EMIR Refit, the package spread must be reported, which may provide challenges if package deals are booked as two separate trades. Have you considered how you book package deals in your trade capture systems?

RECONCILIATION

"The TRs should reconcile the details of the two sides of the derivative that are reported. This results from the legal basis in Article 78(9)(a) EMIR, as amended by EMIR REFIT, which provides that the TR shall establish 'procedures for the effective reconciliation of data between trade repositories.' Furthermore, Article 78(10)(a) EMIR, as amended by EMIR REFIT, mandates ESMA to develop Regulatory Technical Standards (RTS) specifying those procedures."

— EMIR Refit Final Report, Paragraph 523

SUB TASK	KEY CONSIDERATIONS
30 Days Post-Maturity	• In line with Securities Financing Transaction Regulation (SFTR), ESMA confirmed that trades should only be reconciled for 30 days post-maturity or termination. Have you considered the operational impact of this?
Trade Versus Valuation Reconciliation Statuses	• Whilst the valuation reconciliation is to launch two years post-EMIR Refit go live, it should be considered as soon as possible. Have you considered the quality of your valuation data?
Increase in Number of Reconcilable Fields	• At the point of go live, there will be 85 reconcilable fields. Two years post-go live, there will be an additional 66 fields introduced into the reconciliation. Have you assessed your data quality in all of these newly reconcilable fields?
Reconciliation During the Six-Month Transition Period	• ESMA indicated a six-month transition period for updating trades into the latest format. Have you considered how this will impact reconciliation? • Do you need to coordinate this activity with your counterparties?
Correcting Reconciliation Breaks within Seven Days	• As documented in the EMIR Refit Final Report, ESMA will require counterparties to engage with each other to resolve reconciliation breaks without undue delay. • Do you have relationships with all counterparties and entities responsible for reporting? • Have you considered the impact of having to correct Reconciliation breaks without undue delay? Do you have a reporting application that will support this remediation work?
Documenting How the P&M Works	• As documented in the EMIR Refit Final Report, firms must put in place written procedures ensuring resolution of all reconciliation breaks. Have you considered what these procedures must contain?

MANDATORY DELEGATED REPORTING

"Financial counterparties shall be solely responsible, and legally liable, for reporting on behalf of both counterparties, the details of Over-the-Counter (OTC) derivative contracts concluded with a nonfinancial counterparty that does not meet the conditions referred to in the second subparagraph of Article 10(1) [of EMIR], as well as for ensuring the correctness of the details reported."

— EMIR Refit Final Report, Paragraph 5

SUB TASK	KEY CONSIDERATIONS
NFC- and FC Notifications	• ESMA indicated the non-financial counterparty (NFC) has 10 working days to notify report submitting entities (RSEs) of changes. Based upon financial counterparties (FCs) current operating model, is this sufficient time to stop or start reporting for an entity? • ESMA stated that for scenarios where information is not available on TR reports (such as related outages or IT incidents) they expect the report submitting entities to inform the reporting counterparties and entities responsible for reporting. Do you have procedures in place for this today?
Removal of Mandatory Delegated Indicator	• The removal of the mandatory delegated indicator under EMIR Refit will result in the "clearing threshold" and 'entity responsible for reporting' fields being used to indicate a mandatory delegated obligation. Are you comfortable with this logic, and do you capture whether a counterparty is above or below the aforementioned clearing threshold?

EXPLICIT PERMISSIONING

SUB TASK	KEY CONSIDERATIONS
Negative or Positive Consent for Authority to Report on behalf of	• TRs must ask for confirmation from the reporting counterparty (RC) or entity responsible for reporting (ERR) that the report submitting entity is allowed to report on their behalf. Do you have sufficient operational relationships with counterparties, so as not to inhibit timely reporting and/or become a major operational burden? Note: DDRIE has submitted a proposal to ESMA outlining issues with obtaining consent if the RC or ERR is not onboarded.

MISCELLANEOUS

SUB TASK	KEY CONSIDERATIONS
Third-Party Viewer	• The third-party viewer field is a proprietary field and will no longer be available when EMIR Refit goes live (due to XML schema restrictions). Have you considered the alternatives for providing third parties access to your data?
Internal Trade ID	• The internal trade ID or transaction ID field is a proprietary field and will no longer be available when EMIR Refit goes live (due to XML schema restrictions). Have you determined how this field is used by your firm? • Have you considered any alternatives noting there are no free format fields within ISO 20022 XML?
Execution Agent	• The execution agent field is a proprietary field and is unlikely to be available when EMIR Refit goes live (due to XML schema restrictions). Have you considered how execution agents will gain access to the data given DDRIE will no longer be able to provide execution agent-specific reports?
Reserved for Participant 1 – 5	• The reserved for participant 1-5 fields are proprietary fields and will no longer be available at the point EMIR Refit goes live (due to XML schema restrictions). Have you determined how this field is used by your firm? • Have you considered any alternatives noting there are no free format fields within ISO 20022 XML?

DTCC IS HERE TO HELP EVERY STEP OF THE WAY

Whilst the EMIR reporting regime is already in place, we believe the challenges the EMIR Refit poses are significant. From the move to ISO 20022 and the introduction of the new fields, to the changes to reporting and reconciliation, we strongly believe impacted firms should begin their planning as soon as possible.

DDRIE will be making its user-acceptance-testing environment available for clients to start testing well in advance of the go live date in addition to a multitude of readiness workshops and events.

ALLEVIATE THE PRE- & POST-REPORTING BURDEN WITH DTCC REPORT HUB

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 2021 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.



LET THE POST-TRADE EXPERTS HELP YOU TRANSFORM YOUR REPORTING CONTROL FRAMEWORK

In addition, you can tap into our expertise to help you tackle your reporting challenges and assist in getting you ready for your compliance reporting. 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 some of the biggest issues facing the global financial services industry. This unique vantage point has enabled us, through DTCC's family of companies, to develop techniques and tools that can help firms drive innovation and transformation.

With the help of our post-trade experts, we can help you address these challenges and help you get ready for the swathe of regulatory changes, including EMIR Refit, taking effect over the next few years. DTCC Consulting Services experts leverage our proprietary **Reporting Control Framework Model** to conduct a deep-dive diagnosis and propose an implementation plan to enable you to enhance your reporting processes by aiming to increase operational efficiencies, drive down costs and mitigate risks.

DTCC Consulting Services. Our Expertise, Your Organization.

CONTACT US TODAY