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
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!

<table>
<thead>
<tr>
<th>Description</th>
<th>Interest &amp; Credit</th>
<th>Commodity, FX &amp; Equity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report swaps executed on/after this date</td>
<td>July 1, 2013</td>
<td>August 19, 2013</td>
</tr>
<tr>
<td>Report swaps executed between April 10 and July 1 / August 19</td>
<td>August 1, 2013</td>
<td>September 19, 2013</td>
</tr>
<tr>
<td>Report “historical” swaps executed before April 10</td>
<td></td>
<td>October 31, 2013</td>
</tr>
</tbody>
</table>
# Key Dates - Other

**Dodd-Frank reporting and recordkeeping requirements are in effect!**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Compliance date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Swap Data Recordkeeping</td>
<td>April 10, 2013</td>
</tr>
<tr>
<td>Mandatory Clearing</td>
<td>Credit, interest: Sept 9, 2013</td>
</tr>
<tr>
<td></td>
<td>Commodity, FX, equity: TBD*</td>
</tr>
<tr>
<td>End-User Exemption Election</td>
<td>Credit, interest: Sept 9, 2013</td>
</tr>
<tr>
<td></td>
<td>Commodity, FX, equity: TBD*</td>
</tr>
</tbody>
</table>

* 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
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

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Counterparty</td>
<td>Amongst others: investment firm, credit institution, insurance undertaking</td>
</tr>
<tr>
<td>NFC+</td>
<td>Non Financial Counterparty with positions exceeding the clearing threshold</td>
</tr>
<tr>
<td>NFC-</td>
<td>Non Financial Counterparty with positions below the clearing threshold</td>
</tr>
</tbody>
</table>
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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Compliance Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Record Keeping</td>
<td>August 16, 2012</td>
</tr>
<tr>
<td>Confirmations</td>
<td>March 15, 2013</td>
</tr>
<tr>
<td>• Portfolio Reconciliation</td>
<td>September 15, 2013</td>
</tr>
<tr>
<td>• Portfolio Compression</td>
<td></td>
</tr>
<tr>
<td>• Dispute Resolution</td>
<td></td>
</tr>
<tr>
<td>Reporting of all asset classes</td>
<td>February 12, 2014</td>
</tr>
<tr>
<td>Mandatory Clearing</td>
<td>Undetermined</td>
</tr>
<tr>
<td>Historical Reporting</td>
<td>February 2017</td>
</tr>
</tbody>
</table>
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?
Presenters

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