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Regulatory Data Handbook 2020/21

Eighth Edition

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Introduction

A survivor's guide to regulatory change

Welcome to the eighth edition of A-Team Group's Regulatory Data Handbook, a 'must have' for capital markets participants during a period of unprecedented change. With the UK's exit from the EU just months away, we are beginning to see the first signs of divergence between UK and EU rules, and more will surely follow. The coronavirus pandemic, which caused extreme market volatility earlier this year, has also led to revisions including delays in regulatory reporting and, once again, postponement of the implementation of Fundamental Review of the Trading Book (FRTB).

Meanwhile, regulatory change continues with amendments and clarifications to existing regulations, and sizeable updates of anti-money laundering rules, the Basel regulatory framework, and the shareholder rights directive. The arrival of new regulatory giants including Central Securities Depositories Regulation (CSDR), Investment Firms Directive and Regulation (IFD/IFR), and Securities Financing Transactions Regulation (SFTR) adds to demands on data, as do emerging environmental, social and governance (ESG) regulations.

In this rather special edition of the Regulatory Data Handbook, we cover regulatory change, detail new regulations, note the effects of COVID-19, and bring you news of regulations that will be changed by the UK Government's initial plans to create a UK regulatory regime post-Brexit.

To help you address regulatory compliance, we have also included the data and data management requirements of each regulation, proposed timelines, and links to original regulatory texts and other publications that we hope will be helpful.

If you would like to follow these regulations and their applications, the technologies that best support compliance, ongoing industry and regulatory interest in easing the challenges of compliance and creating opportunity, and much more, sign up to access A-Team Group's Insight channels dedicated to Data Management, RegTech, and TradingTech at **www.a-teaminsight.com**.

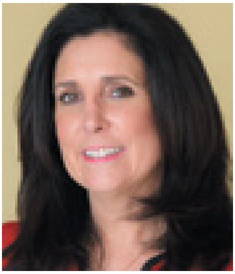
In these times of social distancing, you can also find solutions to your capital markets technology problems by joining our highly regarded webinars and virtual summit conferences, and reading our blogs and white papers.

Finally, thank you to the sponsors of this handbook, and we hope you will find it a useful resource among the many we offer at A-Team Group.

Angela Wilbraham
Chief Executive Officer
A-Team Group

Foreword

By Linda Coffman, Executive Vice President, The SmartStream Reference Data Utility



The coronavirus pandemic has caused unprecedented circumstances in capital markets this year, challenging market participants to focus on new operational models that match resource limitations caused by the virus while meeting daily requirements.

Regulators, too, have been monitoring the situation, offering short delays to some obligations such as phase one reporting under Securities Financing Transactions Regulation (SFTR), and publication of annual non-equity transparency calculations and quarterly systematic internaliser (SI) data under Markets in Financial Instruments Regulation (MiFIR). Longer term, the European Banking Authority (EBA) has extended compliance with Fundamental Review of the Trading Book (FRTB) regulation, which has already been extended a couple of times, by another year to January 2023.

Despite changes specific to the pandemic, on the whole regulation has not slowed down. As we head towards the end of 2020, it's time to plan for regulatory changes coming over the horizon and, of course, Brexit. In the UK, to ease the potential burden of change that could be caused by Brexit, the Financial Conduct Authority (FCA) has committed to aligning a sizeable slice of regulation with that of the European Union.

We are cautiously optimistic that some time over the horizon, most regulators will engage on alignment in their new-found role as data managers, and shift the conversation to become more sensitive to industry calls for standardised and accessible data. Recent actions have made it clear that regulators are open to working with industry experts and data providers to ensure that data accessibility and data quality are no longer concepts left to the industry to sort through itself.

In the meantime, a forward thinking and strategic approach to regulatory compliance based on flexible data management can help firms source accessible and normalised data as necessary. This avoids the problems

Foreword

of a tactical approach, such as over-reporting, which is increasingly condemned by regulators, and the need for several iterations of data sourcing and management that result in expensive compliance.

As a service provider, The SmartStream Reference Data Utility (RDU) supports firms building out a strategic approach to compliance by eliminating the headache of sourcing data from multiple providers and, instead, pulling together regulatory data on a cloud platform and making it available to individual clients as and when they need it. Application programming interfaces (APIs) ease regulatory data ingestion by giving firms fast access to reference data for a range of regulations.

We are also seeing more industry collaboration on data standards and filling data gaps. The SmartStream RDU, by way of example, is working with six Approved Publication Arrangements (APAs) to allow SIs under MiFID II to share their status and discern which SI in a transaction needs to report the deal.

The prospect of the industry coming together is truly heartening. Firms will be able to decrease resource allocation to regulation, data standardisation will lower the cost of compliance, and greater transparency will help firms and regulators meet the ultimate goals of regulation.

This won't happen overnight, but it is on the horizon.

SmartStream

AIFMD

At a Glance

Regulation: Alternative Investment Fund Management Directive (AIFMD)

Regulatory Regime: EU

Target Market Segment: Alternative investment funds

Core Requirements: Identification of asset types, third-party valuation of fund assets, reporting

Significant Milestones

July 21, 2011: Adopted by the European Commission

July 22, 2013: Directive comes into force

2017/18: European Commission delays review of extension of passport system to non-EU countries as UK negotiates exit from EU under Brexit

March 2018: Proposal for a supplementary AIFM Directive (AIFMD 2)

August 2, 2019: Two-year national implementation period began with full transposition by August 2, 2021

June 10, 2020: European Commission report on AIFMD

Key Links

Full Updated Text: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02011L0061-20190113

June 2020 European Commission Report on AIFMD: https://ec.europa.eu/transparency/regdoc/rep/1/2020/EN/COM-2020-232-F1-EN-MAIN-PART-1.PDF

Description and Data Requirements

The Alternative Investment Fund Management Directive (AIFMD) is an EU directive that focuses on data and transparency requirements in alternative fund managers' fund registration, valuation and reporting processes. The goal of the directive is to set regulatory standards and create a level playing field for the operation of alternative investment funds in Europe through the use of reporting and governance requirements. It requires firms to establish 'appropriate and consistent' procedures to allow for the independent valuation of a fund's assets. To achieve this, the valuation must be performed either by an independent third party or by the asset manager, provided there is separation between the pricing and portfolio management functions.

AIFMD also aims to facilitate regulatory systemic risk monitoring by improving transparency. To this end, funds must register with national regulators and provide disclosure on their risk management systems and investment strategies in order to present a clear picture of their overall risk and data management capabilities. Finally, AIFMD introduces capital requirements for firms acting as third-party administrators for alternative investment funds

As with many other regulations, firms within the scope of AIFMD need to maintain the accuracy and quality of their reference data, and support any standards requirements for the identification of instruments, such as Market Identification Codes (MICs) and Legal Entity Identifiers (LEIs).

One of the most challenging data management aspects of the regulation is completing Annex IV, a broad and prescriptive transparency reporting requirement that must be fulfilled by alternative investment fund managers. The annex includes a reporting template that comprises more than 40 questions, requiring managers to provide information including instruments traded, exposures, assets under management, liquidity profiles, a breakdown of investments by type, geography and currency, and stress test results.

The reporting frequency for Annex IV is determined by assets under management. Firms managing between €100 million and €500million must file Annex IV reports annually, while those managing between €500 million and €1 billion are expected to file on a semi-annual basis, and those running in excess of €1 billion must submit reports on a quarterly basis.

While AIFMD initially covered alternative investment fund managers and funds registered in the EU, providing them with a passport system that allows fund managers and funds registered in one EU member state to market products to other member states, the European Securities and Markets Authority (ESMA) has been investigating whether the passport system should be extended to non-EU alternative investment fund managers and funds.

In July 2015, ESMA published initial advice on the application of the passport system to six non-EU countries, namely Guernsey, Hong Kong, Jersey, Switzerland, Singapore and the US. In July 2016, ESMA extended its advice on the application of the passport system to a further six countries, namely Australia, Bermuda, Canada, Cayman Islands, Isle of Man and Japan. ESMA's advice on all 12 non-EU countries was due to be considered by the European Commission before any decisions were made on extending the passport system, but negotiations on the withdrawal of the UK from the EU under Brexit have delayed decisions by the European Commission on ESMA's advice.

AIFMD

In March 2018 the European Commission launched a proposal for a supplementary AIFM Directive (AIFMD 2), amending AIFMD to provide a uniform regime for the pre-marketing of alternative investment funds. Directive (EU) 2019/1160 and the accompanying Regulation (EU) 2019/1156 were published in the Official Journal of the EU on July 12, 2019. A two-year national implementation period began on August 2, 2019 and the Directive is expected to be fully transposed by August 2, 2021.

The amended rules aim to harmonise the marketing and pre-marketing position across EU member states to standardise the point at which the fund must be registered with the local regulator. AIFMD 2 applies only to pre-marketing by EU AIFMs, not non-EU AIFMs.

However, Recital 12 to AIFMD 2 notes that complying with the new rules should not disadvantage EU AIFMs over non-EU AIFMs, suggesting that regulators are likely to apply the same definition of pre-marketing to non-EU AIFMs.

Under Article 69 of AIFMD the European Commission is required to review the scope and application of the directive to establish its impact on investors, AIFs and EU and non-EU AIFMs, and determine whether the AIFMD's objectives have been achieved.

The Commission began its review in 2018 with a general survey about the functioning of AIFMD. The results were published in January 2019. The Commission noted that most of the AIFMD provisions were assessed as having achieved their objectives, but also identified areas requiring further analysis.

Building on the results of the survey, the Commission continued with its review of AIFMD and on June 12, 2020 published its report noting that: "AIFMD has improved the monitoring of risks to the financial system and the cross-border raising of capital for investments in alternative assets; AIFMD has played a role in creating an internal market for AIFs and reinforcing the regulatory and supervisory framework for AIFMs in the EU; and AIFMs are operating with more transparency for investors and supervisors."

The report has been submitted to the European Council and Parliament, and the Commission is expected to issue a consultation on AIFMD in the third quarter of 2020. Any subsequent legislative proposals are likely to follow in mid-2021 and are likely to be focused on: marketing and distribution; leverage and liquidity; depositary passport; reporting; and supervisory convergence.

AMLD6

Significant Milestones

1990 – 2020: EU adopts and enforces five AML directives

Dates for Diary

December 3, 2020: AMLD6 to be transposed into law

June 3, 2021: AMLD6 implementation

Key Links

Full text: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.284.01.0022.01.ENG

Description and Data Requirements

The sixth EU Anti-Money Laundering Directive (AMLD6) is a development of both AMLD4 and AMLD5. Its arrival close on the heels of AMLD5 highlights the EU's intent to protect the integrity of the financial system and challenge the ever growing problem of anti-money laundering. Like AMLD5, AMLD6 expands the requirements of regulated firms within the scope of the directive through the use of amendments.

Member states are required to transpose AMLD6 into law by December 3, 2020, with implementation due by June 3, 2021.

Key amendments to the directive include:

- An updated list of predicate offences for money laundering. The list includes 22 offences that member states must criminalise and includes extensions such as environmental offences and cybercrime.
- Additional offences such as aiding and abetting, and attempting and inciting money laundering
- An extension of criminal liability to legal persons such as companies, as well as individuals, that commit offences for the benefit of their organisation, including where the offence was made possible by lack of supervision of an individual
- An increase in the minimum prison sentence for money laundering offences for individuals from one year to four years. Punishments for legal persons include exclusion from public benefits or aid; a temporary or even permanent ban from doing business; compulsory winding up; and a temporary or permanent closure of establishments used to commit the offence

At a Glance

Regulation: Sixth Anti-Money Laundering Directive (AMLD6)

Regulatory Regime: EU

Target Market Sector: Financial institutions

Core Requirements: Legal entity and beneficial ownership data, customer data due diligence, screening for sanctions, PEPs and adverse news

AMLD6

- Increased international co-operation for prosecution of money laundering; where two member states have jurisdiction over the prosecution of an offence, they must collaborate and agree to prosecute in a single member state
- A dual criminality component that requires member states to criminalise money laundering arising from six specified predicate offences, even if the conduct constituting the offences is lawful in the jurisdiction in which it is committed: the six offences are: participation in an organised criminal group and racketeering; terrorism; trafficking in human beings and migrant smuggling; sexual exploitation; illicit trafficking in narcotics and psychotropic substances; and corruption

The extended requirements of AMLD6 beyond those of AMLD5 – which sought to improve the transparency of beneficial owners of legal entities, enhance customer due diligence measures, strengthen rules around counter-terrorism financing, lower the thresholds of electronic money and prepaid instruments, and bring into scope virtual currency and electronic wallet providers – are a tough, but necessary, challenge for financial firms and member states.

As a first step of implementing the extended requirements, firms will need to develop a deep understanding of each of the predicate offences, their relevant risk factors and typologies. This will require strong AML policies within the organisation and may require additional hires to a firm's compliance and risk assessment team.

Data sourcing and management will need to be expanded to alert firms to 22 predicate offences as well as additional offences. They will also be stretched as criminal liability is extended to companies and other legal entities.

Useful solutions include AML software platforms based on machine learning and AI technologies that can monitor a huge number of transactions in real-time, perform sanctions and politically exposed persons (PEPs) screening, raise alerts, and avoid an abundance of false positives.

Specialist data vendors offer extensive company information and corporate structures that are combined with sanctions and other adverse data to help firms gain a detailed view of counterparties and the individuals behind them, and quickly identify any potential compliance and financial crime hotspots.

AnaCredit

Significant Milestones

2011: European Central Bank initiates AnaCredit

December 2017: Early adoption

September 30, 2018: Phase 1 reporting starts covering loans granted by credit institutions to legal entities

July 18, 2019: ECB establishes procedure for recognising non-euro area member states as reporting member states under AnaCredit

Q4 2018 – Q4 2019: Phase two and three reporting extend reach of AnaCredit

Key Links

Text: https://www.ecb.europa.eu/ecb/legal/pdf/celex_32016r0867_en_txt.pdf

At a Glance

Regulation: AnaCredit

Regulatory Authority: European Central Bank

Target Market Sector: EU credit institutions

Core Data Requirements: Counterparty, instrument, collateral and accounting data

Description and Data Requirements

AnaCredit (analytical credit datasets) is a European Central Bank (ECB) regulation set up to build a dataset of detailed information on individual bank loans and deposits in the Euro area and harmonised across all EU Member States.

It is designed to make it possible to identify, aggregate and compare credit exposures and to detect associated risks on a loan-by-loan basis. The project was initiated in 2011, early adoption was introduced in December 2017, and full data collection and complete reporting started on September 30, 2018.

The scope of data collection covers data on credits extended or serviced by EU credit institutions that are not branches of other credit institutions; foreign branches of EU credit institutions, including non-Euro area branches; and foreign branches that are located in the Euro area but are part of a credit institution resident outside the Euro area.

In the first stage, only credit data related to loans of a minimum €25,000 and extended to legal entities that are not natural persons have to be reported. Loans to private households are not covered.

The second and third stages of reporting were rolled out from the end of 2018 to the close of 2019. They cover additional financial institutions such as deposit taking corporations other than credit institutions, asset management vehicles and other financial corporations.

The regulation requires over 100 data points to be reported

AnaCredit

for each exposure, including 94 data attributes and seven unique identifiers used several times across various regulatory templates.

The ECB expects the information provided to be 'granular, exact and detailed'. The required information includes data related to the counterparty, such as LEI code, address, balance sheet total, data related to the instrument, type, currency, status, interest rate type, payment frequency, data related to the collateral, type of protection, location, value, and accounting data, such as accumulated impaired amount and source of encumbrance.

Mostly recently, in July 2019, the ECB established procedures it would follow to recognise non-euro area member states as reporting member states under AnaCredit.

Basel IV

Significant Milestones

December 7, 2017: BCBS publishes reforms to Basel III referred to as Basil IV

May 2018: Consultation paper on capital requirements for market risk

January 14, 2019: BCBS oversight body endorses revisions, implementation date January 1, 2020

March 27, 2020: BCBS delays implementation deadline

Dates for Diary

January 1, 2023: Implementation of body of Basel IV

January 1, 2023 to January 1, 2028: Phased implementation of output floors

Key Links

Final Basel III reforms: https://www.bis.org/press/p171207.htm

BCBS defers implementation: https://www.bis.org/press/p200327.htm

Revisions to market risk framework: https://www.bis.org/bcbs/publ/d457.pdf

At a Glance

Regulation: Basel IV

Regulatory Authority: BCBS and national supervisory authorities

Target Market Segment: Global financial institutions

Core data requirements: Risk data, regulatory data, data classification

Description and Data Requirements

Changes to the Basel III global regulatory framework commonly known as Basel IV are designed to make capital ratios more robust and improve confidence in the financial system following the crisis of 2008. They are also central to market risk and capital calculations at the heart of the Fundamental Review of the Trading Book (FRTB) regulation that is due to be implemented in January 2023.

The Basel III reforms were published by the Basel Committee on Banking Supervision (BCBS) on December 7, 2017, concluding proposals and consultations that had been ongoing since 2014 and considering credit risk, credit value adjustment (CVA), operational risk, leverage ratio, and output floors.

Output floors, which set a floor in capital requirements calculated under internal models, were the most controversial aspect of the reforms, as market participants suggested their introduction would raise capital requirements. Aiming to resolve the problem, the BCBS agreed to set an initial output floor that will rise over a five-year period.

The key aims of the Basel III revisions were to reduce excessive variability

Basel IV

of risk-weighted assets (RWAs). At the peak of the financial crisis, a wide range of stakeholders lost faith in banks' reported risk-weighted capital ratios. Analysis by BCBS also noted material variability in banks' calculation of RWA.

A consultation document on revisions to minimum capital requirements for market risk was published in May 2018, before the BCBS oversight body, the Group of Central Bank Governors and Heads of Supervision (GHOS), met on January 14, 2019 and endorsed a set of revisions to the market risk framework that would enhance its design and calibration.

Key revisions included:

- Introduction of a simplified standardised approach (SA) for banks with small or non-complex trading portfolios
- Clarification of the scope of exposures subject to market risk capital requirements
- Enhanced risk sensitivity of the SA by revising the treatment of foreign exchange risk, index instruments and options
- Revision of SA risk weights applicable to general interest rate risk, foreign exchange risk and selected credit spread risk exposures
- Revamping of the assessment process to determine whether a bank's internal risk management models appropriately reflect the risks of individual trading desks
- Revision of requirements for identifying risk factors that are eligible for internal modelling and the capital requirement applicable to risk factors that are deemed non-modellable

The revisions were informed by quantitative impact analyses by BCBS. Once implemented, the revised framework is estimated to result in a weighted average increase of about 22% in total market risk capital requirements relative to the Basel 2.5 framework published in 2009. In contrast, the framework issued by the BCBS in 2016 as part of the development that would lead to the Basel II revisions resulted in a weighted average increase of about 40%. The share of risk-weighted assets (RWAs) attributable to market risk remains low, at around 5% of total RWAs.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Basel IV

The implementation date of Basel IV was initially set as January 1, 2022, with the output floor phased in from January 1, 2022 to January 1, 2027.

However, on March 27, 2020, the BCBS announced that it would delay implementation of Basel IV to allow banks to focus resources on navigating the coronavirus pandemic. The revisions now have an implementation date of January 1, 2023, with the transitional arrangement for the output floor to extend to January 1, 2028.

A revised market risk framework finalised by the GHOS in January 2019 and due to be implemented alongside the Basel III reforms endorsed by the GHOS in December 2017, has also been delayed to January 1, 2023. Disclosure requirements finalised in December 2018 have been pushed back to the same date.

Implementation of Basel IV is widely acknowledged by capital markets participants to be one of the biggest challenges of the next few years, and one that must be tackled sooner rather than later. Ultimately, the introduction of new rules covering the calculation of RWA and the capital ratios of all banks are expected to make a fundamental impact on the development of banks' strategies and how they shape their business models.

From a data management perspective, challenges include sourcing and analysing more, and more difficult to source, data than previously to meet revised approaches to aggregating and understanding market risk, and completing capital requirement calculations. Disclosure includes details of regulatory capital and its reconciliation with reported accounts, as well as comprehensive explanations of how banks calculate regulatory capital.

BCBS 239

Significant Milestones

June, 2012: Consultation paper released
January 9, 2013: Regulation published
January 1, 2016: Compliance deadline

Key Links

Full Text: www.bis.org/publ/bcbs239.pdf
Progress Report 2019: https://www.bis.org/bcbs/publ/d501.pdf

At a Glance

Regulation: BCBS 239
Regulatory Authority: BCBS and national supervisory authorities
Target Market Segment: Global financial institutions
Core Requirements: Risk data aggregation and reporting

Description and Data Requirements

BCBS 239 is a regulation issued by the Basel Committee on Banking Supervision (BCBS) and is designed to improve risk data aggregation and reporting across financial markets. It is based on 14 principles that cover disciplines ranging from IT infrastructure to data governance and supervision, and came into force on January 1, 2016.

BCBS 239 is acknowledged across the financial industry as a base for improved risk data aggregation, data governance and accurate reporting. The BCBS 2019 progress report published in April 2020, shows that banks have made notable improvements in their implementation of the principles since the previous assessment.

While these efforts are reflected in governance, risk data aggregation capabilities and risk-reporting practices, there is still considerable work ahead for several banks, especially with respect to the further improvement of their data architecture and IT infrastructure.

The BCBS 239 principles are interdependent, designed to underpin accurate risk aggregation and reporting in normal times and times of crisis, and split into four sets.

The first set of principles covers data governance and IT architecture requirements necessary to risk data aggregation and reporting.


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BCBS 239

The focus here is on top-down methodology and oversight by bank executives. The second set details effective risk data aggregation across a bank, outlining a framework for automated aggregation of complete, accurate and timely data that can support on-demand reporting.

The third set of principles aims to improve risk reporting, and with a push to establish clear and useful reports, it addresses the requirement for frequent and well distributed reports that can be tailored to business needs across departments.

The fourth set requires supervisors, including regulatory authorities, to determine whether the principles are achieving desired outcomes and define any corrective action.

BCBS 239 is a supplement of the capital adequacy requirements of Basel III, which consider whether firms have enough resources to monitor and cover risk exposure. Like Basel III, BCBS 239 has a significant effect on data management, requiring firms to improve risk data aggregation capabilities according to the principles and present accurate risk data for reporting.

Risk data must be captured across a bank, which means consistent data taxonomies need to be established, and the data needs to be stored in a way that makes it accessible and easy to understand, even in times of financial crisis. While many banks adhered to some of the principles of BCBS 239 due to other regulatory obligations before the compliance deadline, most had work to do to ensure compliance with all the principles, particularly those covering data governance, risk data aggregation and reporting. As with other regulations, compliance can be eased by breaking down data silos and creating a single enterprise-wide view of risk.

While BCBS 239 was originally published in January 2013 with the intent that G-SIBs should be compliant by the January 2016 deadline, many G-SIBs struggled with the automation of risk data

BCBS 239

aggregation and were not fully compliant when the regulation took effect. Instead, they were either materially compliant and able to show regulators a small subset of risk reports, or able to show substantive plans, a commitment to compliance and a timetable for completion.

Domestic systemically important banks (D-SIBs) are advised, rather than required, by national supervisors to adhere to the principles of BCBS 239, although some are expected to act ahead of regulatory intervention, acknowledging the potential advantages of BCBS 239 compliance including better customer service, improved business decisions based on accurate and timely information, reduced operational costs and increased profitability.

The BCBS augmented BCBS 239 requirements around liquidity in 2016 with the issuance of BCBS 248. This layers a new requirement on BCBS 239 that improves the understanding of risk by superseding BCBS 239 requirements for inter-day liquidity monitoring and requiring intra-day monitoring. The outcome is greater resilience and robustness in financial markets.

Benchmarks Regulation

At a Glance

Regulation: Benchmarks Regulation

Regulatory Regime: EU

Target Market Sector: Global financial institutions

Core Data Requirements: Index and benchmark data management, data governance

Significant Milestones

September 18, 2013: European Commission proposes regulation

June 30, 2016: Regulation comes into force

August 13, 2016: Implementing regulation comes into force

January 1, 2018: Compliance deadline

December 2021: FCA deadline for Libor transition

January 1, 2020: EU benchmark administrators providing benchmarks before January 1, 2018 have until January 1, 2020 to apply to their EU national competent authority for authorisation or registration

Key Links

Text: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R1011

Register of Benchmarks Administrators: https://registers.esma.europa.eu/publication/searchRegister?core=esma_registers_bench_entities

ISDA Benchmarks Supplement Protocol: https://www.isda.org/protocol/isda-2018-benchmarks-supplement-protocol/#targetText=The%20ISDA%202018%20Benchmarks%20Supplement,master%20agreements%20quickly%20and%20efficiently

Description and Data Requirements

Benchmarks Regulation, or Regulation on Indices used as Benchmarks in Financial Instruments and Financial Contracts or to Measure the Performance of Investment Funds, is an EU regulation that came into force in June 2016. It aims to make benchmarks more reliable and less open to manipulation by improving how they function and are governed.

Regulation of benchmarks was initially proposed by the European Commission in September 2013 following alleged manipulation by financial firms of benchmarks including the London Interbank Offered Rate (Libor), the Euro Interbank Offered Rate (Euribor) and other benchmarks such as those for foreign exchange and commodities.

The June 2016 regulation was followed by a European Commission implementing regulation establishing a list of critical benchmarks used in financial markets. The implementing regulation came into force in August 2016 and allowed supervisors to make use of certain provisions of the

Benchmarks Regulation

Benchmarks Regulation in advance of its application in January 2018.

The regulation requires benchmark providers to be authorised or registered by their national competent authority (NCA), and defines a benchmark as 'any index by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument is determined or an index that is used to measure the performance of an investment fund.

It also sets out three main categories of benchmarks:

Critical benchmarks
Benchmarks used for financial instruments, contracts and performance of investment funds having a total value of at least €500 billion, and meeting qualitative criteria such as location of contributors and importance of the benchmark in the country where a majority of contributors is located.

Significant benchmarks
Benchmarks used for financial instruments, contracts and performance of investment funds having a total value of at least €50 billion over a period of six months, and meeting qualitative criteria such as the benchmark has no reliable substitute, and its absence would lead to market disorder.

Non-significant benchmarks
Benchmarks that do not fulfil the conditions set for critical or significant benchmarks.

Euribor was the first benchmark to be included in the list of critical benchmarks. It has since been joined by Libor and the Euro Overnight Index Average (Eonia) with further additions to the list expected to be added by the European Commission in due course.

Benchmarks Regulation contributes to the accuracy and integrity of benchmarks by ensuring contributors to benchmarks are subject to authorisation and on-going supervision. It also improves the governance of benchmarks, for example providing provisions for the management of conflicts of interest, and requiring greater transparency of how a benchmark is produced.

Finally, the regulation will ensure appropriate supervision of critical benchmarks. The regulation affects all firms using benchmark data, including banks, pension funds and insurance companies. These firms must access, store, manage and distribute growing volumes of index and benchmark data stemming from diverse and increasing number of sources.

Firms that customise or create composite benchmarks will become benchmark administrators and will

Benchmarks Regulation

need to implement data governance policies to ensure they comply with the regulation, a task that will become onerous as these types of benchmarks are more widely adopted and create the need to manage increasing volumes of bespoke data.

Libor transition

The Benchmarks Regulation also requires that users of benchmarks must produce and maintain a "robust written plan" outlining the actions they would take in the event that a benchmark materially changed or ceased to be provided, including the nomination of an alternative benchmark where feasible.

This is currently most relevant in the UK, where Libor is due to cease at the end of 2021, requiring firms to transition away from Libor to alternative risk-free rates (such as the Sterling Overnight Index Average, SONIA) for sterling markets. This transition is expected to present substantial data management challenges as firms attempt to upgrade and monitor their systems throughout process.

In September 2018, ISDA published the ISDA 2018 Benchmarks Supplement, developed primarily to facilitate compliance with the EU Benchmarks Regulation, but which can also be used by market participants in connection with their transition away from inter-bank offered rates (such as Libor).

On December 10, 2018 ISDA published the Benchmarks Supplement Protocol, a multilateral contractual amendment mechanism enabling adhering parties to incorporate the Supplement into relevant transactions with multiple counterparties on the same platform, rather than having to amend contracts by way of a separate bilateral negotiation with each one.

Most recently, on June 30, 2020, the UK Government confirmed plans to introduce new legislation to amend the Benchmarks Regulation to give the FCA more power to manage and direct an orderly wind-down of critical benchmarks such as Libor. The powers proposed will be available where the FCA has found that a critical benchmark is not representative of the market it seeks to measure.

CCAR

Significant Milestones

March 18, 2011: First CCAR conducted

November 22, 2011: Federal Reserve issues final rule on capital plans

January 30, 2017: Federal Reserve excludes large and non-complex firms from the qualitative assessment of CCAR

2018: Federal Reserve adds six IHCs to the stress test

June 27, 2019: Federal Reserve releases 2019 CCAR results

Key Links

Overview: https://www.federalreserve.gov/supervisionreg/ccar.htm

CCAR 2020: https://www.federalreserve.gov/newsevents/pressreleases/bcreg20200625c.htm

Description and Data Requirements

The Comprehensive Capital Analysis and Review (CCAR) is an annual exercise carried out by the Federal Reserve to assess whether the largest bank holding companies (BHCs) operating in the US have sufficient capital to continue operations through times of economic and financial stress, and have robust, forward-looking capital planning processes that account for their risks.

The Federal Reserve issued the CCAR capital plan rule in November 2011, requiring BHCs with consolidated assets of $50 billion or more to submit annual capital plans for review. The regulation has since been expanded to cover BHCs with consolidated assets of $10 billion or more and foreign banks with US operations exceeding $50 billion in assets.

The Federal Reserve capital plan rule specifies four mandatory requirements that span both quantitative and qualitative factors. The first requirement is an assessment of the expected uses and sources of capital over a nine-month planning period. The assessment must include estimates of projected revenues, losses, reserves and proforma capital levels and capital ratios over the planning period under baseline conditions, supervisory stress scenarios, and at least one stress scenario developed by the BHC and appropriate to its business model and portfolios.

The second requirement calls for a detailed description of a BHC's process for assessing capital adequacy, while the third requirement covers a BHC's capital policy, and the fourth requires a BHC to notify

At a Glance

Regulation: Comprehensive Capital and Analysis Review (CCAR)

Regulatory Regime: US Federal Reserve Board

Target Market Segment: Large bank holding companies

Core Data Requirements: Financial, risk and reference data, data aggregation, reporting

CCAR

the regulator of any changes to its business plan that are likely to have a material impact on its capital adequacy or liquidity.

The Federal Reserve can object to a capital plan if it has either quantitative or qualitative concerns about the plan or underlying elements such as governance, internal controls, risk identification and management, management information systems, and assumptions and analysis that support the capital planning process.

On January 30, 2017, the Federal Reserve Board finalised a rule adjusting its capital plan and stress testing rules, effective for the 2017 cycle. The rule removed large and non-complex firms from the qualitative assessment of CCAR, focusing the qualitative review in CCAR on the largest, most complex financial institutions.

Large and non-complex firms are defined as BHCs and US intermediate bank holding companies as IHCs. These firms are still required to meet capital requirements under stress as part of CCAR's quantitative assessment and will be subject to regular supervisory assessments that examine their capital planning processes.

Since 2018, the Federal Reserve has been working towards resetting CCAR and reducing the regulatory burden while increasing transparency. In May 2018 the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Relief Act) was passed, promising a more risk-based approach and exempting institutions with under $100 billion in assets.

In October 2018, it introduced a new rule defining four categories for firms with assets above $100 billion, replacing the previous 'large and complex' and 'large and non-complex' definitions, each subject to different stress-testing requirements.

In February 2019 the Federal Reserve extended further relief to less-complex firms from stress testing requirements and CCAR by effectively moving the firms to an extended stress test cycle for this year, applicable for firms with total consolidated assets between $100-250 billion. These less-complex firms were not subject to a supervisory stress test during the 2019 cycle.

In March 2019, the Federal Reserve also announced that it would limit the use of the 'qualitative objection' for CCAR 2019. The changes eliminate the qualitative objection for most firms due to the improvements in capital planning made by the largest firms.

From a data management perspective, CCAR requires data sourcing, analytics, risk identification, risk data management and risk data aggregation for stress tests designed to assess the capital adequacy of BHCs and for regulatory reporting purposes. Data must be accessed, validated and reconciled across a BHC, often requiring data to be managed across several siloed systems, to provide consistent and accurate data. Financial, risk and reference data must then be integrated to fulfil the regulation's annual reporting requirement.

The extent of data required for compliance and the Federal Reserve's focus on risk identification and its link to capital planning and scenario generation, as well as on enterprise risk management and data governance, call for a move away from siloed systems and investment in a robust and automated regulatory framework and a flexible reporting solution.

The Federal Reserve widened the scope of CCAR, with the addition of six IHCs to the stress test in 2018.

CCAR is complemented by Dodd-Frank Act stress testing (DFAST), a forward-looking exercise that is supervised by the Federal Reserve and designed to help assess whether institutions have sufficient capital to absorb losses and support operations during adverse economic conditions. CCAR and DFAST are distinct testing exercises, although they do rely on similar processes, data, supervisory exercises and requirements.

On June 25, 2020, the Federal Reserve Board released results of stress tests for 2020 and additional sensitivity analyses conducted in light of the coronavirus event.

The results of the sensitivity analyses led the board to take actions to ensure large banks remain resilient despite the economic uncertainty posed by the coronavirus pandemic. For the third quarter of this year, the Board is requiring large banks to preserve capital by suspending share repurchases, capping dividend payments, and allowing dividends according to a formula based on recent income. The Board is also requiring banks to re-evaluate their longer-term capital plans.

COREP

At a Glance

Regulation: Common Reporting (COREP)

Regulatory Regime: EBA

Target Market Segment: European financial institutions

Core Data Requirements: Risk and capital adequacy reporting

Significant Milestones

January 1, 2014: UK starts Corep reporting

January 18, 2017: EBA updates XBRL taxonomy for reporting

September 2018: Publication by EBA of draft Data Point Models (DPM) on proposed changes to LCR reporting

October 26, 2018: Deadline for feedback on proposed revisions to LCR reporting

May 28, 2019: Publication of amendments to supervisory reporting

March 31, 2020: First reporting reference date for COREP changes

Key Links

Guidelines: http://www.eba.europa.eu/documents/10180/37070/CP04rev2_Annex-1.pdf

Final Draft ITS 2019: https://eba.europa.eu/documents/10180/2751085/Final+draft+ITS+amending+Regulation+680-2014+%28EBA-ITS-2019-01%29.pdf

Description and Data Requirements

Common Reporting (COREP) is a standardised reporting framework issued by the European Banking Authority (EBA) for reporting under the Capital Requirements Directive IV (CRD IV). The framework includes a number of templates to support the reporting of credit risk, market risk, operational risk, own funds and capital adequacy ratios.

The regulation has been adopted by most European countries and covers all banks, building societies and investment firms, essentially firms covered by the prudential sourcebook for Banks, Building Societies and Investment Firms (Bipru). It requires these firms to make a substantial review of the quantity, quality and frequency of data disclosures they make as part of their regulatory reporting regimes.

For many institutions, COREP means altering processes, implementing management oversight of reports and reviewing reports for accuracy in a timely manner. The increased granularity of information required for reports increases the volume of data that must be managed, while reports must present an enterprise view of data, often requiring finance and risk functions to work together to provide consistent underlying data.

Additionally, the quality and robustness of data may need to be enhanced to generate more frequent reports and firms must ensure their systems can support the

XBRL taxonomy that is mandated by COREP for reporting. The taxonomy was updated by the EBA in January 2017. Reports with reference dates from June 30, 2017 onwards must use the new taxonomy, known as set 2.6.

COREP also introduces new schedules, such as Immovable Property Losses and Group Solvency, that firms may not be familiar with, so understanding these categories and definitions prior to reporting is crucial to ensure reports are filed correctly.

COREP was due to be implemented alongside CRD IV and the corresponding Capital Requirements Regulation in 2013, with firms within its scope submitting capital adequacy reports within 30 days of the end of each quarter. Regulated organisations in the UK have been required to use COREP to make regular statutory reports since January 1, 2014. In total, the reporting framework has been adopted by 30 European countries.

On August 28, 2018 the EBA launched a consultation to review proposed revisions to Implementing Technical Standards (ITS) for COREP Liquidity Coverage Requirement (LCR) reporting for credit institutions. The proposed revisions reflected an amendment to the Capital Requirements Regulation made in July 2018 regarding the calculation of inflows and outflows in securities financing transactions.

In May 2019, the EBA published amendments to the ITS on supervisory reporting. The updated corresponding Data Point Model (DPM) and XBRL taxonomy include amendments to COREP to reflect the new securitisation framework, as well as amendments with regard to liquidity in response to the LCR Delegated Act, and clarifications and corrections as regards reporting on COREP and additional monitoring metrics for liquidity (technical amendments).

The package forms part of the EBA reporting framework version 2.9. The first reporting reference date was March 31, 2020 for COREP changes, April 30, 2020 for changes regarding liquidity (LCR and ALMM) and December 31, 2019 for resolution planning.

CRD IV and CRD V

At a Glance

Regulation: Capital Requirements Directive IV (CRD IV)

Regulatory Regime: EU

Target Market Segment: European banks

Core Data Requirements: Risk profile and disclosure of capital adequacy

Significant Milestones

January 1, 2014: Effective data

May 25, 2018: Council of the European Union agrees CRD V, a new package of measures aimed to reduce risk in banking

May 14, 2019: European Council adopts CRR II and CRD V reforms.

June 7, 2019: CRR II and CRD V regulations published in the Official Journal of the EU.

June 27, 2019: CRR II and CDR V enter into force.

Dates for Diary

December 28, 2020: Deadline for changes to local CRD rules to achieve CRD V

June 28, 2021: Implementation deadline for the majority of CRR II provisions

Key Links

Full CRD V Text: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0878&from=EN

Description and Data Requirements

Capital Requirements Directive IV (CRD IV) is the fourth version of a European Commission regulation that implements Basel III type standards covering market liquidity risk and bank capital adequacy across the EU. The directive is divided into two parts: the Capital Requirements Regulation (CRR), which applies to all firms in the EU and includes most of the Basel III provisions in a single rulebook; and the Capital Requirements Directive (CRD), which is implemented by national law and includes provisions for transparency, governance and capital buffers. CRD IV applies to investment firms and credit institutions within the scope of Markets in Financial Instruments Directive II (MiFID II) and focuses on improving the quality and quantity of their available capital. It builds on previous capital requirements directives, extends corporate governance and supervisory requirements, and adds sanctions for non-compliance. It also introduces capital requirements based on risk-weighted assets (RWAs), capital buffers designed to protect firms from potential market upheaval, and liquidity and leverage requirements to ensure firms can meet cash outflows and handle stress testing scenarios. Reporting is standardised

CRD IV and CRD V

using Financial Reporting (FINREP) and Common Reporting (COREP).

CRD IV came into effect on July 1, 2014.

The spectre of CRD V appeared in November 2016, when the European Commission outlined proposals to amend the Capital Requirements Regulation and the Capital Requirements Directive.

On May 25, 2018 the Council of the European Union agreed on a new package of measures aimed to reduce risk in the banking industry. The banking reform package comprises Directive 2013/36 (or CRD V), along with the Capital Requirements Regulation and Directive (regulation 575/2013or CRR II, Bank Recovery and Resolution Directive (directive 2014/59/EU or BRRD 2), and Single Resolution Mechanism Regulation (806/2014 or SRMR 2).

In April 2019, the European Parliament endorsed an agreement on the banking reform, with CRD V expected to come into force by the end of 2020 and CRR II by mid-2021, which means banks need to be working on how they will implement the proposals now.

Key elements of the package include:

- Leverage ratio requirement: There will be a binding 3% ratio of non-risk weighted assets to Tier 1 capital for all institutions in addition to current risk weighted capital requirements
- Net stable funding ratio (NSFR): This will be set at 100%. NSFR requires banks to make sure that any exposures are matched with stable funding sources and measures the ratio of available stable funding (ASF) to the required amount of stable funding (RSF) over a one year time period
- Market risk: A new market risk framework for reporting purposes has been set. The FRTB set out what level of capital was needed to absorb trading losses but due to time constraints, CRR II has only addressed the reporting requirement. The capital elements of FRTB will be implemented at a later point but until then banks will still need to use current CRR for calculating market risk capital
- Own-fund deductions: Depending on the type of software asset, it won't necessarily have to be deducted from Tier 1 capital as per current rules
- Pillar 2 capital: Under CRD V, the current Pillar 2 framework is set to change and make the distinction between mandatory Pillar 2 add-ons, which are more like capital buffers, and the supervisory expectation that firms hold capital additional to Pillar 1

CRD IV and CRD V

- Pillar 2 guidance: Firms will have to meet Pillar 2 capital with at least 75% Tier 1 capital. This is similar to what capital the PRA currently requires banks to hold to meet their Pillar 2 capital requirement
- Proportionality: Smaller, less complex banks will have less onerous disclosure requirements under CRR II. Simpler alternatives are being introduced for smaller banks to calculate market risk, NSFR, counterparty credit risk and interest risk in the banking book. A simplified counterparty credit risk will be available to banks with derivatives of less than 10% of the bank's total assets or €300 million
- CRD V requires large third-party country institutions with over €40 billion of assets (including third party branch assets) to establish an intermediate EU holding company (IPU). This will allow for easier supervision and resolution of EU activities but introduces a new consolidation group requirement for many third-party banks.
- Financial crime: New measures will also be introduced to enhance the role of prudential supervisors in combating money laundering and terrorist funding.

Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending the Capital Requirements Directive IV as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures (CRD V) was published alongside CRR II in the Official Journal of the EU on June 7, 2019. Both regulations entered into force on June 27, 2019. Member States have until December 28, 2020 in which to amend their local CRD rules in order to reflect the new CRD V provisions.

CSDR

Significant Milestones

August 2014: CSDR published in the Official Journal

September 17, 2014: CSDR enters into force

September 2017: CSDs file for CSDR authorisation

Dates for Diary

February 1, 2021: Entry into force of CSDR settlement discipline regime

January 1, 2023: Any new securities to be issued in book-entry form

January 1, 2025: All securities to be in book-entry form

Key Links

Text: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R0909

ESMA statement on settlement: https://www.esma.europa.eu/regulation/post-trading/settlement

FAQs: https://ec.europa.eu/commission/presscorner/detail/en/MEMO_14_312

At a Glance

Regulation: Central Securities Depositaries Regulation (CSDR)

Regulatory Regime: EU

Target Market Segment: EU Central Security Depositories

Core Requirements: Securities settlement, authorisation, reporting

Description and Data Requirements

The Central Securities Depositories Regulation (CSDR) is one of the key regulations adopted after the financial crisis and is part of wider EU regulatory reforms including the European Market Infrastructure Regulation (EMIR) and Markets in Financial Instruments Directive II (MiFID II).

CSDR introduces new measures for the authorisation and supervision of EU Central Security Depositories (CSDs) and sets out to create a common set of prudential, organisational, and conduct of business standards at a European level. A large part of the regulation is designed to support the objectives of the Target2Securities (T2S) system through the introduction of a securities settlement regime.

The aim is to harmonise certain aspects of the settlement cycle and settlement discipline, and provide a set of common requirements for CSDs operating securities settlement systems across the EU. CSDR plays a pivotal role in post-trade harmonisation efforts in Europe as it will enhance the legal and operational conditions for cross-border settlement in the EU.

At the operational level of securities settlement, CSDR includes provision of shorter settlement periods,

CSDR

mandatory buy-ins, and cash penalties to prevent and address settlement failures. The new rules also stipulate that CSDs will need to apply for authorisation from their national competent authorities.

CSDR enters into force on February 1, 2021 and applies to all European CSDs and market operators in the context of securities settlement. Trading parties, central counterparties (CCPs), clearing and settlement agents, which are members of the CCPs and CSDs, and trading venues will also be impacted and will have to directly comply with some of the measures, in particular the introduction of a mandatory buy-in regime and cash penalties for settlement failures.

As well as these operational challenges, CSDR sets out three phases of practical implementation:

Phase 1: CSDs and their direct participants must offer clients the choice between omnibus segregation and individual client segregation and inform them of the costs and risks associated with each option.

Phase 2: Internalised settlement reporting applies to both direct and indirect participants of CSDs. An internalised settlement is where two clients trade with each other but as they share the same settlement account, no instruction is actually sent to the CSD. ESMA has drafted technical standards to establish the forms, templates and procedures for the reporting and transmission to the relevant competent authorities.

Phase 3: Settlement discipline regime (SDR) rules introduce measures to prevent settlement fails by ensuring that all transaction details are provided to facilitate settlement, as well as further incentivising timely settlement by cash penalty fines and buy-ins.

CSDR adds a significant operational and reporting burden to the role of CSDs, but by the same token should improve settlement on the basis of the new rules and threats of cash penalties for settlement failures.

CSDR

In one of the first examples of post-Brexit divergence, the UK Government has said it will not adopt the CSDR settlement discipline regime after Brexit, although most UK market participants will still need to comply. Instead, the statement envisages that market participants will continue to rely on existing industry-led settlement discipline contractual frameworks for securities transactions and securities financing transactions (SFTs) that settle via the UK CREST system.

UK market participants will be subject to the CSDR settlement regime when any in-scope securities transactions and SFTs settle via an EU CSD, including both the Euroclear and Clearstream settlement systems, and regardless of where the counterparties to the transaction are located and whether they are direct or indirect participants of the EU CSD.

Dodd-Frank

Significant Milestones

December 2, 2009: Dodd-Frank is introduced to Congress

July 21, 2010: Effective date

July 16, 2015: SEC statement on the fifth anniversary of the regulation

May 22, 2018: Partial Republican rollback of Dodd-Frank to release SME banks from stress-testing

June 25, 2020: FDIC says it will loosen restrictions of the Volcker Rule

Key Links

Full Text: https://www.cftc.gov/sites/default/files/idc/groups/public/@swaps/documents/file/hr4173_enrolledbill.pdf

Final Rules: https://www.cftc.gov/LawRegulation/DoddFrankAct/Dodd-FrankFinalRules/index.htm

FDIC changes Volcker Rule: https://www.fdic.gov/news/speeches/spjun2520a.html

Description and Data Requirements

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) is a US government regulation that was introduced in 2010 in an attempt to prevent the recurrence of events that triggered the 2008 financial crisis.

The regulation largely covers the swaps market, which was previously unregulated, and is designed to promote the financial stability of the US by improving accountability and transparency in the financial system, monitoring companies deemed 'too big to fail', and protecting taxpayers and consumers from abusive financial services practices.

Dodd-Frank includes a large number of rules that have been implemented by the US Securities and Exchange Commission (SEC), along with additional reforms designed to strengthen the nation's financial infrastructure, improve transparency and reduce risk.

The SEC is generally charged with regulating security-based swaps, with input from the US Commodity Futures Trading Commission (CFTC), and the CFTC is generally charged with regulating non-security-based swaps, with input from the SEC.

The introduction of such widespread reform raised significant data management

At a Glance

Regulation: Dodd-Frank Wall Street Reform and Consumer Protection Act

Regulatory Regime: US Government

Target Market Segment: Global financial institutions

Core Data Requirements: Identification of issuers, clients and counter parties

Dodd-Frank

challenges for many financial institutions. One major challenge is the requirement to aggregate, analyse and report on large volumes of disparate data. The aim of the analysis is to provide better oversight of systemic risk, but with it comes the need to develop data architecture that supports stress-testing scenarios designed to promote effective risk management and timely and accurate reporting. To support implementation, Dodd-Frank includes guidelines on managing and analysing data from a variety of sources, as well as guidelines on reporting formats. It also introduces a focus on data standardisation across financial markets that is manifested by the inclusion of the Legal Entity Identifier (LEI), a global standard for unique entity identification that is required by Dodd-Frank not only for reporting, but also as the basis for systemic risk oversight and improved transparency.

In May 2018, US Congress implemented the first major rollback of the regulation, voting 258-159 to free thousands of small and medium-sized banks (with less than $250billion in assets) from the strict stress tests and leaving fewer than 10 banks subject to full Federal oversight. Further legislative rollbacks are thought to be unlikely unless Republicans manage to secure a House and two-thirds Senate majority. However, regulators are moving to relax the Dodd-Frank rules under their own scope.

In August 2019, the Office of the Comptroller of the Currency voted to amend the Volcker Rule in an attempt to clarify what securities trading was and was not allowed by banks. The change would require five regulatory agencies to sign off before going into effect, but is generally seen as a relaxation of the rule's previous restriction on banks using their own funds to trade securities.

On June 25, 2020, Federal Deposit Insurance Commission (FDIC) officials said the agency will loosen the restrictions from the Volcker Rule, allowing banks to more easily make large investments into venture capital and similar funds. In addition, the banks will not have to set aside as much cash for derivatives trades between different units of the same firm. That requirement had been put in place in the original rule to make sure that if speculative derivative bets went wrong, banks wouldn't get wiped out. The loosening of those requirements could free up billions of dollars in capital for the industry.

Dodd-Frank Act stress testing (DFAST) is a forward-looking exercise that is supervised by the Federal Reserve Board and designed to help assess whether institutions have sufficient capital to absorb losses and support operations during adverse economic conditions.

DFAST is complementary to the Comprehensive Capital Analysis and Review (CCAR), an annual exercise carried out by the Federal Reserve to assess whether the largest bank holding companies operating in the US have sufficient capital to continue operations throughout times of economic and financial stress, and have robust, forward-looking capital planning processes that account for their unique risks. DFAST and CCAR are distinct tests, although they do rely on similar processes, data, supervisory exercises and requirements.

EMIR and EMIR REFIT

At a Glance

Regulation: European Market Infrastructure Regulation (EMIR)

Regulatory Regime: EU

Target Market Segment: Global financial institutions

Core Data Requirements: Client, counterparty and trade identification, reporting

Significant Milestones

August 16, 2012: Effective data

February 12, 2014: First reporting deadline

May 2015: European Commission launches review of legislation

January 2017: EMIR 1.5 is adopted

November 2017: Compliance with EMIR 1.5

June 12, 2018: European Parliament votes to make changes to EMIR II

May 28, 2019: Regulation (EU) 2019/834 of the European Parliament and of the Council is published in the Official Journal

June 17, 2019: EMIR REFIT enters into force

July 8, 2020: ESMA provides updated Q&A

Key Links

Emir REFIT Full Text: https://eur-lex.europa.eu/eli/reg/2019/834/oj

ESMA 2020 Q&A update: https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-52_qa_on_emir_implementation.pdf

Description and Data Requirements

European Market Infrastructure Regulation (EMIR) is an EU regulation aimed at improving the transparency of over-the-counter (OTC) derivatives markets and reducing the risks associated with these markets.

To achieve this, EMIR requires OTC derivatives meeting certain requirements to be cleared using a central counterparty (CCP). The CCP must be listed in the European Securities and Markets Authority (ESMA) registry and authorised as described in EMIR so that it is recognised across member states. EMIR also introduces risk mitigation procedures for bilaterally cleared OTC derivatives and requires all derivatives transactions to be reported to a trade repository.

Under EMIR, both counterparties to a trade must ensure that data related to a concluded trade, as well as counterparty data related to the entities involved in the trade, is reported to a trade repository. Both OTC and exchange-traded derivatives must be reported, as well as life cycle events such as give-ups and terminations.

Firms have until the working day following the trade to meet reporting requirements, which presents

EMIR and EMIR REFIT

challenges in ensuring the quality and accuracy of counterparty data, and its timely delivery.

Other reporting issues include the need for firms to conduct an analysis of all their counterparties so that they can fulfil the regulation's classification requirements. This raises data management concerns as firms should aim to maintain an accurate list of counterparties so that they can check their status and track any organisations that are exempt from regulation.

EMIR mandates the use of the Legal Entity Identifier (LEI) and the Unique Trade Identifier (UTI), which is common to both parties to a trade, for reporting to a trade repository.

Overall, EMIR reporting includes more than 80 fields with data divided between two tables, one containing data about the trading entity and the other listing common information, such as contract details. This data must be reported on both sides of the trade.

EMIR came into effect on August 16, 2012, with a reporting deadline of February 12, 2014. In August 2014, the regulation introduced a requirement for financial counterparties and non-financial counterparties to provide daily reports on mark-to-market valuations of positions and on collateral value.

Since the introduction of EMIR, ESMA has approved and registered eight trade repositories for derivatives processing: DTCC Derivatives Repository, UnaVista, KDPW, Regis-TR, CME TR, ICE Trade Vault Europe, and, most recently, the Bloomberg Trade Repository, and NEX Abide Trade Repository.

In August 2017, ESMA issued final guidelines on data transfer between trade repositories authorised under EMIR, saying data portability is essential for data quality, competition between trade repositories and for risk monitoring by authorities. The guidelines establish a consistent and harmonised approach for the transfer of data between repositories and cover the transfer of data at the request of a repository participant and the transfer of data

EMIR and EMIR REFIT

due to withdrawal of repository registration.

During 2014 and early 2015, ESMA authorised 17 European CCPs to offer services in the EU in accordance with EMIR, and in 2015 added 11 third-country CCPs established in Australia, Hong Kong, Japan and Singapore to the list. In 2016, it added a further nine third-country CCPs in South Africa, Canada, Mexico, Switzerland, South Korea, Poland and the US. In 2017, a number of additional third-party CCPs were named, bringing the total to 32.

EMIR 1.5

In accordance with Article 85 of EMIR, the European Commission launched a review of the legislation in May 2015.

The purpose of these activities was to get feedback from stakeholders on their experiences of the implementation of EMIR and provide the European Commission with guidance to prepare a final report. The European Commission submitted a final report to the European Parliament and Council, together with appropriate proposals for change, in late 2016.

The Commission concluded that, although there was no need for a fundamental change to the nature of the core requirements in EMIR, the legislation imposed disproportionate burdens and overly complex requirements on non-financial counterparties, small financial counterparties and pension funds.

In January 2017, EMIR 1.5 was adopted in a delegated regulation and implementing regulation. Banks and buy-side firms within the scope of EMIR were required to comply with the 1.5 updates from November 2017.

A key change was an extension of the EMIR trade reporting template so that it aligns with Markets in Financial Instruments Directive II (MiFID II) reporting templates. This means EMIR 1.5 covers OTC derivatives trading across all asset classes. In particular, market participants will be required to report complex derivatives contracts composed of a combination of several other derivatives contracts. EMIR 1.5 also brought OTC derivatives contracts derived from credit instruments into scope.

EMIR 2.1/REFIT

As a result of the 2015 consultation, EMIR was included within the European Commission's 2016 Regulatory Fitness and Performance (REFIT) programme.

In May 2017, this resulted in a

EMIR and EMIR REFIT

proposal to amend EMIR based on problems in the regulation identified after four years of observation and two consultations with market participants. The proposal noted the need to make further changes to the regulation to remove unnecessary costs and burdens for certain types of market participants, particularly non-financial counterparties that only trade derivative contracts to reduce risk directly related to their main activities.

Regulation (EU) 2019/834 of the European Parliament and of the Council was published in the EU Official Journal on May 28, 2019, with the bulk of the provisions coming into force on June 17, 2019.

The amendments simplify certain requirements for smaller firms, taking a more proportionate approach. They also address issues around compliance costs, transparency issues and insufficient access to clearing for certain counterparties.

In parallel to the REFIT, in June 2017 the Commission also proposed a second set of amendments to EMIR to enhance the supervision of third country clearing counterparties (CCPs), to make the supervision of EU CCPs more coherent and to introduce a fee system for CCPs to fund the relevant activities (EMIR 2.2).

A political agreement between the European Parliament and member states was reached in March 2019 to upgrade the supervision of EU and third-country CCPs and give greater regulatory powers to the European Central Bank. Further technical work is currently being undertaken before formal adoption.

In July 2019 ESMA published responses received to its Consultations on tiering, comparable compliance and fees under EMIR 2.2.

Brexit will make changes to EMIR. The Financial Conduct Authority (FCA) will become the UK authority responsible for the registration and ongoing supervision of trade repositories operating in the UK post-Brexit.

In terms of eligibility, UK branches of third-country firms, including branches of firms from EU27 countries after Brexit, will not be in scope of the UK EMIR reporting regime, so do not have to report under the onshored UK regime.

On the other hand, branches of UK firms outside the UK are in scope and will be required to report details of their derivative transactions to an FCA-registered, or recognised, trade repository according to the UK EMIR regime.

ESG Regulation

At a Glance

Regulation: Environmental, Social and Governance (ESG) Regulation

Regulatory Regime: EU

Target Market Segment: Global financial institutions

Core Requirements: Data collection, analysis, disclosure

Significant Milestones

March 8, 2018: EU Commission publishes action plan for sustainable finance

May 24, 2018: EU Commission publishes proposals for Taxonomy Regulation, Disclosure Regulation and amendments to Benchmark Regulation

November 27, 2019: Sustainability-Related Financial Disclosures Regulation (SFDR) published

November 27, 2019: Low Carbon Benchmarks Regulation published

April 15, 2020: EU Council adopts draft Taxonomy Regulation

Dates for Diary

March 10, 2021: Majority of SFDR obligations apply

January 1, 2022: Taxonomy Regulation enters into force, majority of obligations apply

January 1, 2022: SFDR transparency requirements for annual reports apply

December 31, 2022: Commission reviews standards for Low Carbon Benchmarks

Key Links

SFDR text: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R2088#ntr1-L_2019317EN.01000101-E0001

Low Carbon Benchmarks Regulation text: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32019R2089

Taxonomy Regulation text: https://data.consilium.europa.eu/doc/document/ST-5639-2020-INIT/en/pdf

Description and Data Requirements

Increasing public interest in environmental, social and governance (ESG) issues, and growing demand for sustainable finance has, necessarily, raised questions about regulation. The EU's emerging ESG regime originates, in great part, from its commitment to the United Nations 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs), as well as the Paris Agreement on climate change.

Regulation aims to provide clarity in a market fragmented by a large body of voluntary measures, such as the Financial Stability Board's Task Force on climate-related financial disclosures that has published

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voluntary recommendations for climate-related financial reporting; government initiatives such as the UK's 2050 net zero target that aims to bring all greenhouse gas emissions to net zero by 2050; and commercial solutions such as ESG standards, scores and methodologies.

In such a fragmented landscape, regulation should also counter greenwashing that threatens to undermine ESG-related political commitments and the goal of channelling private investment into genuinely sustainable economic activities.

Key EU ESG regulations to date include:

Sustainability-Related Finance Disclosures Regulation (SFDR)

SFDR requires investment firms and asset owners to make disclosures on the integration of ESG risks and consider adverse impacts on their investment processes and remuneration policies. Firms are also required to disclose ESG factors and impacts on their products.

Taxonomy Regulation

The regulation sets out a common classification system for economic activities that are considered to be environmentally sustainable. The focus is on sectors with a key role in climate change mitigation and adaptation. The regulation also requires that economic activities do not do significant harm to other environmental objectives.

Low Carbon Benchmarks Regulation

The regulation extends EU Benchmarks Regulation to provide two new benchmarks – EU Climate Transition and EU Paris-Aligned – to help increase transparency and prevent greenwashing.

In addition to these regulations, suitability rules have been amended to require a client's ESG preferences to be taken into account by investment advisers. These amendments take effect with the disclosures regulation.

The Commission is developing tools and mechanisms to integrate ESG factors into the EU banking prudential framework, banks' business strategies, investment policies, and risk management processes. It is also preparing proposals for an eco-label for certain financial products such as 'sustainability funds' and 'green bonds'. Sustainability amendments to regulations such as MIFID II, AIFMD, UCITS and Solvency II are also in the making.

While ESG regulation should ultimately be beneficial on a global

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scale, it adds a number of high-level tasks that investment firms must integrate into existing processes. These include data collection and analysis to calculate the risks ESG factors pose to a portfolio, and to the firm from a prudential perspective. In turn, firms must evaluate the risks a portfolio poses to ESG factors. Suitable ESG-related indices must also be selected for portfolio analysis, performance benchmarking, reporting, and disclosures.

At this stage, the provision of ESG products and regulatory compliance is an ongoing journey into relatively unknown territory for investment firms, but as always, the race is on, with those leading the way likely to commandeer competitive advantage in a fast growing market.

FATCA and GATCA

Significant Milestones

March 18, 2010: FATCA is enacted as part of the US Hiring Incentives to Restore Employment Act

July 1, 2014: Effective date

December 31, 2014: Compliance deadline

March 31, 2015: First reporting deadline

March 31, 2019: Reporting deadline for FFIs in non-IGA jurisdictions and FFIs in Model 2 IGA jurisdictions

September 30, 2019: Reporting deadline for FFIs in Model 1 IGA jurisdictions

April 29, 2020: IRS extends date to December 15, 2020 for FATCA certification submissions

Dates for Diary

December 15, 2020: IRS deadline for entities with a FATCA certification due date of July,1 2020 to submit a FATCA certification

Key Links

Overview: www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca?_ga=1.6517492.797144261.1474889109

Guidance for FFIs: www.irs.gov/businesses/corporations/fatca-regulations-and-other-guidance?_ga=1.206869845.797144261.1474889109

Updated FAQs: https://www.irs.gov/businesses/corporations/frequently-asked-questions-faqs-fatca-compliance-legal

Description and Data Requirements

The Foreign Account Tax Compliance Act (FATCA) is a US Government regulation that requires foreign financial institutions (FFIs) with US clients to carry the burden of tax reporting for those clients to the US Internal Revenue Service (IRS). FFIs must enter contracts with the IRS and obtain Global Intermediary Identification Numbers (GIINs) through the IRS registration portal. GIIN numbers are used to identify financial entities, counterparties and issuers that are FATCA compliant. FFIs interacting with counterparties that do not have a GIIN, and are therefore not FATCA compliant, can be penalised.

To enforce FATCA regulation, the US Government makes Intergovernmental Agreements (IGAs) with governments in other countries. Model 1 agreements

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Regulation: Foreign Account Tax Compliance Act (FATCA)

Regulatory Regime: US Inland Revenue Service

Target Market Segment: Global financial institutions

Core Requirements: Client identification, data maintenance, reporting

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require FFIs to report all FATCA information to their own governmental agencies that then report to the IRS. Model 2 agreements require FFIs to report directly to the IRS.

FFIs could register with the IRS and gain a GIIN after the official opening of the registration portal on January 1, 2014. The first list of registered FFIs was published on June 2, 2014 and updated monthly thereafter. Withholding tax of 30% on US source income, such as dividends, interest and insurance premiums, was introduced as the regulation became effective on July 1, 2014.

For many firms, FATCA compliance is not an easy task and requires significant investment in data management. FFIs must classify clients using US indicia and determine any Specified US Persons that need to be identified as US taxpayers. As the regulation calls for sensitive client data, such as tax, residency, citizenship and account status information, to be gathered, the data management requirements of compliance include client onboarding, maintaining client data over time and supplementing existing data for reporting. These requirements are best met by integrating FATCA applications with Know Your Customer (KYC), client onboarding and tax systems.

From a data management perspective, dealing with complexities such as grandfathered obligations and material modifications adds to the burden. Grandfathered obligations, essentially obligations that were outstanding on June 30, 2014, are exempt from withholding, but material modifications may mean these obligations lose their exempt status. The data management problem is understanding what constitutes a material modification. While the IRS offers a list of material modifications, it is far from exhaustive and banks must review changes and consider what counts as a material modification.

Updates to the FATCA regime were made in July 2018, when the IRS updated the regulation's registration system to incorporate the certification

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of pre-existing accounts and a periodic certification process. It also updated its list of FATCA classifications that entities within the scope of the regulation must review and then update their classifications where necessary.

In September 2019 the European Union published an updated list of accounts to be treated as excepted accounts, and an updated list of entities to be treated as non-reporting financial institutions.

Most recently, in April 2020, the IRS extended the due date to December 15, 2020 for an entity with a FATCA certification due date of July 1, 2020 to submit a FATCA certification. The extension was made as a relief measure in response to the coronavirus pandemic.

GATCA

GATCA is a global version of FATCA, Global FATCA. GATCA is based on the Convention on Mutual Administrative Assistance in Tax Matters developed in 1988 by the Organisation for Economic Co-operation and Development (OECD).

GATCA uses a model agreement similar to the FATCA Model 1 IGA and the OECD's Common Reporting Standard for the automatic exchange of tax information between countries.

All G20 countries, most OECD countries and a growing number of developing countries have signed the convention. Many countries started the exchange of information in 2017 and others followed in 2018.

Unlike FATCA, GATCA does not impose withholding tax on financial institutions that fail to comply, but it does add to the data management challenge already presented by FATCA.

FIDLEG

At a Glance

Regulation: FIDLEG (Financial Services Act)

Regulatory Regime: Swiss Government

Target Market Segment: Financial institutions

Core Data Requirement: Data aggregation, distribution, reporting

Significant Milestones

November 4, 2015: Federal Council adopts dispatch on FIDLEG, bill ready for parliamentary deliberation

October 24, 2016: The Commission on Economics and Taxation of the Swiss Council of States proposes amendments to the draft provided by the Federal Council

December 14, 2016: Proposed amendments are debated by the Swiss Council of States

September 2017: Discussion of the bill by the National Council

June 15, 2018: Swiss Parliament adopts FIDLEG

January 1, 2020: Compliance deadline

Key Links

Proposal: https://www.admin.ch/opc/de/federal-gazette/2018/3615.pdf

Description and Data Requirements

FIDLEG, or the Swiss Financial Services Act, is a Swiss Government regulation designed to reshape the regulatory framework governing Swiss financial markets. It covers all types of financial services provided by both regulated and unregulated entities. It also applies to all types of clients and provides investor protection for clients including retail, professional and institutional clients.

The regulation is similar in scope and requirements, particularly around transparency, to the EU's Markets in Financial Instruments Directive II (MiFID II) and will allow Switzerland, a third-country regime in the EU regulatory framework, to continue to access EU financial markets.

Like MiFID, FIDLEG is based on comprehensive set of rules of conduct, including a duty to provide information to clients and ensure services and products offered are suitable for them, and an obligation to ensure best execution. To back up the rules, the regulation includes extensive information, documentation and reporting duties.

Information that financial services providers must disclose includes their identity and regulatory status, the services and financial instruments they offer, how they custody financial instruments, and the risks and costs associated with their services, instruments and custody. They must also ensure that clients have access to the Ombudsman in case of disputes.

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Documentation duties require financial services providers to document in writing services they agree to provide and the information they collect on a client, any information and warning they give a client under suitability and appropriateness rules, services provided to a client, the needs of a client, and reasons for any recommendation to acquire or sell a financial instrument. There are also new rules on prospectus content and approval inspired by the EU Prospectus Directive.

Organisational obligations require financial services firms to have appropriate organisation and ensure that their employees and any third parties they instruct have appropriate qualifications, knowledge and experience.

Over and above the rules of conduct, financial services providers must handle client orders in good faith and ensure they provide best execution, taking into account financial terms, speed and qualitative factors. To support best execution, firms are required to implement internal policies on how to execute client orders.

FIDLEG also tackles conflicts of interest, particularly conflicts arising out of distribution fees or any other types of retrocessions, which are dealt with under the regulation's organisational measures and disclosures.

Penalties for non-compliance include criminal provisions for breaches of law in connection with prospectuses and basic information documents, illegal offerings of financial instruments, and breaches of the conduct rules.

FINREP

At a Glance

Regulation: Financial Reporting (FINREP)

Regulatory Authority: EBA

Target Market Segment: European financial institutions

Core Data Requirements: Financial accounting data, capital positions, reporting

Significant Milestones

July 26, 2013: Final draft of requirements published

July 1, 2014: Effective date

August 28, 2018: EBA proposes changes to Finrep

December 7, 2018: Consultation on changes closed

July 16, 2019: EBA amends ITS on supervisory reporting with regard to FINREP

June 30, 2020: First reporting reference date

Key Links

Reporting Framework: https://eba.europa.eu/risk-analysis-and-data/reporting-frameworks/reporting-framework-2.9

ITS: https://eba.europa.eu/regulation-and-policy/supervisory-reporting/its-on-supervisory-reporting-amendments-with-regards-to-finrep

Description and Data Requirements

Financial Reporting (Finrep) forms part of the European Banking Authority's (EBA) supervisory reporting framework and provides a standardised EU-wide framework for reporting financial accounting data. The framework includes several templates, which set out how firms should report data from income statements and balance sheets, and divides the templates into four groups. The groups cover data that must be reported on a quarterly, quarterly with a threshold, semi-annual or annual basis

In total, Finrep includes more than 50 templates and 6,500 data fields that must be populated with core and non-core quantitative financial data. The data management challenges for firms that must comply with the regulation include sourcing and processing more granular reporting data than has previously been required for reports mandated by local regulators, and reporting more frequently.

Under the regulation, firms must be able to show the workings that lead to final capital positions. They must also consider the dimensions of data. For example, some credit risk returns need to be divided according to geographic areas, counterparties and the like to provide a clear picture of a firm's activities in Finrep reports. In response to this, firms need to conduct a thorough gap analysis, assessing what data is required and how it can be accessed. They also need systems that can convert the data into the XBRL reporting format required by Finrep, a focus on data governance and the oversight that regulators increasingly demand as part of compliance.

Finrep, like Common Reporting (Corep), was introduced in 2014 as part of the Capital Requirements Directive IV (CRD IV), which aims to harmonise reporting across the EU. Finrep provides financial reporting and Corep capital reporting, although Corep is broader than Finrep covering both entity-by-entity and consolidated reporting, while Finrep applies only at the consolidated group level of credit institutions. Despite this, firms in the scope of the regulation must manage a larger reporting burden than in the past and report more frequently.

In August 2018, the EBA proposed changes to the Implementing Technical Standards (ITS) of Finrep aimed at amending and adding new reporting of non-performing loans (NPLs) and forborne exposures, amending the reporting of profit or loss items, in particular on expenses, and reporting on leases.

A consultation on the proposed changes closed on December 7, 2018 and in July 2019 the EBA published final amendments to the ITS. The amendments concern the reporting requirements on non-performing exposures (NPE) and forbearance to allow monitoring of reporting institutions' NPE strategies, the reporting requirements on profit and loss items and the implementation of the new International Financial Reporting Standard on leases (IFRS 16). Notably, only institutions with a NPL ratio equal to or greater than 5% are required to report more granular information on NPE and forbearance. The first reporting reference date is June 30, 2020.

FRTB

At a Glance

Regulation: Fundamental Review of the Trading Book (FRTB)

Regulatory Authority: BCBS

Target Market Segment: Financial institutions

Core Data Requirements: Market data, risk data, capital requirements calculations, reporting

Significant Milestones

May 2012: First consultation paper
October 2013: Second consultation paper
December 2014: Third consultation paper
January 15, 2016: Text published
March 22, 2018: Fourth consultation paper
January 2019: Publication by BCBS of a revised and final FRTB standard
March 27, 2020: EBA publishes draft standards for FRTB, defers EU implementation to January 1, 2023

Dates for Diary

January 1, 2023: EU implementation deadline

Key Links

Full Text: https://www.bis.org/bcbs/publ/d457.pdf
Q&As: https://www.bis.org/bcbs/publ/d437.pdf
2019 Revisions: https://www.bis.org/bcbs/publ/d457.htm
EBA Final Draft Standards: https://eba.europa.eu/eba-publishes-final-draft-standards-key-areas-eu-implementation-frtb

Description and Data Requirements

The Basel Committee on Banking Supervision (BCBS) introduced the Fundamental Review of the Trading Book (FRTB) in a May 2012 consultation paper that set out a revised market risk framework and proposals to improve trading book capital requirements.

The final FRTB paper was released on January 15, 2016, replacing existing capital requirements for market risk and suggesting a compliance deadline of January 1, 2019. The deadline for EU implementation has since been changed to January 2023.

The regulation is a response to the 2008 financial crisis, and focuses on a revised internal model approach (IMA) to market risk and capital requirements, a revised standardised approach (SA), a shift from value at risk (VaR) to an expected shortfall measure of risk, incorporation of the risk of market illiquidity, and reduced scope for arbitrage between regulatory banking and trading books.

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The revised IMA introduces a more rigorous model approval process that enables regulators to remove internal modelling permission from individual trading desks and move them back to the SA.

The regulation also requires more consistent identification and capitalisation of material risk factors across banks, and adds more constraints to the capital reducing effects of hedging and diversification. There will also be a separate charge for non-modellable risk factors (NMRFs).

FRTB overhauls the SA that will be used for banks that want a simple and straightforward model and is also the fall back for banks that do not get regulatory approval for internal models. The major change to the SA is that it is based on risk sensitivities across asset classes. This should provide a consistent way to measure risk across geographies and regions, and allow regulators to compare risk and aggregate systemic risk.

The replacement of VaR with an expected shortfall measure of risk is expected to improve the capture of tail risk, essentially the risk of unforeseen events not factored into a bank's model, and understanding of capital adequacy during periods of significant market stress.

The risk of market illiquidity is managed by incorporating varying liquidity horizons in the revised models. These replace the static 10-day horizon assumed for all traded instruments under VaR in the current market risk framework and are designed to mitigate the risk of a sudden and severe impairment of market liquidity across asset classes.

To reduce arbitrage of regulatory capital between the banking book and the trading book, FRTB imposes a revised boundary between the books. There are also capital disincentives for transfers.

The data management challenges of FRTB include the sheer quantity of data required for compliance, including some data that is difficult to source. NMRFs are a case in point. Once banks have passed the P&L attribution and back testing requirements associated with using IMA, they need to identify whether

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their risk factors are either modellable or non-modellable.

If a risk factor does not have at least 24 'real' prices with no more than one month between each observation over a year it is classified as non-modellable. Real prices include executed trades and committed quotes. For OTC markets with little transparency, the process of collecting real price data becomes a significant challenge.

A consultation paper issued by the BCBS on March 22, 2018 – Revisions to the Minimum Capital Requirements for Market Risk – aimed to address issues that the Basel Committee identified in the course of monitoring the implementation and impact of the market risk standard issued in 2016, Minimum Capital Requirements for Market Risk, or FRTB.

The consultation resulted in the BCBS endorsing revisions published in January 2019 and designed to enhance FRTB.

The revisions include:

- A simplified SA for banks with small or non-complex trading portfolios
- Clarity of the scope of exposures that are subject to market risk capital requirements
- Enhancing the risk sensitivity of the SA
- Revising some SA risk weights
- Revamping the assessment process to determine whether a bank's internal risk management models appropriately reflect the risks of individual trading desks, essentially the profit and loss attribution test
- Easing the requirements for identifying risk factors that are eligible for internal modelling and the capital requirement applicable to risk factors that are deemed non-modellable

In March 2020, the European Banking Authority (EBA) published final draft Regulatory Technical Standards (RTS) on the revised IMA.

These RTS cover 11 mandates and have been grouped in three different documents: the final RTS on liquidity horizons for the IMA; the final draft RTS on back-testing and profit and loss attribution requirements; and the final draft RTS on criteria for assessing the modellability of risk factors under the IMA.

In light of the coronavirus pandemic, the EBA welcomed the decision by the Group of Central Bank Governors and Heads of Supervision (GHOS) to defer the implementation date of the revised market risk framework by one year to January 1, 2023.

GDPR

Significant Milestones

January 25, 2012: European Commission proposes updated data protection regulation

December 15, 2015: European Parliament and Council of the EU agree final text

April 8, 2016: GDPR adopted by Council of the EU

April 18, 2016: GDPR adopted by European Parliament

May 25, 2018: Compliance deadline

Key Links

Text: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32016R0679

Guide to GDPR: https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/

EU Note on Brexit and Data Protection: https://ico.org.uk/for-organisations/data-protection-and-brexit/data-protection-if-theres-no-brexit-deal/

At a Glance

Regulation: General Data Protection Regulation (GDPR)

Regulatory Regime: EU

Target Market Segment: Financial services sector

Core Data Requirements: Data privacy policies and processes, managing personal data

Description and Data Requirements

General Data Protection Regulation (GDPR) is an EU regulation replacing Data Protection Directive 95/46/EC that was established in 1995. The regulation is designed to harmonise data privacy laws across Europe, protect EU citizens' personal information and reshape the way organisations across the region approach data privacy.

While GDPR sustains the key principles of data privacy established by the 1995 directive, it extends many of these and clarifies ambiguous territorial applicability set down in the 1995 directive by stating that the regulation applies to all companies processing personal data of data subjects residing in the EU regardless of company location. This means both EU and non-EU based companies processing personal data of data subjects residing in the EU must comply with the regulation. Organisations located outside the EU must also comply if they offer goods or services to EU data subjects.

The regulation extends data protection requirements to include not only controllers, which are in the scope of the 1995 directive and determine the purposes, conditions and means of processing personal data, but also processors that process personal data on behalf of controllers.

GDPR does not make distinctions between industries and sectors, but

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its extensive demands have a major impact on the financial services sector and require financial firms to reconsider how they build data management systems and manage personal data. Those that do this well and take a proactive approach to compliance should benefit from improved customer communication, strategic data management and a higher level of trust in the market. For those that breach compliance, the stakes are high – reputational damage and fines of up to 4% of annual group turnover or €20 million.

The challenges presented by GDPR include gaining consent to process personal data, building data privacy by design, notifying authorities and individuals of data breaches, ensuring data portability, and giving individuals the right to have data deleted provided there are no legitimate grounds for keeping it.

Financial institutions processing large volumes of sensitive data may need to appoint a data protection officer and will have to carry out privacy impact assessments to identify risks, minimise potential data breaches and implement data protection strategy.

While financial firms subject to the 1995 directive already have data protection policies and practices in place, it is the detail of GDPR that adds complexity and must be addressed to achieve compliance. For example, general contractual terms are no longer sufficient to provide proof of consent from individuals to process personal data. Instead, consent must be unambiguous, freely given, informed and refer explicitly to each processing purpose. Consent for processing sensitive data held by banks and financial institutions must be explicit.

The data management requirement here is to consider how customer data is collected, managed and shared with third parties, and develop appropriate consent management policies. Financial institutions must also respond to the regulation's enhanced rights for individuals to access, transfer and delete data by amending privacy policies and procedures, and the way in which they manage data access requests.

The data privacy by design element requires financial institutions to promote privacy and data protection compliance in new system builds.

Data breaches that are likely to cause significant damage to customers must be reported to the Data Protection Authority within 72 hours and customers must be notified without undue delay.

GDPR took effect in all member states on May 25, 2018.

IFD/IFR

Significant Milestones

2015: EBA Report on Investment Firms notes deficiencies in investment management regime

December 5, 2019: IFD And IFR published in the Official Journal of the EU

December 25, 2019: Regulation and directive enter into force

Dates for Diary

June 26, 2021: IFD transposed into local law, applies to EU member states

June 26, 2021: IFR applicable to EU member states

June 26, 2021: Start of five-year transition period to new regime

Key Links

IFD Text: https://data.consilium.europa.eu/doc/document/PE-79-2019-INIT/en/pdf

IRF Text: https://data.consilium.europa.eu/doc/document/PE-80-2019-INIT/en/pdf

EBA roadmap: https://eba.europa.eu/sites/default/documents/files/document_library/Regulation%20and%20Policy/Investment%20firms/884436/EBA%20Roadmap%20on%20Investment%20Firms.pdf

At a Glance

Regulation: Investment Firms Directive and Regulation (IFD/IFR)

Regulatory Regime: EU

Target Market Segment: EU investment firms

Core Requirements: Changes to regulatory capital, liquidity arrangements and remuneration policies

Description and Data Requirements

The EU's Investment Firms Directive (IFD) and Investment Firms Regulation (IFR) will put in place a new prudential framework for MiFID-authorised investment firms. The framework will aim to ensure the safe functioning of investment firms and correct management of customer and market risk.

Currently, EU investment firms are subject to the same capital, liquidity and risk management rules as banks. The new regulation and directive introduce a bespoke regulatory framework for investment firms, differentiated according to an individual firm's risk profile and business model.

IFD must be transposed into local law and applied by EU member states from June 26, 2021, at which time IFR will also apply. Once IFD and IFR are implemented, a small number of investment firms will be subject to the same prudential requirements as banks. Remaining firms will be subject to a harmonised, and for some

IFD/IFR

an enhanced, set of prudential requirements.

Compliance with IFD and IFR will be a major challenge and change for a number of investment firms. Implementation will require firms to project plan, identify which classification they will fall into, engage with the Central Bank for reauthorisation or treatment as a credit institution where necessary, and identify any changes that they need to make to their regulatory capital, liquidity arrangements and remuneration policies.

Investment firms will be categorised into one of four classes.

Class 1: Systemically important investment firms dealing on own account and/or underwriting or placing financial instruments on a firm commitment basis and with an average of monthly total assets exceeding €30 billion.

These firms must be reauthorised as credit institutions, supervised under the single supervisory mechanism, and regulated under the latest versions of the Capital Requirements Regulation (CRR) and Capital Requirements Directive (CRD). The Initial capital requirement will be €5 million.

Class 1 minus: Firms in this category are described as those in Class 1 but have an average of monthly total assets exceeding €15 billion.

These firms do not need to be reauthorised as credit institutions, but will be regulated under CRR and CRD. The Initial capital requirement is equal to the initial capital requirement for authorisation to conduct the relevant investment services set by the IFD.

Class 2: Large firms that are not systemically important, but hold own funds at certain thresholds based on the higher of their permanent minimum requirement, fixed overhead requirement, or K-factor calculation – a new requirement that provides the means to calculate a directly proportional capital requirement for each firm's risk profile. This is the default categorisation for investment firms.

These firms are subject to IFD supervisory and IFD/IFR remuneration requirements. They must publish reports on environmental, social and governance (ESG) risks, physical risks and transition risks related to the transition into a more sustainable economy over a three-year phase in period. They must also establish internal capital assessment processes, liquidity adequacy assessment processes, and are subject to the new K-factor. The initial capital requirement will be €750,000, €150,000 or €75,000 depending on a firm's activities.

Class 3: Small investment firms that are not interconnected with other investment firms and do not undertake any high risk activities and fall below a range of size-related thresholds and criteria. These firms are subject to a relatively lighter prudential framework, but will still need to assess the changes they need to make.

Firms in Class 3 must not hold client money or securities, are subject to the MiFID II remuneration framework and not the remuneration framework in IFD/IFR, and must meet K-factor requirements. The initial capital requirement will be €750,000, €150,000 or €75,000 depending on a firm's activities.

The European Banking Authority (EBA) has published a roadmap that sets out its workplan for implementing the new framework. It includes six key areas:

- Thresholds and criteria
- Capital requirements and composition
- Reporting and disclosure
- Remuneration and governance
- Supervisory convergence and Supervisory Review and Evaluation Process (SREP)

- ESG factors and risks: The EBA has launched a number of public consultations on regulatory deliverables that are part of the roadmap. The results of these are expected to influence final decisions on the requirements of IFD and IFR.

As the requirements of IFD/IFR will take effect after the UK exits the EU, the UK will introduce its own prudential regime for investment firms. The UK Financial Conduct Authority (FCA) had significant involvement in policy discussions about the new EU regime and has made it clear that it will look to achieve similar intended outcomes as the IFD/IFR, while taking into consideration UK market specifics.

IFRS

At a Glance

Regulation: International Financial Reporting Standards (IFRS)

Regulatory Authority: IASB

Target Market Segment: Financial institutions

Core Requirements: Asset classification, measurement, fair value determination

Significant Milestones

January 1, 2013: IFRS 13 takes effect

January 1, 2018: IFRS 9 takes effect

Key Links

IFRS 9: www.ifrs.org/issued-standards/list-of-standards/ifrs-9-financial-instruments/

IFRS 13: www.ifrs.org/issued-standards/list-of-standards/ifrs-13-fair-value-measurement/

Description and Data Requirement

The International Financial Reporting Standards (IFRS) are a set of global standards issued by the International Accounting Standards Board (IASB) and designed to support transparency, accountability and efficiency across financial markets. IFRS comprises 15 published standards, IFRS 1 to IFRS 15, that set out obligations firms must fulfil when issuing financial statements. The obligations cover many aspects of financial reporting including how firms should present cash flows, liabilities, assets, expenses and so on.

The IFRS standards were devised to simplify the reporting process by providing a common set of rules and guidelines for generating reports that can be compared across institutions or with past performance to assess financial strength.

While all IFRS requirements have an impact on the way firms prepare their financial reports, two standards in particular have significant data management implications for financial institutions. IFRS 9 includes requirements covering the measurement, classification, declassification and hedge accounting of financial assets and liabilities. These requirements can cause a sizeable workload as firms may need to perform impact analyses to identify any changes and adjust accounts accordingly.

IFRS 13 focuses on the definition of 'fair value' and includes guidelines on how firms should conduct asset valuations, determine fair value and submit corresponding reports. Fair value is defined by IFRS 13 as the exit price, essentially the price that would be received if selling an asset or paid to transfer a liability between market participants on the measurement date. Firms need a clear understanding of this market-based measurement to ensure they gather the correct data for accurate reporting and disclosure.

Significant Milestones

December 15, 2007: UK Money Laundering Regulations 2007 came into force

June 26, 2017: UK Money Laundering, Terrorist Financing and Transfer of Funds came into force

January 10, 2020: Money Laundering and Terrorist Financing (Amendment) Regulations 2019 come into force

Key Links

US Patriot Act: www.gpo.gov/fdsys/pkg/PLAW-107publ56/html/PLAW-107publ56.htm

UK Proceeds of Crime Act: www.legislation.gov.uk/ukpga/2002/29/contents

UK Money Laundering Regulations 2007: https://www.legislation.gov.uk/uksi/2007/2157/contents/made

UK Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017: https://www.legislation.gov.uk/uksi/2017/692/contents/made

Money Laundering and Terrorist Financing (Amendment) Regulations 2019: https://www.legislation.gov.uk/uksi/2019/1511/made/data.pdf

UK Terrorism Act: http://www.legislation.gov.uk/ukpga/2000/11/contents

Description and Data Requirements

Know Your Customer (KYC) refers to the process companies must go through to identify and understand clients before conducting financial business with them. It also requires the process to be revisited frequently to ensure information is up to date, complete and correct throughout the lifecycle of a client.

From a regulatory perspective, KYC is an essential element of due diligence and financial regulatory legislation such as anti-money laundering (AML) and countering the financing of terrorism. The process is also part of client onboarding and screening client information against sanctions, politically exposed persons (PEPs) lists and other watch lists.

KYC is not a single regulation, but the term used to describe regulatory requirements around client due diligence that are made and enforced in different jurisdictions with different legislative regimes. For example, in the US, the Patriot Act has made KYC mandatory for all banks since 2001. In the EU, the first AML Directive was adopted in 1990 and the legislation has since undergone multiple revisions. In

At a Glance

Regulation: Know Your Customer (KYC)

Regulatory Regime: Multiple

Target Market Segment: Global financial institutions

Core Data Requirements: Client identification and classification, customer data due diligence

KYC

May 2018, the EU Council approved the fifth AML Directive, AMLD5, which came into force on January 10, 2020.

AMLD5 was swiftly followed by AMLD6, which must be transposed by member states into law by December 3, 2020. Implementation is due by June 3, 2021.

In the UK, the AML regime including KYC is set out in the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 and the Terrorism Act 2000. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 was introduced to ensure the UK's AML regime complied with the EU's fourth AML Directive and the Financial Action Task Force's (FATF) standards and recommendations. This required a number of new obligations including a written firm-wide risk assessment and substantially more comprehensive client due diligence including the requirement to identify the beneficial owner of a client.

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 that were enforced in January 2020, transposed the EU's fifth AML Directive into UK law.

The 2019 regulatory amendments also incorporate international standards set by FATF and bolster AML regulations following high profile issues such as the Panama Papers exposure and terrorist activities in the past few years.

Key amendments include:

- Extended customer due diligence that adds an explicit requirement to understand the ownership and control structure of the customer as part of due diligence obligations. Also, an explicit requirement to determine the constitution and full names of the board of directors and the senior persons of a body corporate when the beneficial owner cannot be identified. Firms will now have to cease transactions and consider filing a Suspicious Activity Report where they cannot apply the necessary due diligence obligations.
- A new requirement for firms to report any discrepancies they find between the information they

hold on their customers and that in the Companies House Register, including differences in ownership structure, beneficial owners and directors.
- Enhanced due diligence procedures for high-risk situations such as transactions between parties based in high-risk third countries; non-face to face business relationships or transactions without certain safeguards; and transactions related to oil, arms, precious metals, tobacco products, cultural artefacts, ivory or other items related to protected species, or archaeological, historical, cultural and religious significance.
- Transparency of beneficial ownership of corporates that requires firms to update their records relating to beneficial ownership and must ensure information on beneficial owners of corporate and other legal entities is stored in a central registry and is up to date. Firms also need to understand the ownership and control structure of their corporate customers, and record any difficulties encountered in identifying beneficial ownership.

KYC presents financial institutions with significant data management challenges, but also opportunities such as standardisation of customer information across an organisation, consistency in the quality of client records, improved customer service and the ability to accelerate client on boarding. It can also deliver significant cost savings through data standardisation, the ability to generate and manage one view of a customer across an organisation, and the efficient management of KYC documentation for purposes such as on boarding.

The data management process requires banks to gather information from clients, often using paper documents, and then identify and correctly classify the clients according to their circumstances, including country of origin, business type, source of assets and income, types and purpose of transactions, and amount of funds.

This information needs to be kept up to date and must be submitted to regulators on a frequent basis, meaning banks need to continually reassess their KYC procedures and increase the automation of their processes.

Following the 2019 regulations, firms need to do more than keep a central repository of entity data and track audit trails. They may need to link KYC to customer data due diligence, enhanced due diligence and entity hierarchy data

KYC

to gain an understanding of clients' relationships with other entities and ensure compliance and effective risk management.

The Legal Entity Identifier (LEI) and hierarchy data provided by the Global LEI Foundation(GLEIF) are essential here to support an understanding of relationships between entities.

In an increasingly hostile environment, client screening is an important part of KYC. It requires client data to be checked against financial sanctions, trade embargoes, PEPs and other watch lists to detect whether an order has been made to prohibit clients from carrying out particular transactions

KYC also plays a role in client on boarding, a process that was traditionally manual and suboptimal for both clients and banks, but which is now being automated.

Solutions available for KYC include managed services and utilities. From a technology perspective, machine learning and AI solutions are easing the burden of KYC and on boarding.

As well as addressing local AML requirements, improvements in KYC processes can help firms comply with international regulations such as Dodd-Frank and the US Foreign Account Tax Compliance Act (FATCA). KYC compliance is also central to Markets in Financial Instruments Directive II (MiFID II).

Beyond compliance requirements, a further consideration is how KYC and client onboarding can be integrated with account and settlement data. If an holistic approach is taken to on boarding a client and managing the client's account and settlement data, firms can move quickly from initiating clients to trade readiness.

MAR and MAD

Significant Milestones

July 1, 2005: MAD implemented

December 12, 2012: MAR text approved by European Council

September 10, 2013: MAR endorsed by European Parliament

July 2, 2014: MAR effective date

July 3, 2016: MAR compliance date

February 18, 2019: UK government introduces Market Abuse (Amendment) (EU Exit) Regulations 2019 (UK MAR)

March 29, 2019: ESMA updates MAR Q&A

Key Links

Text: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R0596

Summary: https://eur-lex.europa.eu/legal-content/en/LSU/?uri=CELEX%3A32014R0596

April 2016 MAD Q&A: https://www.esma.europa.eu/press-news/esma-news/esma-publishes-updated-qa-market-abuse-directive-mad

March 2019 MAR Q&A: https://www.esma.europa.eu/press-news/esma-news/esma-updates-its-mar-qa

Market Abuse (Amendment) (EU Exit) Regulations 2019 (UK MAR): https://www.legislation.gov.uk/uksi/2019/310/made

Description and Data Requirements

Market Abuse Regulation (MAR) strengthens EU rules on market integrity and investor protection that were first adopted in the 2003 Market Abuse Directive (MAD).

The regulation aims to challenge insider dealing and market manipulation in Europe's financial markets and is part of an updated EU rulebook that also includes the Directive on Criminal Sanctions for Market Abuse (also known as Market Abuse Directive, or MAD).

MAR has been applicable since July 3, 2016.

Many of the provisions in MAR are the same as those in the initial MAD directive, but the regulation extends the scope of previous rules to include new trading platforms and technologies, and commodity and related derivatives markets.

It also bans the manipulation of benchmarks and reinforces the investigative and sanctioning powers of regulators.

At a Glance

Regulation: Market Abuse Regulation (MAR) and Directive on Criminal Sanctions for Market Abuse (or MAD)

Regulatory Regime: EU

Target Market Segment: Global financial institutions

Core Requirements: Data surveillance and transparency to detect and prevent market abuse

MAR and MAD

Where MAD applied to financial instruments admitted to trading on an EU regulated market, MAR includes instruments traded on a multilateral trading facility (MTF) or organised trading facility (OTF). Market manipulation is extended to cover any behaviour, not just transactions and orders to trade, that may give a false or misleading signal, while the regulation also adds attempted market manipulation in the sense of trying to manipulate the market without trading.

Market manipulation provisions are extended to instruments with values related to traded instruments and to spot commodity contracts related to financial or derivatives markets.

MAR expands the definition of insider dealing, which MAD described as non-public information likely to have a serious impact on an instrument's price, to include information that a reasonable investor is likely to use as the basis for investment decisions.

In terms of extended coverage, MAR includes benchmarks and emission allowances, as well as algorithmic and high frequency trading that is undertaken without an intention to trade, but with an intention to disrupt or delay a trading system.

Most recently, and with concerns about a no-deal Brexit, In February 2019, UK government introduced Market Abuse (Amendment) (EU Exit) Regulations 2019 (UK MAR), which will become fully effective on the date of exit from the EU, although certain elements came into force on February 19, 2019.

UK MAR is designed to ensure that UK markets and financial instruments continue to be subject to the same requirements and protections as under the Market Abuse Regulation (EU MAR), which was implemented in the UK through the Financial Services and Markets Act 2000 (Market Abuse) Regulations 2016.

The Directive on Criminal Sanctions for Market Abuse (or MAD) complements MAR by requiring member states to introduce common definitions of criminal offences of insider dealing and market manipulation, and to impose criminal penalties for market abuse offences.

MAR is also closely linked to Markets in Financial Instruments Directive II (MiFID II). Both regulations are designed to strengthen investor protection, maximise market transparency and reduce market abuse. Their requirement overlaps are intentional.

These include the need for surveillance systems and controls to monitor for behaviour that may constitute market abuse and to help monitor for and deliver best execution; record keeping of all trade communications including telephone calls; a review of remuneration policies to phase out remuneration that may cause conflicts of interest; and comprehensive reviews of compliance functions to ensure staff can meet all requirements.

Margin Requirements – BCBS/IOSCO

At a Glance

Regulation: Margin requirements for non-centrally cleared derivatives

Regulatory Authorities: BCBS and IOSCO

Target Market Segment: Global financial institutions

Core Requirements: Margin calculation

Significant Milestones

September 2, 2013: Initial framework

March 18, 2015: Revised framework

September 1, 2016: Initial and variation margin deadline for large firms

March 1, 2017: Variation margin deadline for firms that are not large

March 5, 2019: Statement on final implementation phases

July 23, 2019: Final implementation extended

April 3, 2020: Final implementation extended

Dates for Diary

September 1, 2017–2021: Initial margin deadline phased in for all firms

September 1, 2022: Final implementation phase

Key Links

March 2015 Text: www.bis.org/bcbs/publ/d317.pdf

Summary of Revisions: www.bis.org/bcbs/publ/d317_summarytable.pdf

March 2019 final implementation statement: https://www.bis.org/press/p190305a.htm

Description and Data Requirements

The framework for margin requirements for non-centrally cleared derivatives was developed by the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO). The framework sets out international policy on minimum standards for margin requirements for non-centrally cleared derivatives and provides a global benchmark for local regulatory requirements. It was initially released in September 2013 and later revised in March 2015.

The framework is designed to reduce systemic risk related to over-the-counter (OTC) derivatives markets and provide firms with incentives for central clearing, while managing the overall liquidity impact of the margin requirements. Standards within the framework align with collateral requirements for non-centrally cleared derivatives set out in European Market Infrastructure Regulation (EMIR) and require all financial firms and systemically important non-financial entities that engage in non-centrally cleared derivatives transactions to exchange initial and variation

Margin Requirements – BCBS/IOSCO

margin in line with the counterparty risks arising from the transactions.

The liquidity impact of the margin requirements is addressed through the introduction of a universal initial margin threshold of €50 million, below which a firm has the option of not collecting initial margin. The framework also allows for a broad array of eligible collateral to satisfy initial margin requirements with a view to reducing the liquidity impact.

From a data management perspective, the requirements go beyond existing market practice on margining and mean firms must make significant changes to infrastructure, systems and processes, particularly in areas that support initial margin calculations, the exchange of collateral, and risk management.

In March 2019, BCBS and IOSCO made a statement on the final implementation phases of the margin requirement. The statement noted that market participants may need to amend derivatives contracts in response to interest rate benchmark reforms. Amendments to legacy derivative contracts pursued solely for the purpose of addressing interest rate benchmark reforms do not require the application of the margin requirements for the purposes of the BCBS/IOSCO framework, although the position may be different under relevant implementing laws.

Also in the final phases of implementation, initial margin requirements will apply to a large number of entities for the first time, potentially involving documentation, custodial and operational arrangements.

In July 2019, the BCBS and IOSCO revised the framework. Relative to the 2015 framework, the revisions extended by one year the final implementation of the margin requirements. With this extension, the final implementation phase would take place on September 1, 2021. To facilitate this extension, the Basel Committee and IOSCO also introduced an additional implementation phase that begins on September 1, 2020.

In light of the challenges posed by COVID-19, on April 3, 2020, BCBS and IOSCO agreed to extend the deadline for completing the final implementation phases of the margin requirements by one year. The final implementation phase will now take place on September 1, 2022.

MiFID II

At a Glance

Regulation: Markets in Financial Instruments Directive II (MiFID II)

Regulatory Regime: EU

Target Market Segment: Global financial institutions

Core Requirements: Data transparency, investor protection, pre-trade pricing, trade and transaction reporting

Significant Milestones

July 2, 2014: MiFID II enters into force

September 28, 2015: ESMA publishes final report on Regulatory Technical and Implementing Standards

February 10, 2016: European Commission proposes one-year delay

June 7, 2016: European Parliament confirms delay

July 3, 2017: Deadline for EU countries to implement directive in local legislation

January 3, 2018: Compliance deadline

June 5, 2020: ESMA 2020 guidance on MiFID II compliance

Key Links:

Text: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0065

Background and Timeframe: www.esma.europa.eu/policy-rules/mifid-ii-and-mifir

ESMA 2020 Guidance on Compliance: https://www.esma.europa.eu/press-news/esma-news/esma-provides-guidance-compliance-function-under-mifid-ii

Description and Data Requirements

Markets in Financial Instruments Directive II (MiFID II) came into force on January 3, 2018, representing one of the biggest changes in regulatory oversight of financial markets for a decade. The regulation extends the remit and scope of its predecessor, the original MiFID that was introduced in 2007, and aims to improve the competitiveness of European markets by creating a single transparent market for investment services and activities, and ensuring harmonised investor protection across Europe.

MiFID rules that were limited to equities trading on regulated platforms are extended to equity-like and non-equity instruments traded on any trading platform, including multilateral trading facilities (MTFs) and organised trading facilities (OTFs), with a view to ensuring that all trading takes place on regulated platforms. Systematic internalisers that trade OTC derivatives are subject to expanded transparency obligations.

With transparency a key objective of MiFID II, the regulation makes changes to pre- and post-trade transparency, requiring trading venues to make pre-trade bid and offer prices public, and retaining the requirement for trading venues to make public the price, volume and time of transactions as close to real-time as is possible.

MiFID II

In MiFID II, the European Securities and Markets Authority (ESMA) proposes a maximum permissible delay for publication that should ultimately be reduced to one minute in respect of equities and equity-like instruments, and five minutes for non-equities. The regulation also includes exacting best execution rules, requiring firms to prove to regulators that they have achieved best execution for their individual clients.

The regulation includes several new mechanisms, particularly around pre- and post-trade reporting and including ESMA's Financial Instruments Reference Data System (FIRDS), Approved Publication Arrangements (APAs) and Approved Reporting Mechanisms (ARMs).

It also details a framework for market data that includes standards, such as International Securities Identification Numbers (ISINs) to identify securities and, for the first time, OTC derivatives, and Legal Entity Identifiers (LEIs) to identify issuers and counterparties to transactions.

The MiFID II mandate introduces controls for algorithmic trading that are designed to provide safeguards and reduce systemic risk, and includes regulation of algorithmic traders, including high frequency algorithmic traders, and their market making strategies.

Another key element is the unbundling of research services provided by sell-side institutions to their buy-side clients and execution fees. This clarifies the cost of research, avoids the offer of research as an inducement to trade with the research provider, and lists direct costs as line items, thereby improving transparency.

The regulation's proposal to introduce a consolidated tape that pulls together trade data of financial instruments from regulated markets, MTFs, OTFs and APAs, has yet to be realised.

In December 2019, ESMA published a first review report on the development of prices for market data and the consolidated tape for equity. The review found MiFID II had not delivered on its objective to reduce the cost of market data and that a consolidated tape had not materialised. It recommended the establishment of an EU wide real-time consolidated tape for equity instruments.

The European Commission has consulted on the review but has yet to make any formal comments on the price of market data or the consolidated tape.

Since MiFID II went live on January 3, 2018, it has not all been plain sailing, with firms having to implement elements of the regulation that were not required at go live.

For example, the deadline for best execution reporting kicked in at the end of June 2018, the implementation of Legal Identify Identifiers (LEIs) for counterparties was delayed from January to July 2018, and the formation of a mandatory systematic internaliser regime took place in September 2018. A deferral of requirements around derivatives clearing did not bring open access clearing to market until July 2020.

From a data management perspective, the challenges of MiFID II implementation have been huge in terms of sourcing and integrating data, managing data quality, accuracy and timeliness, and adjusting to an evolving regulation. Outstanding regulatory problems, such as inefficient operation of the FIRDS database, have added to the data management challenge.

These challenges are highlighted by sanctions and measures against firms within the scope of MiFID II in 2019. A report published by ESMA in July 2020, states that in 15 member states, national competent authorities imposed a total of 371 sanctions and measures, with an aggregated value of close to €2 million.

In early June 2020, ESMA published final guidelines on certain aspects of the compliance function under MiFID II. The 2020 guidelines leave the principles set out in 2012 guidelines unchanged and aim to provide further clarity about compliance obligations. The guidelines took effect on September 5, 2020.

A European Commission consultation on MiFID II from February to May 2020 – two years after implementation and designed to assess the regulation's functionality – has yet to yield results.

MIFIR

At a Glance

Regulation: Markets in Financial Instruments Regulation (MiFIR)

Regulatory Regime: EU

Target Market Segment: Global financial institutions

Core Requirements: Pre- and post-trade data transparency, transaction reporting

Significant Milestones

July 2, 2014: MiFIR enters into force

January 3, 2018: Compliance deadline

September 26, 2018: ESMA updates Q&A on MiFIR reporting

July 11, 2019: ESMA updates Q&A on MiFIR and MiFID II investor protection and intermediaries

Key Links:

Text: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R0600

Background and Timeframe: www.esma.europa.eu/policy-rules/mifid-ii-and-mifir

MiFIR Reporting Q&A: https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-56_qas_mifir_data_reporting.pdf

Description and Data Requirements

Markets in Financial Instruments Regulation (MiFIR) is an EU regulation associated with the Markets in Financial Instruments Directive II (MiFID II) that aims to harmonise the trading of securities and improve investor protection across the EU.

While MiFID II focuses on market infrastructure, MiFIR builds out transaction reporting requirements by setting out a number of new reporting obligations, and complements the directive's commitment to trading data transparency.

Under MiFIR, instruments that must be reported include all derivatives admitted to regulated markets, including currently exempt commodity, foreign exchange and interest rate derivatives, all instruments on multilateral trading facilities (MTFs) and organised trading facilities (OTFs), and all instruments that could change the value of instruments trading on any of these venues.

The regulation adds a number of fields to transaction reports, including fields designed to help spot short-selling traders, and trader and algorithm fields designed to identify the individual or program executing a transaction.

The European Securities and Markets Authority (ESMA) has stipulated that transactions must be reported using the ISO 20022 formatting standard.

From a trader's perspective, MiFIR has extensive implications for disclosure practices. Relevant data to include in a report might involve the bid and offer prices and the extent to which the parties invested in the trade, the volume and time of the trade execution, and any systemic issues.

The public and regulatory authorities must be made aware of this information on instruments such as equities, over-the-counter (OTC) and exchange-traded derivatives (ETD) on a continuous basis for transparency purposes. MiFIR does have exemptions relating mainly to the volume of a trade. For example, there are exemptions on regulating block trades and trades exceeding a specific size regarding certain instruments.

MiFIR's transparency requirements are around post-trade data processes, but also cover some pre-trade transparency requirements, such as equal access to trading opportunities data. The regulation's post-trade transparency requirements call for alterations to the trading environment as data such as prices, quotes, execution times and volumes must be published publically. The extension of trade and transaction reporting to additional asset classes means firms must submit more information to regulatory authorities via Approved Publication Arrangements (APAs) and Approved Reporting Mechanisms (ARMs).

Most recently, in October 2019, ESMA updated its Q&A on data reporting under MiFIR. Importantly, the Q&A provides clarification of the requirements for submission of reference data and transactions under MiFIR.

In terms of Brexit, MiFIR reporting obligations for UK firms will continue to be similar to the current requirements, but firms will need to report twice in certain circumstances. When an EU investment firm has executed a transaction via a UK branch or vice versa, the entity will have a dual reporting obligation. The investment firm will need to be contracted to both a UK ARM and an EU ARM to allow the functionality of dual reporting.

To take over the management of the transaction reporting regime in the UK, the FCA has built its own Financial Instruments Reference Data System (FIRDS) and Financial Instruments Transparency System (FITRS) to replace ESMA's.

FCA FIRDS has been available for testing since March 2020. FITRS provides market participants with transparency calculations for compliance with UK MiFID regulations. It uses data from UK trading venues and APAs and will be available for testing on October 5, 2020.

MMFR

At a Glance:

Regulation: European Money Market Funds Regulation (MMFR)

Regulatory Regime: EU

Target Market Segment: Fund managers

Core Data Requirements: Customer identity, bi-annual stress testing, daily asset valuation, secondary pricing, market data

Significant Milestones:

September 4, 2013: Proposal on MMFR presented to European Commission

November 14, 2016: Agreement on draft regulation reached between EU Council and European Parliament

April 5, 2017: EU Parliament approves regulation

May 16, 2017: EU Council formally adopts regulation

July 21, 2018: Regulation comes into force for new funds

January 21, 2019: Regulation comes into force for existing MMFs

October 2019: Asset managers report to their national competent authority

Q1 2020: MMF managers start quarterly reports of stress testing

Key Links:

FAQs: europa.eu/rapid/press-release_MEMO-13-764_en.htm?locale=en

Full Text: eur-lex.europa.eu/eli/reg/2017/1131/oj

ESMA Technical Advice and Guidelines: www.esma.europa.eu/sites/default/files/library/esma34-49-103_final_report_on_mmf_cp.pdf

July 2019, ESMA guidelines on stress testing: https://www.esma.europa.eu/sites/default/files/library/esma34-49-164_guidelines_mmf_stress_tests_draft_final_report.pdf

July 2019: ESMA guidelines on reporting: https://www.esma.europa.eu/sites/default/files/library/esma34-49-168_final_report_on_mmf_reporting.pdf

Description and Data Requirements

In 2013, the European Commission proposed legislation to regulate money market funds (MMFs) in response to G20 comments following the financial crisis. An MMF invests in short-term debt, such as treasury bills, commercial paper and certificates of deposit, and is an important short-term financing instrument for financial institutions and a short-term cash management channel for corporations.

The regulation aims to preserve the integrity and stability of the EU market by making MMFs more resilient, while protecting investors by reducing the disadvantages for late redeemers in stressed market conditions.

European Money Market Funds Regulation (MMFR) came into force on July 21, 2018 for all fund launches. Existing MMFs were given an additional six months to comply with a final implementation deadline of January 21, 2019. On June 11, 2018

MMFR

Her Majesty's Treasury published the UK Regulations, which came into force on July 18, giving the Financial Conduct Authority (FCA) power to investigate and enforce MMFR breaches.

The MMFR applies to all MMFs managed and/or marketed in the EU: including variable net asset value (VNAV) funds, constant net asset value (CNAV) funds, and low volatility net asset value (LVNAV) funds. It requires MMF managers to report information to the authorities on a quarterly basis, which is then made available to the European Securities and Markets Authority (ESMA) for the purposes of creating a central database.

The regulation introduces new liquidity management requirements to ensure all MMFs maintain sufficient liquid assets to meet any sudden withdrawal of investment. LVNAVs and CNAVs must hold at least 10% of assets that mature within one day and 30% that mature within one week; while VNAVs are required to hold at least 7.5% of assets that mature within one day and 15% within one week.

It also introduces rules on portfolio diversification and valuation of assets. Funds are allowed to invest no more than 5% of assets in money market instruments issued by the same body, no more than 10% of assets in deposits made with the same credit institutions, and no more than 17.5% of assets in other MMFs.

Investment requirements limit eligible assets and prohibit the use of techniques such as short-selling, securities lending and borrowing, while new valuation rules limit the use of amortised cost methods. Risk management requirements impose biannual stress testing and internal assessment procedures to determine credit quality, while MMF managers must implement Know Your Customer (KYC) policies and supply surveillance information to the authorities.

In March 2018, ESMA released draft guidelines for MMF stress testing, which are to be updated on an annual basis. On September 28, 2018 ESMA launched a public consultation.

Guidelines resulting from this consultation were issued on July 19, 2019. Guidelines on stress testing establish common reference parameters of the stress test scenarios MMFs or managers of MMFs should include in their stress scenarios. Guidelines on reporting provide guidance on how to fill in the reporting template on MMFs that managers of MMFs had to transmit to competent authorities as of Q1 2020.

NIS

At a Glance

Regulation: Network and Information Security (NIS) Directive

Regulatory Regime: EU

Target Market Sector: Global financial institutions

Core Requirements: Security, reporting

Significant Milestones

February 7, 2013: Initial European Commission proposal on cybersecurity

July 6, 2016: European Parliament adopts directive

August 2016: Enters into force

May 9, 2018: Deadline for directive to be transposed into national legislation

June 2018: Compliance deadline

November 9, 2018: Deadline to identify operators of essential services

June 27, 2019: European Cybersecurity Act enters into force

Key Links

Text: eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.194.01.0001.01.ENG&toc=OJ:L:2016:194:TOC

NIS Q&A: http://europa.eu/rapid/press-release_MEMO-18-3651_en.htm

Cybersecurity Act: https://eur-lex.europa.eu/eli/reg/2019/881/oj

Description and Requirements

The Network and Information Security (NIS) Directive was the first piece of European legislation on cybersecurity. Its provisions aim to make the online environment more trustworthy and better able to support the smooth functioning of the EU Digital Single Market.

The directive is based on proposals put forward by the European Commission in 2013 and designed to ensure a high, common level of network and information security. In 2015, the European Parliament and Council agreed measures to boost cybersecurity. The European Parliament adopted the NIS Directive on July 6, 2016 and it took effect in August 2016.

Member states had to transpose the directive into national legislation by May 9, 2018 and identify operators of essential services by November 9, 2018. These include operators of essential services in the banking, financial market infrastructure, energy, transport, healthcare and digital infrastructure sectors, as well as providers of key digital services, such as cloud computing, search engines and online marketplaces. The directive requires them to take appropriate security measures and report serious incidents.

As cybersecurity threats are evolving fast, the Commission encouraged swift implementation of the directive and in September 2017 adopted a communication that aimed to support member states and provided an NIS toolkit offering advice, sharing best practice by member states and interpreting specific provisions of the directive to explain how it should work in practice.

The rules of the directive aim to improve cybersecurity capabilities in member states and improve member states' cooperation on cybersecurity. To facilitate an improvement in national cybersecurity capabilities, the directive requires a minimum level of NIS capabilities based on member states adopting a national NIS strategy that defines strategic objectives, appropriate policy and regulatory measures.

Member states must designate a national competent authority for the implementation and enforcement of the directive, as well as Computer Security Incident Response Teams (CSIRTs) that are responsible for handling incidents and risks.

To improve cooperation on cybersecurity, the directive creates a group between member states to facilitate strategic cooperation, exchange of information and development of trust and confidence. The group also networks national CSIRTs to promote swift and effective operational cooperation on cybersecurity incidents and to share information on risks.

Since it was established under the NIS directive, the cooperation group has published five working documents, which result from its first biennial work programme running from 2018 to 2020. The first focuses on security measures for operators of essential services and the second on incident notification for operators of essential services. The other three documents include a reference document on the identification of operators of essential services, a compendium on cybersecurity of election technology, and a cybersecurity incident taxonomy.

Reinforcing EU cybersecurity, in June 2019, the European Commission implemeted the EU Cybersecurity Act to strengthen the EU Agency for cybersecurity (ENISA) and establish an EU-wide cybersecurity certification framework for digital products, services and processes.

A new mandate for ENISA under the act grants a permanent mandate to the agency, more resources and new tasks. In particular, ENISA will have a key role in setting up and maintaining the European cybersecurity certification framework.

PRIIPs

At a Glance

Regulation: Packaged Retail and Insurance-based Investment Products (PRIIPs)

Regulatory Regime: EU

Target Market Segment: Providers of retail investment and insurance products

Core Requirements: Data aggregation, maintenance, distribution

Significant Milestones

July 3, 2012: European Commission proposes legislation

November 26, 2014: European Council publishes regulation

March 31, 2016: Final RTS published

June 30, 2016: RTS adopted by European Commission

September, 2016: RTS rejected by European Parliament

November 16, 2016: European Commission postpones compliance deadline

March 8, 2017: Revised RTS published

April 3, 2017: European Council and Parliament approve revised RTS

January 1, 2018: PRIIPs comes into effect

Dates for Diary

December 31, 2021: UCITS regulated by PRIIPs

Key Links

Text: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R1286

Q&A on PRIIPS KID: https://esas-joint-committee.europa.eu/Publications/Technical%20Standards/JC%202017%2049%20(JC_PRIIPs_QA_Final).pdf

Description and Data Requirements

Packaged Retail and Insurance-based Investment Products (PRIIPs) is an EU regulation designed to avoid the sale of unsuitable investment and insurance products to consumers and, instead, provide them with clear product information they can use to understand and compare products before they invest.

This information is contained in a Key Information Document (KID) that must be provided by PRIIP manufacturers for all products within the scope of the regulation.

The regulation covers firms manufacturing PRIIPs, which include investment funds, insurance investment products and structured products such as deposits and securities, but not general insurance and protection-based life insurance policies, deposits exposed only to an interest rate and other products that carry no investment risk, directly held shares and bonds, and pensions.

Although Undertakings for Collective Investment in Transferable Securities (UCITS) meets the definition of PRIIPs, the existing UCITS Directive contains a requirement for Key

Investor Information Documents that are similar to KIDs. On this basis, the regulation gives UCITS providers a transitional period up to December 31, 2021, during which they will be exempt from PRIIPs.

The KID must be created before the PRIIP is made available to retail investors and must be published on the product manufacturer's website and provided on paper in face-to-face PRIIP sales. The document is limited in length to three A4 pages, must be presented in a way that is fair, clear and not misleading, and must contain only information needed by investors. It must promote comparability of products, explain the purpose of the KID, detail the product manufacturer and its regulator, and include mandatory sections such as 'What is the product?', 'What are the risks and what could I get in return', 'What are the costs?', and 'How long should I hold it and can I take money out early?'.

For PRIIPs manufacturers that must produce a KID for every product they promote, the data management requirement is considerable, leading some firms to review their range of products and many to consider working with third-party service providers to support the production and distribution of KIDs. Penalties for non-compliance include liability for damages if investors lose money.

The PRIIPs compliance deadline was initially slated for December 31, 2016, but in November 2016, the European Commission postponed the deadline by a year, moving it to January 1, 2018 and aligning compliance with that of Markets in Financial Instruments Directive II (MiFID II).

The Commission's decision to postpone PRIIPs, and the creation of associated KIDS, was driven by a European Parliament vote in September 2016 against the Level 2 Regulatory Technical Standards (RTS) on the KIDs element of the regulation. The Economic and Monetary Affairs (ECON) Committee of the European Parliament rejected the RTS ahead of the European Parliament vote.

After a review of the RTS, the Commission published a final iteration in March 2017. The European Council approved the revised version on 3 April 2017, along with the European Parliament, ensuring the January 1, 2018 PRIIPs compliance deadline.

Since then, the European Supervisory Authorities (ESAs) and European Securities and Markets Authority (ESMA) have issued numerous consultations on PRIIPs, particularly PRIIPs KIDs, and reported their responses. They have not, as yet, made any material changes to the regulation.

SEC CAT

At a Glance

Regulation:
Consolidated Audit Trail (CAT)

Regulatory Regime:
SEC

Target Market Sector:
National securities exchanges, broker-dealers

Core Requirements:
Securities reporting

Significant Milestones

July 11, 2012: SEC adopts Rule 631

February 26, 2013: SEC issues RFP for the CAT

November 15, 2016: SEC approves NMS CAT plan

January 2017: Thesys Technologies selected as CAT plan processor

Early March 2019: Thesys Technologies replaced by FINRA

July 20, 2020: Initial options reporting for large broker-dealers

Dates for Diary

December 13, 2021: Full equities and options reporting for large and small broker-dealers

July 11, 2022: Full customer and account reporting for large and small broker-dealers

Key Links

SEC adopts CAT: www.sec.gov/divisions/marketreg/rule613-info.htm

CAT NMS plan: www.catnmsplan.com/home/about-cat/cat-nms-plan/

SEC CAT Update: https://www.sec.gov/news/public-statement/statement-clayton-cat-covid-19-nal-cybersecurity-2020-03-17

Description and Data Requirements

The US consolidated audit trail (CAT) results from the SEC's July 2012 adoption of Rule 613 of Regulation National Market System (NMS). The rule required self-regulatory organisations (SROs) to submit a plan – the NMS plan – to create, implement and maintain a CAT.

The rule mandated that the NMS plan should require national securities exchanges and the Financial Industry Regulatory Authority (FINRA) to provide detailed information to a central repository – the CAT – covering each quote and order in an NMS security, and each reportable event with respect to each quote and order, such as origination, modification, cancellation, routing and execution.

The rule allowed the SROs to determine the specifics of how market participants report data to the repository and to select a plan processor to create and operate the CAT. The SEC posted a request for proposal (RFP) for the CAT in February 2013. In January 2017, the SROs selected Thesys Technologies to build

SEC CAT

the CAT, despite expectations that FINRA, operator of the predecessor to the CAT, the Order Audit Trail System (OATS), would win the bid.

The Thesys build did not make good progress and in a statement on February 1, 2019, the CAT NMS noted that the project would transition to a new plan processor. Early in March 2019, the CAT NMS selected FINRA as plan processor for the CAT and released updated technology and technical specifications.

The task of reporting to the CAT is huge, with about 58 billion data points being collected every day when the system is in full operation. Data management challenges include the requirement for broker-dealers and national securities exchanges to report data to the CAT repository by 8 am Eastern Time the following trading day for analysis by regulators. SROs and their members must synchronise clocks to record the date and time of reportable events and timestamp the events.

While first phase reporting to the CAT – covering SROs – was initially due to begin on November 15, 2017, the late development of the solution and replacement of the plan processor pushed reporting deadlines back. Reporting was pushed back again this year due to the coronavirus pandemic.

Recent amendments to the CAT cover transparency and the use of personal customer data in submissions to the CAT.

On May 15, 2020, the SEC voted to adopt amendments to the NMS plan to bring additional transparency, governance, oversight, and financial accountability to its implementation. The amendments require FINRA, exchanges, and SROs party to the plan to publish and file with the SEC a complete implementation plan for the CAT and quarterly progress reports.

On August 21, 2020, the SEC proposed amendments to the NMS plan designed to improve the security and confidentiality of data submitted to the CAT. The proposals would remove sensitive personally identifiable information (PII) to significantly reduce the amount of sensitive data collected without affecting the operational effectiveness of the CAT.

SEC CECL

At a Glance

Regulation: Current Expected Credit Loss (CECL)

Regulatory Regime: SEC

Target Market Sector: Financial institutions

Core Data Requirements: Accounting data including past events, current conditions, reasonable and supportable forecasts

Significant Milestones

June 2016: FASB introduces CECL model

July 17, 2019: FASB proposes to extend implementation date for all firms except large SEC filers to January 2023

April 3, 2020: New stimulus law, the CARES law, gives banks option to delay CECL reporting until December 31, 2020 or until federal authorities declare the COVID-19 national state of emergency over, whichever is earlier

Key Links

CECL FAQs: https://www.federalreserve.gov/supervisionreg/srletters/sr1908a1.pdf

Impact: www.federalreserve.gov/econres/feds/files/2018020pap.pdf

Description and Data Requirements

The Current Expected Credit Loss model (CECL) is an accounting model the Financial Accounting Standards Board (FASB) issued for the recognition and measurement of credit losses for loans and debt securities. It is designed to help investors understand managers' estimates of expected credit losses.

CECL is expected to have far-reaching implications and play a role in supporting business decisions. Its anticipated impact is driving financial institutions to consider replacing traditional spreadsheets and legacy systems with a more responsive, configurable platform with enabling tools and credit model options to sustain a CECL framework.

The FASB change replaces the 'incurred loss' accounting model with the CECL 'expected loss' model, and requires banks to record amounts they do not expect to collect in the allowance for loan and lease losses (ALLL) and in an allowance for credit losses on held-to-maturity debt securities.

Banking regulators have referred to CECL as 'the biggest change ever to bank accounting', as the standard is expected to have a huge impact on the costs to prepare and audit the ALLL, how investors analyse the ALLL, and how banks manage their capital.

Most recently, the impact of the coronavirus pandemic has led to an option for banks to delay reporting under CECL.

SEC Forms N-PORT and N-CEN

Significant Milestones

October 13, 2016: SEC adopts new rules and forms

June 1, 2018: N-PORT compliance for larger funds groups with net assets of $1 billion or more

June 1, 2018: N-CEN compliance

April 30, 2019: N-PORT reporting for larger funds groups

April 30, 2020: N-PORT reporting smaller funds groups

Key Links

SEC reporting modernisation: www.sec.gov/rules/final/2016/33-10231.pdf

SEC final rules: https://www.sec.gov/rules/final/2016/33-10231.pdf

Updated FAQs: https://www.sec.gov/investment/investment-company-reporting-modernization-faq#_ftnref4

At a Glance

Regulation: Forms N-PORT and N-CEN

Regulatory Regime: SEC

Target Market Sector: Registered investment companies

Core Requirements: Risk metrics, exchange-traded funds and securities lending data

Description and Data Requirements

The Securities and Exchange Commission (SEC) Forms N-PORT (portfolio) and N-CEN (census) are designed to modernise the reporting and disclosure of information by registered investment companies. Form N-PORT requires certain registered investment companies to report information about their monthly portfolio holdings to the SEC in a structured data format. Form N-CEN requires registered investment companies, other than face-amount certificate companies, to report annually certain census-type information to the SEC in a structured data format.

The forms came into effect in Janaury 2017 and were accompanied by amendments to Regulation S-X, which requires standardised, enhanced disclosure about derivatives in investment company financial statements; amendments to Forms N-1A, N-3 and N-CSR to require certain disclosures regarding securities lending activities; and the recision of Forms N-Q and N-SAR.

Collectively, the new forms and amendments are part of the SEC's modernisation plan and designed to improve the information the SEC receives from investment companies and help it to better fulfil its mission of protecting investors, maintaining fair, orderly and efficient markets, and facilitating capital formation.

From a data perspective, Form N-PORT requires more portfolio level information than its predecessor

SEC Forms N-PORT and N-CEN

Form N-Q. The additional reporting data is expected to improve risk analyses and other oversight by the SEC. It includes certain risk metric calculations that measure a fund's exposure and sensitivity to changing market conditions, such as changes in asset prices, interest rates, or credit spreads. Reporting of a fund's complete portfolio holdings on a position-by-position basis must be made on a trade date plus one day (T+1) basis.

Form N-CEN replaces the form previously used to report fund census information, Form N-SAR. Funds report at the registrant level and reports must be filed annually within 75 days of the end of a fund's fiscal year, rather than semi-annually as required by Form N-SAR. Form N-CEN includes many of the same data elements as Form N-SAR, but to improve the quality and usability of information reported, replaces outdated items with items the SEC believes to be of greater relevance today.

Form N-CEN also streamlines and updates information reported to the SEC to reflect current information needs, such as requiring more information on exchange-traded funds and securities lending. Where possible, Form N-CEN eliminates items that are reported on other SEC forms, or are available elsewhere.

Funds must report on Forms N-PORT and N-CEN using an XML structured data format.

In light of the coronavirus pandemic, on June 26, 2020, the SEC extended filing deadlines for Form N-PORT and Form N-CEN due between March 13, 2020 and June 30, 2020 by up to 45 days. It concluded that no further extensions of the deadlines were necessary.

SEC Form PF

Significant Milestones

March 31, 2012: Full implementation

June 15, 2012: Compliance for firms with more than $5 billion AUM

December 31, 2012: Compliance for all firms with more than $150 million AUM

Key Links

Full Text: www.sec.gov/rules/final/2011/ia-3308-formpf.pdf

FAQs: www.sec.gov/divisions/investment/pfrd/pfrdfaq.shtml

Description and Data Requirements

Form Private Fund (Form PF) is a US Securities and Exchange Commission (SEC) rule that details reporting standards for private funds and is designed to provide a view of the risk exposure of the assets in the funds.

Under Form PF, fund advisers are required to report regulatory assets under management (AUM) to the Financial Stability Oversight Council, an organisation created under the Dodd-Frank Wall Street Reform and Consumer Protection Act to assess risk in financial markets.

SEC registered investment advisers, commodity pool operators and commodity trading advisers with $150 million or more under management are subject to the rule and must regularly submit a Form PF. Further requirements depend on the size and type of fund. Large private fund advisers are classified as those with more than $1.5 billion AUM, advisers with more than $2 billion in private equity funds, and liquidity fund advisers with more than than $1 billion in combined assets. Anything smaller is classified as a small private fund adviser.

Small fund advisers must submit an annual Form PF including basic information. Large fund advisers must report more information, with private equity funds filing annually and hedge and liquidity funds filing on a quarterly basis.

Form PF requires a significant data management effort, including gathering, identifying, verifying and storing data that is essential to filling out the form correctly. Firms need to focus on reliable and easy access to the data, whether it is held internally or by external service providers, and they must understand the definitions and classifications of Form PF. Form PF also includes a number of stress tests that must be

At a Glance

Regulation: Form Private Fund (Form PF)

Regulatory Regime: SEC

Target Market Segment: Private funds

Core Requirements: Fund assets, stress testing, reporting

SEC Form PF

reported and requires firms to prove that reported data is accurate and consistent with other regulatory filings.

Institutional investors may request access to Form PF information in order to assess their investment decisions, risk profiles and due diligence efforts, meaning firms must determine how they gather and present information for both investors and regulators.

Form PF came into effect on June 15, 2012, with the largest funds (more than $5 billion AUM) having to meet compliance immediately. Smaller funds (with more than $150 million AUM) had until December 31, 2012 to comply.

The SEC cracked down on fund advisers that failed to submit Form PF for the first time in 2018, reporting in June 2018 that it had made settlements with 13 registered investment advisers that repeatedly failed to provide required information that the SEC uses to monitor risk.

On March 13, 2020, the SEC, recognising that disruption caused by the coronavirus outbreak may limit investment advisers' access to facilities, personnel, and third-party service providers, issued temporary exemptive relief from Form PF filing and reporting obligations for deadlines between March 13, 2020 and April 30, 2020. The filing and delivery deadline was extended by 45 days. The SEC has since taken no further action on Form PF.

SEC Rules 15c3-1, 15c3-3 and 17a-5

Significant Milestones

July 30, 2013: SEC finalises amendments to broker-dealer financial responsibility requirements and financial reporting rules

Key Links

SEC Customer Protection Rule Initiative: www.sec.gov/divisions/enforce/customer-protection-rule-initiative.shtml

Rule 17a-5 FAQs: https://www.sec.gov/divisions/marketreg/amendments-to-broker-dealer-reporting-rule-faq.htm

Description and Data Requirements

SEC Rules 15c3-1,15c3-3, and 17a-5 are integral to the Commission's Customer Protection Rule that seeks to avoid, in the event of a broker-dealer failure, a delay in returning customer securities or a shortfall in which customers are not made whole. This is done by requiring broker-dealers to safeguard both the cash and securities of their customers, and eliminating the use of customer funds and securities to finance broker-dealers' overheads and certain other activities.

Rule 15c3-1 sets capital requirements for brokers and dealers. Under the rule, a broker or dealer must have sufficient liquidity to cover its most pressing obligations. This is defined as having a certain amount of liquidity as a percentage of the broker-dealer's total obligations.

For customer cash, Rule 15c3-3 requires a broker-dealer to maintain a reserve of funds or qualified securities in an account at a bank that is at least equal in value to the net cash owed to customers. The rule also requires a broker-dealer to maintain physical possession or control over customers' fully paid and excess margin securities.

Rule 17a-5 requires broker-dealers to file monthly Financial and Operational Combined Uniform Single (FOCUS) reports concerning customer reserve account requirements and the proper segregation of customer securities. It also requires broker-dealers to file compliance reports annually that contain a description of 'each material weakness in the internal control over compliance of the broker-dealers', and to notify the SEC when there is a material weakness that could result in a violation of Rule 15c3-3.

Broker-dealers must provide accurate information to the SEC on their compliance with the Customer Protection Rule, and must self-report certain failures to comply, or material weaknesses in controls that hinder compliance efforts.

At a Glance

Regulation: Rules 15c3-1,15c3-3 and 17a-5

Regulatory Regime: SEC

Target Market Sector: Broker-dealers

Core Requirements: Net capital calculations

SEC Rule 22e-4

At a Glance

Regulation: Rule 22e-4

Regulatory Regime: SEC

Target Market Sector: Registered open-end investment companies

Core Requirements: Liquidity risk management

Significant Milestones

September 22, 2015: SEC proposes reform of liquidity risk management

October 13, 2016: SEC issues final rule

January 17, 2017: Effective data

February 2, 2018: SEC pushes out compliance deadline by six months

June 28, 2018: SEC adopts a final rule on risk management programmes

June 1, 2019: Compliance deadline for larger entities to implement a liquidity risk management programme

December 1, 2019: Compliance deadline for smaller entities to implement a liquidity risk management programme

Key Links

SEC Rule Proposal: www.sec.gov/news/pressrelease/2015-201.html

SEC Final Rule: www.sec.gov/rules/final/2016/33-10233.pdf

Description and Data Requirements

The Securities and Exchange Commission (SEC) voted to propose reforms that would enhance liquidity risk management at open-end funds, including mutual funds and exchange-traded funds (ETFs), in September 2015.

The resultant rule, Rule 22e-4, creates a regulatory framework to help funds design robust liquidity risk management programmes.

The SEC's goal is to reduce the risk of a fund being unable to meet its redemption obligations and to minimise dilution of shareholder interests by promoting stronger and more effective liquidity risk management across open-end funds. Put simply, the rule aims to ensure investors can redeem shares and receive assets in a timely manner.

After an industry comment period, the SEC adopted a final Rule 22e-4 in October 2016. The rule emphasises the need for mutual funds and ETFs to implement liquidity risk management programmes and details disclosure regarding fund liquidity and redemption practices.

Mutual funds and ETFs must classify their portfolios as highly liquid, moderately liquid, less liquid or illiquid, and only 15% of a fund's assets are permitted to be classified as illiquid.

SEC Rule 22e-4

This is a potential challenge, particularly in fixed income markets where only a small minority of securities trade regularly, but also an opportunity for mutual funds to improve operational procedures, reduce trading costs, and better understand their portfolios by elevating liquidity to a risk factor.

The initial Rule 22e-4 timeline, required all registered open-end investment companies, including open-end ETFs but not smaller entities, to adopt the rule and implement a written liquidity risk management programme, approved by a fund's board of directors, by December 1, 2018.

Smaller entities, defined as funds with less than $1 billion in net assets, would follow six months later and implement liquidity risk management programmes by June 1, 2019. Money market funds are exempt from all the requirements of the rule and 'in-kind ETFs' are exempt from some requirements.

On February 22, 2018 the SEC adopted an interim final rule that revised the compliance date of rule 22e-4 by six months and provided further guidance for firms within the scope of the rule.

The revised compliance date requires larger entities to be compliant on June 1, 2019, and smaller entities on December 1, 2019.

In addition to pushing forward Rule 22e-4 compliance, on June 28, 2018, the SEC adopted a final rule that requires funds to disclose information about their liquidity risk management programme in reports to shareholders. The SEC also amended Form N-PORT to enhance the liquidity information reported to the Commission.

SEC Rule 606

At a Glance

Regulation: Rule 606 (a) and (b) of the Regulation National Market System (NMS)

Regulatory Regime: SEC

Target Market Segment: Broker-dealers

Core Requirements: Data transparency, data consolidation, data lineage, trade and transaction reporting

Significant Milestones

November 17, 2000: SEC adopts Rules 605 & 606

November 2, 2018: SEC adopts amendments to Rule 606, with a deadline of May 2019

April 30, 2019: SEC extends the compliance date for Rule 606 amendments

August 2019: SEC issues new guidance on amendments to Rule 606

September 4, 2019: SEC grants delay to compliance reporting deadline

January 1, 2020: Compliance deadline for Rule 606(a) for all broker-dealers

January 1, 2020: Compliance deadline for Rule 606(b) for broker-dealers engaging in self-routing

April 1, 2020: Compliance deadline for broker-dealers that outsource routing

Key Links

Full Text: https://www.sec.gov/rules/final/2018/34-84528.pdf

FAQs: https://www.sec.gov/tm/faq-rule-606-regulation-nms

Description and Data Requirements

In November 2000, the Securities and Exchange Commission (SEC) adopted two rules to standardise and improve public disclosure of execution and routing practices, as part of the Regulation National Market System (Regulation NMS), a set of rules designed to improve the US exchanges through improved fairness in price execution. Rule 605 required that all 'market centres' trading NMS securities make available standardised, monthly reports containing statistical information about 'covered order' executions. Rule 606 required broker-dealers routing customer orders in equities and option securities to publish quarterly reports providing a general overview of their routing practices.

In November 2018, the SEC adopted a set of amendments to Rule 606, requiring broker-dealers to provide enhanced disclosure of their routing practices – in part to encourage effective and competitive order handling and routing services, and in part (from a regulatory perspective) to better investigate the relationship between exchange and trading venue rebates and routing decisions.

The amendment separates orders into 'held' (which must be executed immediately) and 'not held' (which give the broker some level of time and price discretion) with different

SEC Rule 606

disclosure obligations for each. Upon customer request, the new Rule 606(b)3 requires broker-dealers to provide specific disclosures, within seven days, for the past six months regarding not held orders.

Rule 606(a)(1) for held orders requires less detail, but enhances the order routing disclosures that broker-dealers must make publicly available on a quarterly basis.

Firms must now publish both 606(a) and new 606(b)3 reports on a bi-annual and quarterly basis, respectively, in place of the lengthy legacy 606 report. And unlike the previous incarnation, which was accepted in almost any format, the SEC will only accept the reports in XML or PDF.

Originally due for implementation in May 2019 along with the rest of the amendments to Reg NMS, the SEC in April delayed the compliance deadline until September 30, 2019 in response to a request from the Financial Information Forum (FIF) for further clarification. In August, the SEC released new guidance, clarifying issues such as the definitions of 'discretion' and 'venues'.

However, on August 2, 2019, prior to the release of the SEC guidance, FIF and the Security Traders Association (STA) filed a joint letter with the SEC requesting a further delay in implementation, and particularly warning that a lack of clarity around the process of reporting 'look-through data' (data that indicates where the destinations are routing flow and the fees/rebates paid to those destinations) was preventing stakeholders from moving forward with the implementation of Rule 606 in a manner that would 'provide end-customers with consistent and accurate data.'

On September 4, 2019 the SEC acquiesced, extending the compliance deadline to January 1, 2020 for all broker-dealers for Rule 606(a) and for self-routing broker-dealers for Rule 606(b), and to April 1, 2020 for broker-dealers who outsource routing activity.

The onus of Rule 606 compliance falls heavily on the sell-side, and the delays to implementation have primarily been due to concerns over data availability. The SEC indicated in its initial 2018 amendment that much of this data was already available, but in fact the wider breadth of data combined with a lack of clarity on certain key issues has made compliance a serious concern for sell-side firms.

On March 25, 2020, and in light of the challenges posed by the coronavirus pandemic, the SEC granted temporary exemptive relief from some of the reporting requirements of Rule 606.

Section 871(m)

At a Glance

Regulation: Section 871(m) of the Internal Revenue Code

Regulatory Authority: US Internal Revenue Service

Target Market Sector: Global financial institutions

Core Requirements: Identifying dividend equivalents, tax withholding, reporting

Significant Milestones

2012: IRS issues temporary and proposed regulations

September 17, 2015: IRS issues final regulations

December 2, 2016: IRS notice on guidance and clarification

January 1, 2017: IRS sets effective dates for the regulations within 871(m)

January 19, 2017: IRS issues further final, temporary and proposed regulations

September 21, 2018: IRS defers the effective dates of several aspects of 871(m)

December 17, 2019: IRS issues final regulations that take effect the same day and withdraw temporary regulations

Key Links

Proposed regulation: https://www.federalregister.gov/documents/2012/01/23/2012-1231/dividend-equivalents-from-sources-within-the-united-states

Final regulation: https://www.govinfo.gov/content/pkg/FR-2015-09-18/html/2015-21759.htm

Description and Data Requirements

Section 871(m) of the Internal Revenue Code is a set of regulations drawn up by the US Treasury Department and Internal Revenue Service (IRS). It governs withholding on certain notional principal contracts, derivatives and other equity-linked instruments (ELIs) with payments that reference (or are deemed to reference) dividends on US equity securities.

The regulations, which generally apply to transactions issued on or after January 1, 2017, impose up to 30% withholding tax on certain amounts arising in derivative transactions over US equities when those amounts are paid to non-US persons.

The regulations are a response to concerns about non-US persons dodging withholding tax on US securities' dividend payouts by using carefully timed swaps and other equity derivatives. These result in a dividend equivalent.

A dividend equivalent is defined in the regulations as: any substitute dividend made pursuant to a securities lending or a sale-repurchase transaction that directly or indirectly is contingent upon, or determined by reference to, the payment of a dividend from sources within the US; any payment made pursuant to a specified notional principal contract (specified NPC) that directly or indirectly is contingent upon, or determined by reference

Section 871(m)

to, the payment of a dividend from sources within the US; and any other payment determined by the IRS to be substantially similar.

A specified NPC is defined to include any NPC if: in connection with entering into such contract, any long party to the contract transfers the underlying security to any short party to the contract; in connection with the termination of such contract, any short party to the contract transfers the underlying security to any long party to the contract; the underlying security is not readily tradable on an established securities market; in connection with entering into such contract, the underlying security is posted as collateral by any short party to the contract with any long party to the contract; or such contract is identified by the IRS as a specified NPC.

Equity-linked investments (ELIs) that fall within the scope of the regulations include swaps, options, futures, convertible debt, structured notes and other customised derivative products.

The IRS issued temporary 871(m) regulations in 2012, provided amended proposed regulations in 2013 and issued final regulations on September 17, 2015. In December 2016, the IRS issued Notice 201676, aiming to provide taxpayers with guidance and additional clarifications on the administration of, and compliance with, section 871(m) regulations.

On January 19, 2017, and having reviewed the final regulations of 2015, the IRS issued final and temporary regulations under Section 871(m). The 2017 regulations broaden the range of payments that are considered US source payments and are subject to US withholding and reporting rules.

On September 21, 2018, the US IRS issued a notice announcing their intention to defer the effective dates of several aspects of the section 871(m) regulations, and extend certain related phase-in periods and transition rules.

On December 17, 2019. the IRS issued final regulations that took effect on the same day. These define the term broker for purposes of section 871(m) of the Internal Revenue Code. They also provide guidance relating to when the delta of an option that is listed on a foreign regulated exchange may be calculated based on the delta of that option at the close of business on the business day before the date of issuance. The final regulations also provide guidance identifying which party to a potential section 871(m) transaction is responsible for determining whether a transaction is a section 871(m) transaction when multiple brokers or dealers are involved in the transaction. These final regulations withdrew previous temporary regulations regarding these matters.

SFTR

At a Glance

Regulation: Securities Financing Transactions Regulation (SFTR)

Regulatory Regime/ Authority: EU

Target Market Segment: Investment fund managers

Core Data Requirements: Client, counterparty and trade identification, reporting

Significant Milestones

January 2014: European Commission proposes SFT regulation

January 12, 2016: Effective date

March 31, 2017: Final ESMA report on implementing SFTR

March 22, 2019: SFTR legally binding

April 14, 2020: Reporting go-live for banks and investment firms

July 13, 2020: Reporting go-live for CSDs and CCPs

Dates for Diary

October 12, 2020: Reporting go-live for all other financial counterparties

January 11, 2021: Reporting go-live for all non-financial counterparties

Key Links

Text: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R2365

FAQs: europa.eu/rapid/press-release_MEMO-15-5931_en.htm

Final Guidelines for Reporting under SFTR: https://www.esma.europa.eu/sites/default/files/library/esma70-151-2703_final_report_-_guidelines_on_reporting_under_sftr.pdf

Description and Data Requirements

Securities Financing Transactions Regulation (SFTR) is an EU regulation and part of a drive by the EU to increase transparency of activities that are broadly categorised as shadow banking.

The regulation is designed to highlight transactions that could pose a significant level of systemic risk and specifically sets out requirements to improve market transparency of securities financing transactions (SFTs).

SFTs are typically transactions that use securities to borrow cash, or vice versa. They include securities and commodities lending, margin lending and repurchase agreements. Total return swaps are also covered by some of the regulation's disclosure requirements. To achieve improved transparency, SFTR requires all SFTs and associated collateral to be reported to an EU approved trade repository, making the transactions visible to relevant EU regulators.

The regulation permits collateral reuse, but only when the collateral provider has given explicit consent in writing. It also mandates fund managers to disclose policies on the use of SFTs and total return swaps to their investors in both pre-investment documents and ongoing periodical reports.

The regulation's scope is broad, covering SFTs made by firms established in the EU, SFTs made by EU branches of non-EU firms, and SFTs where securities used are issued by an EU issuer or by an EU branch of a firm.

The regulation explicitly identifies Undertakings for Collective Investment in Transferable Securities (UCITS) funds and Alternative Investment Fund Management (AIFM) funds as being within its scope, but its reach means any firm engaging in SFTs will have to review workflows and upgrade data management systems to fulfil the transaction reporting obligation.

The European Securities and Markets Authority (ESMA) issued its final Regulatory Technical Standards (RTS) on implementing SFTR in March 2017, detailing the rules for reporting SFTs to approved trade repositories. Broadly, the details of the report remain consistent with previous drafts, but there are changes in the final standards covering elements of the regulation including the generation of Unique Trade Identifiers (UTIs), collateral reporting timing, margin lending, use of the Legal Entity Identifier (LEI) and reportable fields.

Following publication, ESMA sent the final standards to the European Commission for endorsement.

A year later, In the summer of 2018, the Commission informed ESMA of its intention to endorse the RTS published in March 2017 but only if ESMA would make certain changes. In early September, ESMA declined to do this, pushing the decision on the adoption of SFTR back to the Commission.

After the Commission and ESMA agreed the RTS, the seven delegated regulations and three implementing regulations comprising SFTR legislation were published in the Official Journal of the EU on March 22, 2019, making the regime legally

SFTR

binding. The reporting obligations were also set.

In May 2019, ESMA opened a public consultation on draft guidelines on how to report SFTs. On the basis of the consultation, it published final guidelines on reporting on January 6, 2020.

Reporting was later temporarily amended as a result of COVID-19. On March 26, 2020, ESMA put out a statement expecting competent authorities not to prioritise supervisory actions on counterparties and entities responsible for reporting under SFTR regarding SFTs concluded between April 13, 2020 and July 13, 2020. The statement also offered a delay in registering trade repositories, but said they should be registered ahead of the next reporting date of July 13, 2020.

In June 2020, the UK's treasury department confirmed that the requirement for UK-based non-financial entities to report under SFTR will not be on-shored as it falls outside the Brexit transition period that ends on December 31, 2020.

As a result, the UK will not incorporate into law the fourth phase of reporting obligations under SFTR, which applies to non-financial entities and is due to take effect in the EU from January 2021. The first three phases of reporting will continue in line with the regulation.

SMCR

Significant Milestones

December 2013: UK legislates application of SMCR to banking sector

October 2015: UK says all regulated firms will be subject to SMCR from 2018

March 7, 2016: SMCR takes effect

March 7, 2017: Banks complete certification

July 2018: FCA publishes proposals to extend SMCR to all FCA authorised firms

December 9, 2019: All FCA authorised firms must be compliant with SMCR

Key Links

Extension of SMCR to all FSMA Firms: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/468328/SMCR_policy_paper_final_15102015.pdf

FCA Policy Statement on Extension of SMCR to FCA Firms: www.fca.org.uk/firms/senior-managers-certification-regime

At a Glance

Regulation: Senior Managers and Certification Regime (SMCR)

Regulatory Regime: UK Government

Target Market Sector: Financial services firms

Core Requirements: Accountability

Description

The Senior Managers and Certification Regime (SMCR) was established uniquely in the UK in response to the 2008 crisis and conduct failings in the banking sector, such as the manipulation of Libor.

The government set up the Parliamentary Commission for Banking Standards (PCBS) to recommend how to improve standards in early 2013. The PCBS recommended a new accountability framework focused on senior management. It also recommended firms take more responsibility for employees being fit and proper, and better standards of conduct at all levels in banking firms.

Based on these recommendations, Parliament passed legislation in December 2013, leading to the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) applying SMCR to banking.

SMCR replaces the discredited Approved Persons Regime (APR) set down in the Financial Services and Markets Act (FSMA) and initially applied to UK banks, building societies, credit unions, branches of foreign banks operating in the UK and the largest investment firms regulated by the FCA and PRA. An extension was made in 2015 to cover all firms authorised under FSMA.

Key features of SMCR include:

- An approval regime focused

SMCR

on senior management, with requirements on firms to submit robust documentation on the scope of these individuals' responsibilities

- A statutory requirement for senior managers to take reasonable steps to prevent regulatory breaches in their areas of responsibility, with the burden of proving misconduct carried by regulators
- A requirement for firms to certify as fit and proper any individual who performs a function that could cause significant harm to the firm or its customers
- A power for regulators to apply enforceable Rules of Conduct to any individual who can impact their respective statutory duties.

SMCR became operational for banks, building societies, credit unions and PRA-regulated investment firms in March 2016. Banks were given until March 2017 to complete the certification of staff. The extension of the regime to cover all firms authorised under FSMA came into operation in 2018.

In the summer of 2018, the FCA published its long-awaited proposals for the extension of SMCR to all FCA authorised firms. These firms had to be compliant by December 2019. The extension of SMCR aims to foster a culture of greater individual accountability. It will increase individual responsibility at the most senior levels and ultimately seeks to continue to help restore confidence in the financial services industry.

From an implemention perspective, firms should not underestimate the amount of work, internal training, and communication required to ensure compliance with the regime.

Most recently, and in response to the coronavirus pandemic, the deadline for regulated firms to have undertaken the first assessment of the fitness and propriety of their certified persons has been delayed from December 9, 2020 to March 31, 2021. The deadline to submit data to the FCA for the FCA Directory has been delayed from December 9, 2020 to by March 31, 2021.

Solvency II

Significant Milestones

January 18, 2015: Solvency II enters into force

January 31, 2015: Deadline for transposing Solvency II rules into national law

January 1, 2016: Effective date

March 2019: European Commission adopts new rules

July 8, 2019: Fourth amending regulation comes into force

January 1, 2020: Amendments take effect

Dates for Diary

Early 2021: European Commission expected to publish legislative proposals amending Solvency II

March 31, 2021: Revised deadline for first assessment and propriety of certified persons, and to submit data to the FCA

Key Links

Overview: ec.europa.eu/info/business-economy-euro/banking-and-finance/insurance-and-pensions/risk-management-and-supervision-insurance-companies-solvency-2_en

Text: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02009L0138-20140523

March 2019 amendments to Solvency II: https://europa.eu/rapid/press-release_IP-19-1601_en.htm

July 2019, fourth amending regulation: https://eur-lex.europa.eu/eli/reg_del/2019/981/oj

At a Glance

Regulation: Solvency II

Regulatory Regime: EU and EIOPA

Target Market Segment: Insurance companies and their service providers

Core Requirements: Solvency capital calculation, risk management, governance, reporting

Description and Data Requirements

Solvency II is an EU directive that aims to harmonise European insurance regulation and create a unified and stable industry driven by risk and solvency requirements. It is designed to protect consumers, improve regulatory supervision and increase the competitiveness of European insurers in international markets.

The regulation is principles based, complex and broad in scope, covering not only insurers and reinsurers, but also asset managers and asset servicers. It is broken down into three pillars covering: capital requirements, including a solvency capital requirement based on an internal or standard model and a minimum capital requirement; governance and supervision, including effective risk management

Solvency II

and an internal Own Risk and Solvency Assessment; and public disclosure and regulatory reporting on a quarterly and annual basis.

While insurers bear the greatest burden of data management under Solvency II and must manage both existing and new data, such as the Complementary Identification Code (CIC) for asset classification, Nomenclature Statistique des Activités Economiques dans la Communauoté Européenne (NACE) for industry classification, and the Legal Entity Identifier (LEI) for entity identification, the burden carried by asset managers and asset servicers is not insignificant.

Under the regulation's 'look through' component, asset managers and servicers must provide transparency on the investments they hold on behalf of insurance company clients in accordance with technical standards outlined by the European Insurance and Occupational Pensions Authority (EIOPA). The standards, which cover both asset data and risk data, include quality requirements of complete, timely, accurate and appropriate data.

Asset managers and servicers must also provide granular information on entities issuing securities and the component elements of derivative instruments.

With data management requirements running through the principles and pillars of Solvency II, insurers are likely to source data for compliance purposes from both internal and external sources, often consolidating data from a number of data vendors to generate required datasets.

Easing the burden of 'look through' data flow between insurers and asset managers is a tripartite template, developed by the Investment Association in the UK, BVI in Germany and Club Ampere in France, and providing a common template to support the exchange of data.

The compliance deadline for Solvency II was January 1, 2016. Firms with successful implementations of the regulation can not only deliver compliance, but also gain opportunities to reduce capital requirements, improve risk management and achieve a clearer link between capital and risk to support better business decisions.

Solvency II

Following the Solvency II deadline, EIOPA collected evidence and experiences of the application of Solvency II and submitted two sets of technical advice in response to calls from the European Commission.

The first set of advice focused on the solvency capital requirements standard formula by putting forward evidence based changes. The aim was to reduce the complexity of the standard formula where needed while retaining a proportionate, technically robust, risk-sensitive and consistent supervisory regime for the insurance sector. Essentially, the advice covers proposals regarding simplified calculations requiring less data input.

The second set of advice addressed remaining technical issues including risk margin, catastrophe risks, non-life and life underwriting risks, non-proportional reinsurance covers, unrated debt and unlisted equity and own funds.

On the basis of this advice, on March 8, 2019, the European Commission adopted new rules that take the form of a delegated act and aim to improve the balance between burden and risk and ensure that Solvency II remains up-to-date.

The act lowers the capital requirements for insurers' investments in equity and private debt, aligning with rules applicable to banks and insurers. Other amendments to Solvency II include:

- New simplifications in the calculation of capital requirements
- Improved alignment between the insurance and banking prudential legislations
- Updated principles and standard parameters to better reflect developments in risk management

Based on these amendments, on July 8, 2019, a fourth amending regulation came into force including changes to the basic solvency capital requirement depending on a firm's activity, and changes to the loss absorbing capacity of deferred taxes. All the amendments came into force on January 1, 2020.

During 2020, the European Commission carried out a review of Solvency II based on public consultation. It is expected to publish legislative proposals for amendments to Solvency II early in 2021.

SRD II

At a Glance

Regulation: Shareholders Rights Directive II (SRD II)

Regulatory Regime: EU

Target Market Segment: Institutional investors, asset managers, issuers, proxy advisers, intermediaries

Core Requirements: Corporate governance, shareholder engagement

Significant Milestones

September 3, 2018: EU publishes implementing regulations

June 10, 2019: Member states transition majority of directive into national law

September 3, 2020: Member states complete transition, SRD II comes into force

Key Links

Text: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L0828

Summary: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legissum%3Al33285

Description and Data Requirements

The Shareholder Rights Directive II (SRD II) is one of the biggest changes to European corporate governance in years. The directive sets out to strengthen the position of shareholders and reduce short termism and excessive risk taking by companies. It is also designed to encourage engagement between issuers and shareholders, and greater shareholder presence at annual general meetings.

The directive amends SRD I, which came into effect in 2007, and aims to improve corporate governance in companies whose securities are traded on EU regulated markets. It was implemented in two phases: by June 10, 2019, member states were required to transpose the majority of SRD II's requirements into national law; and by September 3, 2020, they were required to transpose remaining measures relating to the identification of shareholders, transmission of information, and facilitation of the exercise of shareholders' rights.

Within the scope of SRD II are institutional investors, asset managers, issuers, proxy advisers, and intermediaries. This includes not only intermediaries located in the EU that are in scope, but also non-EEA firms that hold in scope shares.

SRD II establishes specific requirements to encourage shareholder engagement:

- The identification of shareholders
- Transmission of information to shareholders
- Facilitation of the exercise of shareholders rights
- Public disclosure of information by institutional investors, asset

managers, life insurers and proxy advisors
- Transparency of costs
- Information on the remuneration of directors

The main change from SRD I to SRD II is in Article 3, which gives companies the right to identify their shareholders. This creates an obligation on intermediaries to transmit the necessary information to determine shareholder identity. Intermediaries also have to transmit relevant information from the company to the shareholder to facilitate the exercise of shareholder rights. And they must publicly disclose what they charge for these services, with costs being non-discriminatory and proportionate.

Institutional investors and asset managers must fulfil additional requirements to publish an engagement policy and disclose annually how the main elements of their investment strategy contribute to the medium to long-term performance of their assets.

Proxy advisors must adhere to a code of conduct and disclose information to show how their voting recommendations are accurate and reliable.

Shareholders are given the right to vote on the company's remuneration policy for directors and ensure directors are paid in accordance with the remuneration policy approved by a general meeting. The aim of this requirement is to create a better link between pay and performance of company directors.

The directive covers a minimum set of standards for member states, meaning individual member states could go beyond the requirements. Either way, the additions to SRD II must be factored into securities servicing and based on ISO 20022 messaging, extending complexity and the compliance burden, and in turn, requiring firms to either increase investment in-house or partner with outsourced investor communications specialists.

UCITS

At a Glance

Regulation: Undertakings for Collective Investment in Transferable Securities V (UCITS V)

Regulatory Regime: EU

Target Market Segment: European fund managers and depositories

Core Requirements: Asset management, reporting

Significant Milestones

1985: First UCITS Directive

July 1, 2011: UCITS IV takes effect

September 17, 2014: UCITS V implemented

March 18, 2016: UCITS V takes effect

April 30, 2019: ESMA report on integrating sustainability risks in UCITS

June 4, 2019: ESMA publishes latest Q&A on application of the UCITS Directive

June 8, 2020: European Commission draft proposals on sustainability

Key Links

Text: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0091

FAQs: europa.eu/rapid/press-release_MEMO-14-298_en.htm?locale=en

Description and Data Requirements

Undertakings for Collective Investment in Transferable Securities (UCITS) are investment funds regulated at EU level on the basis of regulations issued by the European Commission. UCITS V is the most recent UCITS directive and aims to increase the level of protection already offered to investors in UCITS and to improve investor confidence in them. It plans to do this by enhancing the rules covering the responsibilities of depositaries and by introducing remuneration policy requirements for UCITS fund managers.

The first UCITS directive was implemented in 1985 and has since been improved incrementally as well as by a major overhaul in 2009 that created UCITS IV, which came into effect in July 2011. The UCITS V directive was implemented in September 2014 and took effect in March 2016.

In July 2012, the European Commission ran a consultation on a potential UCITS VI. The consultation made recommendations for changes to UCITS V, but UCITS VI has yet to materialise.

The changes made in UCITS V include:

- A requirement to appoint a single depositary for each UCITS
- Publication of a list of entities eligible to act as depositaries
- Harmonisation of the duties of a depositary to keep the assets of the UCITS safe
- Monitoring cash movements to

and from the fund
- Overseeing the fund manager's performance of its key functions

To avoid financial loss, the directive requires member states to ensure that assets held in custody by a depositary are protected in the event of the depositary becoming insolvent. Similarly, the depositary is liable for the avoidable loss of a financial instrument held in custody.

A further requirement is the need for UCITS management companies to have transparent remuneration policies covering key staff. The directive also aims to harmonise different approaches to sanctioning across the EU by introducing a range of sanctions that can be imposed by EU regulators for breaches of the directive.

In terms of data management, UCITS V tightens the rules issued in previous directives and calls on depositories to improve their understanding and visibility of asset data, and ensure oversight of fund managers' performance. Data must also be managed for annual reports.

While UCITS VI has not yet materialised, and maybe never will, ESMA has continued to revise UCITS V, updating Q&As and in December 2018, issuing a consultation paper on its technical advice to the European Commission on integrating sustainability risks and factors in the UCITS Directive.

A final report published in April 2019 reviews responses to the consultation and covers topics on which the Commission requested ESMA to provide technical advice, namely organisational requirements, and operating conditions and risk management provisions set out in the UCITS Level 2 frameworks.

Following the technical advice published by ESMA in April 2019, the European Commission issued proposed amendments to UCITS V in June 2020. The amendments would require sustainability risks to be taken into account in organisational procedures, the management of conflicts of interest and risk management policies.

They would also place an obligation on UCITS management companies to consider sustainability risks and factors when undertaking investment due diligence. The Commission has not yet published final proposals for review by the European Council and Parliament.

Outlook

Stormy weather followed by sunny intervals

If 2020 has been a year of uncertainty, market volatility and choppy regulatory change as a result of the coronavirus pandemic, 2021 is likely to be little different as the virus continues to take its toll and UK market participants contend with the post-Brexit regulatory regime.

The roll out of some large, complex and diverse regulations such as Central Securities Depositaries Regulation (CSDR) and Investment Firms Directive and Regulation (IFD/IFR) will be a challenge for data management practitioners and compliance teams, although a sunny interval here is another year of relief from the implementation of Fundamental Review of the Trading Book (FRTB).

Despite these dark clouds and the sunny interval of FRTB, the longer term forecast is looking pretty promising. Industry collaboration will continue to develop data standards and frameworks designed to reduce the regulatory burden, and regulators are expected to join the conversation in earnest as they realise their role as data managers in their own right.

The capability of technology will soar as machine learning, natural language processing, artificial intelligence and cloud technologies reach maturity and win the confidence of market participants and regulators. With a growing community of data scientists in capital markets, deep learning will also develop, additional datasets will be identified, and new ways of working will emerge as a result of smarter machines.

After a year dominated by an unforeseen crisis, financial firms have strengthened their resilience, making themselves watertight in case of further downpours, and increasingly able to realise the potential of collaboration, technology, and data science in their regulatory response.

Glossary

AIFMD – Alternative Investment Fund Management Directive

AMLD – Anti-Money Laundering Directive

APA – Approved Publishing Arrangement, an organisation offering publication of order data on a commercial basis

ARM – Approved Reporting Mechanism, an organisation to which firms must submit transaction reporting

AUM – Assets under management

BCBS – Basel Committee on Banking Supervision

BHC – Bank holding company

CAT – US consolidated audit trail

CCAR – Comprehensive Capital Analysis and Review

CCP – Central Counterparty

CECL – Current Expected Credit Loss

CFI – Classification of Financial Instruments

CFTC – Commodity Futures Trading Commission

CIC – Complementary Identification Code

Corep – Common Reporting

CRD – Capital Requirements Directive

CRR – Capital Requirements Regulation

CSDR – Central Securities Depositories Regulation

CSIRT – Computer Security Incident Response Team

CTF – Counter terrorist financing

CVA – Credit value adjustment

D-FAST – Dodd-Frank Act stress testing

D-SIB – Domestic systematically important bank

EBA – European Banking Authority

ECB – European Central Bank

EIOPA – European Insurance and Occupational Pensions Authority

ELI – Equity-linked investments

EMIR – European Market Infrastructure Regulation

ENISA – European Agency for Cybersecurity

ESA – European Supervisory Authority

ESG – Environmental, social & governance

ESMA – European Securities and Markets Authority

ETD – Exchange-traded derivatives

ETF – Exchange-traded fund

Euribor – Euro Interbank Offered Rate

FASB – Financial Accounting Standards Board

FATF – Financial Action Task Force

FCA – Financial Conduct Authority

FDIC – Federal Deposit Insurance Commission

FIF – Financial Information Forum

FINRA – Financial Industry Regulatory Authority

Finrep – Financial Reporting

FIRDS – Financial Instruments Reference Data System

FIU – Financial Information Unit

Form PF – Form Private Fund

FRTB – Fundamental Review of the Trading Book

FSB – Financial Stability Board

FSMA – Financial Services and Markets Act

GDPR – General Data Protection Regulation

GHOS – Group of Central Bank Governors and Heads of Supervision

Glossary

G-SIB – Global systemically important bank

IFD/IFR – Investment Firms Directive/Regulation

IFRS - International Financial Reporting Standards

IGA – Intergovernmental Agreements

IHC – Intermediate bank holding company

IMA – Internal Model Approach

IOSCO - International Organisation of Securities Commissions

IRS – US Internal Revenue Service

ITS – Implementing Technical Standards

ISO – International Organisation for Standardisation

KID – Key Information Document

KYC – Know Your Customer

LCR – Liquidity coverage ratio

LEI – Legal Entity Identifier

Libor – London Interbank Offered Rate

MAR – Market Abuse Regulation

MiFID II – Markets in Financial Instruments Directive II

MiFIR – Markets in Financial Instruments Regulation

MIC – Market Identifier Code

MMFR – Money Market Funds Regulation

MTF – Multilateral trading facility

NCA – National Competent Authority

NMS – National Market System

NPC – National Principal Contract

NSFR – Net stable funding ratio

NIS – Network and Information Security Directive

OTC – Over-the-counter

OTF – Organised trading facility

PEP – Politically exposed person

PRA – Prudential Regulation Authority

PRIIPS – Packaged Retail and Insurance-based Investment Products

RTS – Regulatory Technical Standards

RWA – Risk weighted asset

SA – Standardised Approach

SDGs – Sustainable Development Goals

SEC – Securities and Exchange Commission

SFTR – Securities Financing Transactions Regulation

SI – Systematic internaliser

SMCR – Senior Managers and Certification Regime

SRD – Shareholders Rights Directive

SRO – Self-regulatory organisations

STA – Security Traders Association

UCITS – Undertakings for Collective Investment in Transferable Securities

UPI – Unique Product Identifier

UTI – Unique Transaction Identifier


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