

# *EMIR reporting: are you ready?*

*February 2014*



From 12 February 2014, reporting under EMIR goes live and all EU entities will be required to report details of all their derivative transactions (OTC and exchange-traded) to a registered trade repository.

## **Will I be subject to the obligation to report?**

Yes – if you are an EU entity that is the principal counterparty to a derivative transaction, irrespective of the location of your counterparty or of any agent or asset manager who executes transactions on your behalf.

## **What transactions are reportable and when?**

In summary:

- **from 12 February 2014**, the following must be reported:
  - all new derivatives transactions entered into on or after 12 February 2014 (the report must be delivered to a trade repository by the end of the business day following the date of execution); **and**
  - all derivatives transactions which were entered into on or after 16 August 2012 and which remain outstanding on 12 February 2014 (the report must be submitted to a trade repository by the close of business on 13 February 2014);
- **by 13 May 2014** - all transactions which were entered into before 16 August 2012 and which remained outstanding on 12 February 2014;
- **commencing 12 August 2014** – if you are a "financial counterparty" or a "NFC+" for EMIR purposes, specific information on transaction exposures (i.e. information on collateral and mark-to-market or mark-to-model valuations); and
- **by 12 February 2017** – all transactions which were outstanding on 16 August 2012 but which were terminated prior to 12 February 2014.

Once a transaction is subject to the reporting requirement, it will also become necessary to report other key 'life-cycle' events relating to that transaction, including modifications to any of the reported terms, cancellation and termination.

You may, if you wish, start to make your reports earlier than the formal deadline under EMIR.

## **Who are the relevant trade repositories?**

The only trade repositories which have been registered with the European Securities and Markets Authority (ESMA) so far are:

- CME Trade Repository Ltd., based in the United Kingdom;
- DTCC Derivatives Repository Ltd., based in the United Kingdom;
- ICE Trade Vault Europe Ltd., based in the United Kingdom;
- Krajowy Depozyt Papierów Wartościowych S.A., based in Poland;
- Regis-TR S.A., based in Luxembourg; and
- UnaVista Ltd, based in the United Kingdom.

If you are subject to the reporting obligation and have not done so already you should identify which trade repository you wish to use in anticipation of the forthcoming reporting start date.

## **What must be included in a report?**

The details which must be reported are set out in the Annex to Commission Delegated Regulation (EU) No 148/2013 which contains the relevant regulatory technical standards ([see here](#)).

## **Can I delegate the reporting obligation (e.g. to my counterparty or asset manager)?**

Yes - although note that you will retain responsibility so will still be liable if your delegate fails to report or mis-reports.

If you think you will be subject to the reporting obligation and will not be able to, or would rather not, set up direct links with a trade repository, you should (if you have not done so already) be speaking to your counterparty or asset manager now in order to ensure that the reporting obligations are met when they go live.

## What is a Legal Entity Identifier and do I need one?

A Legal Entity Identifier ("LEI") is a unique identification number which will be required in order for you (or your delegate) to submit reports to a trade repository.

The LEI Regulatory Oversight Committee's website ([see here](#)) lists those entities which have been authorised to issue LEIs. Note that these entities will impose a nominal initial charge for anyone wishing to obtain a LEI, together with a small annual maintenance fee.

You should allow sufficient time to register for a LEI to ensure that you are in a position to be able to start reporting from 12 February 2014 onwards. We understand the current processing time to be around 48 hours, but this could lengthen (particularly if there is a last-minute rush to beat the 12 February 2014 deadline) so we strongly recommend prompt action.

## Where can I find further details on reporting to trade repositories?

The FCA maintains a section on its website dedicated to EMIR; this includes a specific page on reporting to trade repositories ([see here](#)).

This briefing note, which looks specifically at the reporting requirements under EMIR, is a high level summary of a complex subject. For further information on any of the reporting issues outlined above or in relation to other aspects of EMIR that are still awaiting implementation and their potential impact on pension schemes, please speak to Peter Hughes, Jonathan Gilmour or your usual contact at Travers Smith.



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