i. Broker, TV and market feedback
ii. Compliance and Level 3 FAQs
iii. Dealing with "*NIPs Instruments*": FX Swaps, Commodities & Crypto

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Intro: Role of the Trading Venue - Broker in EMIR Refit

- Trade confirmations
  - Compared to the US "Part 43 – Trade creation data"
  - Little or No touch to TRs as there is with SDRs
    - (unless Principal, Agency and Delegated Reporting)
  - UPI
  - ISIN
  - UTI
  - MIC
  - RTN
- Non-Financial Counterparties and direct market access
- Possible Regulatory deference from MiFIR to EMIR-Refit and to SFTR-Refit
- Harmonisation of reporting fields and global standards / ISO 20022
- Joint Trade Associations Working Group under ISDA

Qomply EMIR REFIT Webinar; 11th June 2024

General Comments

i. Some six weeks into EU EMIR Refit, seems to have gone fairly without major hitches
ii. One proof will turn on "Inter-Trade-Repository" reconciliations:
    a. Issue of 'Data Quality', versus 'validations' - difference between to two
    b. To what extent is ESMA on the case by examining the quantitative statistics on these reconciliations
    c. Some existential difference between sample statistics on Trade Repository Acceptance rates (perhaps c. 80%) versus Reconciled Trade legs (yet unknown)
iii. Teething Issues
    a. Inconsistent implementation of the validation rules across the Trade Repositories
    b. For example: the "Clearing Obligation Field" [2.30] is different between all three Trade Repositories [*UnaVista / Regis TR / DTCC*]
    c. What is the market share between the three Trade Repositories?
        i. Turns on the treatment of the CCP trade count
        ii. DTCC have the vast majority of uncleared trades
iv. Kaizen Reporting's Tim Hartley notes that there are 180 days available to enrich the currently open trade population with the new Refit rules
    a. But only a third of relevant trades are estimated to have been upgraded so far in the 42 days
    b. Is this rational considering the available preparation time and the forthcoming UK EMIR September date

Considering trade population size, the validation processes thought better to get right now.

viii. Can reporting firms achieve their T+1 requirements with no drama by ensuring all the *correct counterparty arrangements are in place*
ix. Can futures clearing firms obtain the relevant required data from the CCPs in a timely manner?
    a. Their ought to be a standard CCP output file available early in the day on T+1
    b. Perhaps available as a "Delta File"
    c. Firms note that the EEX File is often lunchtime or later on T+1 so far
x. Prior UTI
    a. TA best practice where this is "not available" for matters including
        i. Data source location
        ii. File structure
        iii. Fall-backs where not available
xi. Scope for ongoing "Best Practice Reviews"
    a. Including peer reviews between EU, UK, US, MAS reporting regimes and schemas and outcomes
    b. ISO 20022 as XML and any delayed ITS4 specified formats
xii. FCA EMIR L3 Q&A's – generally well drafted and few concerns
    a. RTN concerns generally dispelled

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Broker & Market Feedback to Initial Reporting Period

i. What to do with Open Trades and Legacy Positions
   a. Adapting EU EMIR-Refit for UK- EMIR
   b. Complex steps mitigated by advance preparation, especially by the early incorporation into systems of the new global UPI (& UTI) standards for regulatory reporting

ii. Collateral
   a. Need to report zero value collateral trades, rather than not reporting such trade types.
   b. Especially the case for FX derivatives trades; DTCC validation otherwise fails in the absence of any collateral report within a two-week period.
   c. Need to create a dummy uncollateralized record per trade, in order to record that this is an uncollateralized trade.

iii. Challenges on "Event Types"
   a. Preparation on systems catering for the lifecycle event types has been cited as vital, especially treating the provisions in the EU and UK regulations separately
   b. The preparation requires analysing the lifecycle events within each contract documentation
      i. Clearly easier for lighter inventories of derivatives and relatively small product sets within broking firms
      ii. a role for AI here… ?
   c. Building 'Test Scenarios' which incorporate the business requirements
   d. Generally, a smooth period around EMIR Refit 'Go-live' and the 6 weeks since

iv. EU EMIR Refit versus UK EMIR
   a. One noted difference is the definition and role of the "Execution Agent"
      i. Not apparent in the EU schema, yet still exists as a requirement to identify the correct execution agent
      ii. Versus the UK where execution agent is specified in the schema
      iii. Citing level 2 rules published by ESMA back on 29th February – which late in the day were interpreted by firms to require the rebuilding of parts of the relevant reporting systems

v. Delegated Reporting
   a. It has been necessary to examine the business services across the business in order to identify all counterparties for whom delegated reporting is affected.
   b. Review all relevant existing contractual agreements & use as an opportunity to standardise and update all relevant " Delegated Reporting Agreements" as a step-by-step approach, deploying the ISDA delegated reporting agreement letter.
      i. Opportunity to review, especially as an additional 4/5 fields are now required in order to report the delegated side of the trade
      ii. Internal business sign-offs preceding external counterparty sign-off
      iii. Although the EU Refit is live, firms note that UK EMIR will require a much longer counterparty list for UK based firms – which could therefore benefit from some type of centralised data hub or repository which could afford common and real-time data records on the status of delegating counterparties wrt thresholds and counterparty status
   c. Prior "Optional Fields" are now mandatory
      i. Poses challenges where reporting on behalf of Third-Country counterparties
      ii. For instance, the plethora of Cayman Funds

vi. Additional Costs – Noting the costs of UPI creation as a Power User under AnnaDSB

Comments on the BOE / FCA Level Three Guidance [FAQs – "Part2]

Guidance and best practices for EU EMIR:

- ESMA have published '[Guidelines for reporting under EMIR]' as well as providing answers to questions and requests for clarification submitted to them by ISDA.
- These reporting guidelines and direct feedback to ISDA has informed how market participants have interpreted and implemented the EU EMIR reporting rules.
- These are reflected to a large extent within the ISDA Suggested Operational Practices (SOP).
- Where the technical standards and validation rules are aligned between EU EMIR and UK EMIR, it would seem sensible to read across from EU EMIR reporting interpretations & Operational Practices and apply them to UK EMIR.

FCA / BOE feedback on these Q&As by 12 June 2024

1. Transitional arrangements
2. Reconciliations
3. Errors and omissions
4. **Derivative identifiers**
5. Actions and Events
6. **Venues**
7. **Exchange traded derivatives**
8. Margin and collateral
9. Clearing
10. Position level reporting
11. **Asset class and product specific**

Derivative identifiers (Chapter 4)

"… the UK EMIR reporting framework introduces new requirements for the use of Unique Product Identifiers (UPIs) and updated requirements relating to Unique Transaction Identifiers (UTIs) and Legal Entity Identifiers (LEIs)."

- from 30 September 2024 UTIs should not be amended once they have been reported.
- UTIs generated by non-UK counterparties pursuant to a different reporting regime should align with the formatting requirements under UK EMIR, meaning they can be treated in the same manner as UTIs generated under UK EMIR.
- *4.3 Should UTIs generated by trading venues incorporate the existing trading venue transaction identification code (TVTIC) as reported under UK MiFIR?*
    - There is no requirement for UTIs generated by trading venues to incorporate the trading venue's TVTIC into the UTI. In line with Article 8 of the Technical Standards on the Standards, Formats, Frequency and Methods and Arrangements for Reporting 2023, UTIs must be composed of the LEI for the counterparty who generated the UTI, followed by a code of up to 32 characters which should be unique at the level of the generating entity.
    - While a trading venue's TVTIC can't be used in place of a UTI, there is nothing to prevent trading venues from incorporating an existing TVTIC into the UTIs it generates, provided the UTIs continue to meet the requirements in Article 8 of the Technical Standards on the Standards, Formats, Frequency and Methods and Arrangements for Reporting 2023.
    - -> this is "best practice and is what firms are doing"
- *4.4 When should International Securities Identification Numbers (ISINs), UPIs and Classification of Financial Instrument (CFI) codes be used in combination?*
    - Article 7 of the Technical Standards on the Standards, Formats, Frequency and Methods and Arrangements for Reporting 2023, requires derivatives to be identified with an ISIN where the derivative is either:
        1. *admitted to trading or traded on a trading venue; or*
        2. *traded on SI and the underlying is admitted to trading or traded on a trading venue or an index or basket composed of instruments traded on a trading venue*
    - Where a derivative does not meet one of these conditions it should be identified with a UPI, ***regardless*** of whether the derivative has an ISIN. Accordingly, ISINs and UPIs should not be used in combination, and the UK EMIR Validation Rules (applicable from 30 September 2024) will not permit the reporting of a UPI where an ISIN is provided.
    - CFI codes should be provided *where possible* for all derivatives in addition to an ISIN or UPI, depending on whether it is admitted to trading or traded on a trading venue or SI.

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Derivative identifiers (Continued)

- … the UK EMIR Validation Rules (applicable from 30 September 2024) require the LEI status of Counterparty 1 (Table 1, Item 4) and the Entity responsible for reporting (Table 1, Item 3) to be Issued, Pending transfer or Pending archival for certain action types.
  - However, for Counterparty 2 (Table 1, Item 9) the LEI status may be Lapsed for certain action types. The Validation Rules provide further details as to what LEI status is required for the different action types.
  - TRs should, where applicable, validate LEIs against the GLEIF database as of the date reported in the Reporting Timestamp field.
- "Stepping-in" counterparties are expected to make *reasonable efforts* to populate the Prior UTI field. Where this is not possible the field may initially be populated with the code 'NOTAVAILABLE', and then amended with the correct Prior UTI value as soon as practicable once it is available.
- The PTRR ID (4.11) is made up of the LEI of the PTRR service provider (CCP providing) followed by up to 32 alphanumeric characters that uniquely identify the PTRR event.
  - The PTRR ID should be generated by that same provider.
  - All derivatives directly resulting from, or terminated because of, a given PTRR event, should be reported with the same PTRR ID.
- *4.12 How should the Report Tracking Number field (Table 2, Item 2) be populated if a Report Tracking Number (RTN) is not available when reporting?*
  - entities generating RTNs, or providing RTNs to entities responsible for reporting, will make the RTN available in a timely manner so entities responsible for reporting can meet their UK EMIR reporting obligations.
  - Where a RTN is not available at the time of reporting, entities responsible for reporting may populate the Report Tracking Number field (Table 2, Item 2) with '*RTNNotProvided*' (but should update it with the RTN if one becomes available).
  - The UK EMIR Validations Rules (applicable from 30 September 2024) only require a RTN for derivatives executed on UK trading venues and do not permit the reporting of RTNs for derivatives not executed on UK trading venues.

Venues (Chapter 6)

How should derivatives executed on third country organised trading platforms be reported?

- OTC derivatives and reported as such unless the third country organised trading platform is considered as equivalent to a UK Regulated Market
- No machine-readable list
- the Venue of Execution field (Table 2, Item 41) becomes mandatory from 30 September 2024 -> requires Validation Rules
- ISO 10383 Seg MIC of the venue (or XXXX or XOFF where applicable) where the greatest number of derivative contracts making up the position were executed.
- *6.6 How should the Venue of Execution field (Table 2, Item 41) be populated for derivatives executed pursuant to the rules of a venue but not executed on that venue?*
  - What does this mean in practice versus pre-negotiated exchange blocks which are the reverse case
  - This applies to both UK trading venues and third country organised trading platforms.
  - ISDA Comments:
    - Our understanding is that the Q&A guidance applies to derivative transactions where a Block trade is executed bilaterally between entities off-venue and the Allocation trades are brought onto a venue and will be in line with the rules of such venue.
    - This scenario is covered within ESMA's Q&A document 'Implementation of the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories (EMIR)', OTC Question 1(d).
    - The ESMA guidance is that such transactions would be classified as ETD and therefore this UK-EMIR Q&A item would not be applicable to OTC derivatives.
    - Based on this assumption, we propose this Q&A item is moved to the ETD section to avoid unnecessary ambiguity that the guidance also applies to OTC derivatives
- "New" Derivatives resulting from clearing should be reported with the original derivative's venue of execution (or XXXX or XOFF where applicable).
  - the beta and gamma trades
  - Derivatives resulting from PTRR events
  - ISDA Comments: essentially two types of PTRR events:
    - *Portfolio compression*. This will primarily create terminations, but some new administrative transactions will be produced.
    - *Rebalancing* (counterparty risk reduction and basis risk mitigation). This create new transactions only.
    - Regardless of whether a trade is the result of a PTRR event, the Venue of Execution field should reflect the MIC of the venue the new trade is put on as opposed to the MIC of the original (terminated) transactions, as such value would not be representative of the new transactions themselves.

Exchange traded derivatives (Chapter 7)

- Execution Timestamp field should refer to the generation of a new Unique Transaction Identifier (UTI).
- Self-Reporting - the Report Submitting Entity ID field should contain the counterparty's own LEI as the report submitting entity.
- Effective Date field becomes mandatory from 30 September 2024, and where N/A the earliest execution date should be provided
- For ETDs not subject to a master agreement, populated with 'OTHR' and the Other Master Agreement Type field (Table 2, Item 35) should be populated with '*CCPClearingConditions*'.
- Subsequent Position UTI field (Table 2, Item 4); an intraday ETD position without a position UTI, the code 'NOTAVAILABLE' should be used

Regarding the identification of "Excess Collateral" as opposed to initial and variation margin

- Big discussion & currently no consensus amongst the industry

Noting 8.11 on how collateral should be reported for uncleared derivatives under a single ISDA Master Agreement

- *ISDA note that for any avoidance of doubt, Master Agreement Type is not a field included within a collateral report, but rather within transaction reports.*

“NIPs Instruments”: FX Swaps, Commodities & Crypto (Chapter 11)

Reporting of Derivatives Based on Cryptoassets (Table 2, Item 12)

- Where a derivative is based on an underlying meets the new FSMA 2023 definition, the Derivative Based on Cryptoassets field should be populated with ‘True’. Otherwise, it should be populated with ‘False’.

- Derivatives based on cryptoassets should be reported under the asset class of the cryptoasset they are based on. For example, derivatives based on security tokens akin to traditional shares (see the FCA’s Guidance on Cryptoassets (PS19/22)) would be reported as equity derivatives. Derivatives not clearly falling into one of the specified asset classes should be reported under the asset class most closely resembling the derivative. Derivatives based on cryptoassets should not, however, be reported under the currency asset class, since cryptoassets don’t have an ISO 4217 currency code required for currency derivatives.

- Derivatives based on unregulated exchange tokens that don’t clearly fall into one of the specified asset classes, such as Bitcoin and Ether, should be reported under the commodity asset class. This is the asset class that most closely resembles these derivatives.

“NIPs Instruments”: FX Swaps, Commodities & Crypto (Chapter 11)

11.5 On commodity swaps referencing two underlying commodities: *should be reported as package transactions made up of 2 commodity forwards linked via a package identifier.*

- The Price (Table 2, Item 48) and Package Transaction Price (Table 2, Item 53) fields are mandatory for commodity forwards with a package identifier, but commodity swaps may not have a price at execution. When reporting a commodity swap as a package transaction made up of 2 commodity forwards, these fields should be populated with the default value '99999999999999’9999' (for monetary values) or '99999999999' (for percentage values) and updated once the price is available.
- ISDA Comments
  - As a general observation however, when a single trades is decomposed into several instruments and reported as a package transaction, this will require fields to be populated that are not necessarily representative of the contract and/or may contain misleading information. For example, the ‘Package transaction price’ will need to be populated, but such a value would not have been negotiated and agreed between the counterparties, and so the reporting entity will need to manufacture a package price simply for the purpose of reporting.
  - The guidance to report a Commodity basis swap as a package also raises the question of how to report other products that have multiple underliers. This is not uncommon within the commodity asset class, but may also impact other asset classes, notably equities.
  - The industry expectation is to report such trades as a single transaction as opposed to decomposing the trade into artificially constructed transactions. (*c.f* FX Swaps)
  - Ultimately however, we suggest the best solution is for underlier fields to be repeatable with the XML schema. *This would enable single trades to be reported under a single submission without the need to populate fields that may not be relevant.*

11.6 on the Spread of Leg 1 (Table 2, Item 93) and Spread of Leg 2 (Table 2, Item 109) fields for swaps in asset classes other than interest rates?

- Yes, where a spread is present it should be reported for all asset classes. (noting equity derivatives)
- FCA are consulting on a corresponding change to the UK EMIR Validation Rules (applicable from 30 September 2024) to reflect this.

“NIPs Instruments”: FX Swaps (Chapter 11)

- *11.1 How should package transactions, which include transactions not subject to the UK EMIR reporting obligations (eg FX spot transactions), be reported?*
    - If a package contains transactions which are not required to be reported under UK EMIR, only the transactions in the package subject to the UK EMIR reporting obligations must be reported;
    - - unless the single traded price for the entire package in which the reported derivative is a component

- *11.2 How should the payer and receiver be reported for FX non-deliverable forwards where this is not known at the time of reporting?*
    - the counterparty receiving the currency which appears first when sorted alphabetically by ISO 4217 standard should be identified as the receiver for leg 1 and the payer for leg 2. The counterparty delivering the currency should be identified as the payer for leg 1 and the receiver for leg 2.
    - As a general observation, Q&A item 2.1 advises “TRs should reconcile derivatives with 2 legs by reconciling each of the legs as reported by the counterparties”, but 11.2 sets out a method for determining the payer and seller of an NDF.
    - *Does this mean the guidance under Q&A 2.1 should not be applied to NDF transactions?*

FX Swaps; Ongoing discussions on Global Standard for Reporting

- Turns on the instruments admitted by the trading venue – EVIA Guidance: "*FX Swaps Definitions of Services; EVIA Trading Venues; December 2018*"
- Some dealers are starting to report single swap instruments (CFTC Reporting)
- Different treatment and requirements for the spot component across different jurisdictions

FX Swaps

Single record jurisdictions

Contract Type	UTI	UPI	Package ID
Swap	UTI_123	UPI_SWAP_XXX	NA

Two records jurisdictions

Near-leg record

Contract Type	UTI	UPI	Package ID
Swap	UTI_ABC	UPI_SWAP_XXX	PKG_ALFA

Far-leg record

Contract Type	UTI	UPI	Package ID
Swap	UTI_123	UPI_SWAP_XXX	PKG_ALFA

With reference to the UPI, the proposed way forward is to report the UPI of the swap in both the single-record and the two records jurisdictions. Contract type should be also reported as Swap.

In relation to the UTI, the proposal is to report the same UTI in the single record and in the far leg record, while for near leg records another UTI should be issued.

FX Strategies

FX forward record

Contract Type	UTI	UPI	Package ID
Forward	UTI_ABC	UPI_Forward_XXX	PKG_BETA

FX option record

Contract Type	UTI	UPI	Package ID
Option	UTI_123	UPI_Option_XXX	PKG_BETA

Example of FX strategy composed of an FX forward and an FX option concluded by the same pair of counterparties