WHITEPAPER

Unpacking EMIR Reporting Changes and Counterparty Delegation: The Compliance Conundrum

Since its inception in 2012, the European Market Infrastructure Regulation (EMIR) has been a cornerstone of financial regulation, aimed at fostering transparency and mitigating risks in the derivatives market. This paper outlines forthcoming changes in reporting requirements taking effect in 2024. It also looks at the compliance challenges these changes raise around delegated reporting, as well as potential solutions for market participants to consider.

EMIR Continues to Evolve

The European Market Infrastructure Regulation (EMIR) was created in 2012 to enhance the regulation and supervision of OTC derivatives markets. The transaction reporting requirements are critical, allowing authorities to monitor market activities and detect potential systemic risks.

Over the years, EMIR has undergone several revisions to adapt to market dynamics and address shortcomings. The EMIR Refit, introduced in 2019, streamlined transaction reporting obligations and refined the reporting processes. The aims were to reduce reporting complexities, improve data quality, and ensure consistent reporting across all participants.

Now, further changes to the reporting requirements are on the horizon. Specifically, three key changes will take effect starting 29 April 2024:

1. **ISO20022 XML standards:** The European Securities and Markets Authority (ESMA) has introduced harmonised XML submissions ISO20022 standards for EMIR reporting as part of the global standardisation. Firms will not be able to use CSV files for submissions to the trade repositories.
2. **Increased Reporting fields:** ESMA has increased the number of reporting fields from 129 to 203. They have introduced 89 new fields and removed 15 existing fields. There are also changes to the definition and format of certain fields.
3. **Unique Product Identifiers:** ESMA has mandated the submission of Unique Product Identifiers (UPI) for derivatives. The UPI is designed to uniquely identify each OTC derivative product, making it easier to track and report transactions across various regulatory frameworks.

These upcoming EMIR transaction reporting changes represent the latest chapter in EMIR's ongoing regulatory evolution. However, as the financial industry prepares for these changes, the complexity of counterparty delegation poses a significant compliance conundrum for market participants.

The Complexity of Counterparty Delegation

Counterparty delegation occurs when one entity delegates its transaction reporting responsibilities to another party to the trade. While delegation can be a practical solution for firms with limited resources or expertise, it also introduces complexities and potential compliance pitfalls.

- **Accountability and Oversight:** When a firm delegates its reporting responsibilities, the ultimate accountability for accurate and timely reporting still lies with the delegating entity. Regulators expect that firms retain appropriate oversight and control over their delegated activities. Ensuring compliance with reporting rules becomes challenging as firms rely on the competency and reliability of their counterparties to submit accurate information.
- **Data Quality and Consistency:** Delegating firms must ensure that the counterparties are reporting data accurately and consistently. Divergence in data formats, reporting timelines, or interpretation of regulatory requirements can lead to discrepancies and non-compliance.
- **Regulatory Changes and Updates:** With upcoming changes to EMIR transaction reporting in April 2024, delegated entities must be proactive in understanding and adapting to the new requirements. Failure to comply with these changes can result in penalties.

The Compliance Conundrum

As the April 2024 deadline approaches, market participants face a compliance conundrum regarding counterparty delegation. Firms must carefully assess their reporting capabilities and determine whether delegation is the right solution for their specific needs.

Firms must conduct due diligence, ensuring their counterparties have a strong regulatory compliance team and a robust reporting infrastructure. Transparent communication and a comprehensive delegation agreement are vital to establishing clear expectations and responsibilities.

It's imperative to stay informed about the evolving reporting requirements and invest in training and resources to meet the new obligations effectively.

Consequences of Failing to Comply

Failing to comply with EMIR transaction reporting can have several consequences for market participants, including:

- **Financial Penalties:** Regulatory authorities can impose significant financial penalties for non-compliance with EMIR reporting requirements. These penalties can vary depending on the severity and duration of the breach.
- **Reputational Risk:** Non-compliance with regulatory requirements can damage a firm's reputation within the industry. It may lead to losing confidence from clients, counterparties and investors, potentially impacting future business opportunities.
- **Operational Disruptions:** Non-compliance may result in operational disruptions. Firms will likely need to dedicate resources to rectify reporting errors or implement changes to ensure future compliance.
- **Increased Regulatory Scrutiny:** Firms that fail to comply with EMIR reporting may attract increased regulatory scrutiny in other areas of their business operations. Regulators may investigate the broader compliance culture within the organisation.
- **Loss of Market Access:** Non-compliant firms may face restrictions or sanctions, preventing them from accessing certain financial markets or operating within specific jurisdictions.
- **Remediation Costs:** Correcting reporting errors and bringing the firm into compliance may involve additional costs, including using third-party service providers to review and rectify the reporting.

Market participants must take EMIR reporting obligations seriously and implement robust processes and systems to ensure accurate and timely reporting of derivative transactions. Regular monitoring and testing of reporting systems can help identify and address issues promptly, reducing the risk of non-compliance and associated consequences.

Seeking Solutions

To navigate the compliance conundrum, market participants can explore several solutions:

1. **Collaborative Partnerships:** Firms can seek collaborative partnerships with third-party service providers that specialise in EMIR transaction reporting. Working closely with experienced partners can alleviate the burden of reporting complexities.
2. **Advanced Reporting Solutions:** Some third-party service providers offer advanced reporting solutions that integrate seamlessly with a firm's existing infrastructure. These solutions can streamline the reporting process and ensure data accuracy and consistency.
3. **In-House Expertise:** Larger firms may consider building in-house reporting expertise to retain more control over their reporting activities. This approach requires significant investments in talent and technology.
4. **Regulatory Workshops and Training:** Participating in regulatory workshops and training sessions can help firms stay up-to-date with the latest reporting requirements. Being proactive in understanding regulatory changes can reduce the risk of non-compliance.
5. **Continuous Communication:** Effective communication is crucial for successful delegation arrangements. Regular meetings and reporting status updates can foster transparency and minimise misunderstandings.
6. **Regulatory Consultation:** Seeking advice from regulatory consultants or legal experts can help firms better navigate the complexities of counterparty delegation and ensure compliance with evolving regulations.

Embracing the Opportunities

While the complexity of counterparty delegation presents challenges, it also offers opportunities for market participants to enhance their reporting processes and risk management practices. By embracing the upcoming EMIR transaction reporting changes and effectively addressing the compliance conundrum, firms can realise several benefits:

1. **Efficiency and Cost Savings:** Delegation can save resources and reduce reporting burdens for firms, allowing them to focus on their core business activities.
2. **Expertise and Best Practices:** Leveraging the expertise of reputable service providers can lead to more accurate and reliable reporting and adoption of industry best practices.
3. **Scalability:** Delegating entities can scale their reporting capabilities in response to regulatory requirements or business expansion changes.
4. **Reduced Compliance Risk:** Proactive compliance with regulatory changes reduces the risk of penalties and reputational damage associated with non-compliance.

5. **Innovation and Technology:** Third-party service providers may offer innovative reporting solutions, leveraging technology to streamline processes and improve data quality.

Assisting Firms with Preparation: How SS&C Can Help

Navigating the ever-evolving regulatory landscape is challenging. SS&C is here to be your strategic partner. We work closely with you as an extension of your team to streamline processes and ensure that you are always up-to-date with the latest developments. Our cohesive approach and hub for multiple regulatory solutions not only help to reduce processing costs, but also provide you with the business and technical resources to help you comply with current and upcoming regulations efficiently.

Our strength lies in our ability to gather and refine data, resulting in a powerful trade information database. We are constantly adapting to changing regulations and ensuring that our process remains efficient and cost-effective for our clients. With this approach, we can make a significant positive impact on the world of trade.

Review Reporting Practices, Reduce Compliance Risks

As the financial industry prepares for the upcoming EMIR transaction reporting changes in April 2024, the complexity of counterparty delegation remains a significant compliance conundrum. Navigating this challenge requires careful consideration, collaboration, and a commitment to staying abreast of regulatory developments.

Firms must recognise the importance of transparency, accuracy and accountability in their reporting activities, whether they delegate or handle reporting in-house. With proactive planning and the right partnerships, firms can transform the compliance conundrum into an opportunity to enhance their reporting practices and strengthen their overall risk management framework.

As the financial landscape evolves, regulatory compliance will remain a cornerstone of market stability and investor confidence. By embracing the changes and complexities of EMIR transaction reporting, market participants can contribute to a robust and well-regulated financial ecosystem that benefits all stakeholders.

About SS&C

SS&C is a leading innovator in technology-powered solutions and operational services for the global investment management industry, with particular expertise in the full range of alternative investments, including hedge funds, private equity, funds of funds, real estate, real assets and derivatives. We are also the industry's largest global fund administrator. SS&C serves a worldwide clientele with a network spanning the major financial and commercial centres of North America, Europe, Asia and Australia.

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