REGIS-TR

EUROPEAN TRADE REPOSITORY

Revised Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) for EMIR FAQ

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Introduction

In 2012, ESMA submitted its draft regulatory and implementing technical standards under EMIR to the Commission, which became the Regulation No. 148/2013 (RTS) and Regulation No. 1247/2012.

The aim of the revised RTS/ITS under EMIR is now to address potential improvements and existing deficiencies that have been identified since the reporting start date of EMIR in February 2014. Over the last years, ESMA issued several versions of the EMIR Q&A documents to provide more guidelines in respect to Article 9 under EMIR. With the revised RTS/ITS those guidelines will become legally binding, serving to promote common supervisory approaches and practices in the application of EMIR.

A final report for the revised EMIR RTS/ITS has been published by ESMA in November 2015. On 21 January 2017, the revised EMIR RTS/ITS (Delegated Regulation No.140/2017 and Implementing Regulation 105/2017 respectively) have been published in the Official Journal of the European Union.

1 TIMING

1.1 When will the revised RTS/ITS under EMIR be applicable?

Both the RTS and the ITS will apply as from **1 November 2017*** with the exception of Article 1(5), which apply from 10 February 2017[1].

According to Article 2, the regulation will enter into force on the twentieth day following that of its publication, was **10 February 2017**. From that day on **9 months** are provided to all market participants including Trade repositories to implement the changes provided under the revised RTS/ITS.

**Please note that the date is subject to change as there are on-going discussions between TRs and ESMA in order to avoid a start in the middle of the week*

[1] See section 1.3

In article 5, paragraph 4 is replaced by the following:

"4. The following derivative contracts which are not outstanding on the commencement date for reporting a particular derivative class shall be reported to a trade repository within five years of that date:

a) Derivative contracts that were entered into before 16 August 2012 and were still outstanding on 16 August 2012;

b) Derivative contracts that were entered into on or after 16 August 2012."

1.2 When will REGIS-TR Test environment be available as well as updated technical documentation?

A client **test environment** is estimated to be available in **Q3 2017.**

REGIS-TR's objective is to make a UAT environment available as soon as possible to leave clients sufficient time to adapt their reporting to the new RTS and also REGIS-TR specifications. Furthermore, for those who want to migrate from another Trade Repository to REGIS-TR, sufficient time and support will be provided to do this in line with the revised specifications under EMIR.

In addition to the above, it is worth to note that the current Level II validations will be updated and adapted to the new framework. This review is being performed by ESMA, in the last month ESMA has been discussing them with all the TRs. The final version of such validations will be published once ESMA authorize the TRs to do it, such authorization is expected to be done by the beginning of April 2017. Update of specifications and technical documentation cannot be precisely confirmed at the moment but will be communicated by REGIS-TR beginning Q2 2017.

REGIS-TR will further support market participants with technical webinars, through user group meetings and through direct customer support.

1.3 What is the revised back loading timeframe for terminated trades?

"Counterparties may face significant difficulty in obtaining all of the relevant information with regard to trades that were terminated before the commencement date for reporting. Given the resulting complexity of reporting terminated trades and the fact that such trades do not increase systemic risk, the period for reporting terminated trades should be **extended from 3 years to 5 years from the commencement date for reporting**."

Which means that the deadline for back loading will now be the **12 February 2019** instead of the 12 February 2017.

Besides, according to the "TR Question 4" on the Reporting of Outstanding Position in the context of the Backloading, it is mentioned that, "For all ETD contracts concluded before the reporting start date, there is no need to report separately any life cycle events which occurred before the reporting date. The contract can be reported at position level in its **final state** or, for contracts which are still outstanding, its state at the time the report is submitted". Due to the number of questions received in regards to the backloading of ETD and due to the fact that a number of participants understood that there is nothing to report for ETDs, REGIS-TR is currently in discussion with ESMA to clarify this point.

2 REPORTING LOGIC

2.1 What are the main changes imposed by the revised regulatory technical standards?

-New rules on the reporting of a derivative **contract composed of a combination of contracts.** Counterparties should agree on the number of separate reports to be sent to a trade repository (with separate UTIs). The reports should be identified by using the new fields 'Complex Trade Component ID' which will link the separate reports by a unique identifier.

-New rules on the **reporting of a previously reported contract which is subsequently cleared by a CCP**

-New rules for the reporting of **collateral exchanged** by the counterparties, specifying what exactly should be reported, by whom, and how it should be valued

-New rules for the reporting of the **notional amount** for different classes of derivatives

2.2 What are the main changes imposed by the revised implementing technical standards?

-New rules for clearly **identifying the buyer and seller** to the trade depending on the different asset classes

-New criteria for the **UTI generation** in case of non-agreement between counterparties

-**Identification and classification of derivatives**: the addition of swaptions and spread bets to the list of contract types, use of **ISIN code** ('International Securities Identification Number') or AII code ('Alternative Instrument Identifier') for the identification of derivatives

-Clear rules about identifying the **venue of execution**

2.3 Do I have to use a Legal Entity Identifier or am I still permitted to use an alternative code?

The use of a Legal Entity Identifier ('LEI') will become **mandatory** with the application of the implementing regulation (EU) 2017/105. According to Article 1, a legal identifier should be used to identify:

a. A submitting entity

b. A broking entity

c. A CCP

d. A clearing member

e. A counterparty which is a legal entity

LEI may be used to identify (but not obliged to):

a) A beneficiary

Consequently, it is not allowed anymore to use less robust identifiers such as BIC or interim codes.

3 REPORTING FIELDS AND DATA

3.1 What will change in terms of reporting fields?

Significant increase in the data fields reportable under EMIR, especially in regards to the reporting of **collateral and valuation**. Under the revised RTS/ITS, it is also now required to report additional information on **credit derivatives** and **interest rate derivatives.**

Furthermore, EMIR introduces an additional field **"Level"** to indicate whether the reporting is done on a trade level or a position level.

Based on the legal texts, the current number of 85 fields will be increased to **129 fields in total** (including counterparty, common and collateral data). However, this does not include a small number of REGIS-TR proprietary fields. More information on how the revised RTS/ITS will have to be reported to REGIS-TR, will be made available as soon as possible.

Please also note, that certain fields have been erased or renamed to better reflect market practices.

4 MAIN CHALLENGES AND OPEN QUESTIONS

4.1 What do we have to do with the data that has been reported as according to the current RTS/ITS?

Trade repositories will have to maintain different datasets under the same specification, and any update to the records related to the datasets will have to be done under the new specification.

4.2 Is the use of the current reporting framework/ functionalities still allowed?

Clients have the obligation to report according to the revised RTS/ITS as soon as the regulation is applicable (1 November 2017).

According to TR Question 44, all the reports submitted upon the application of the revised technical standards must be compliant with the new standards, irrespective of when the original trade was concluded.

4.3 What do the changes mean for market participants in terms of internal changes?

The revised EMIR RTS/ITS represent significant changes for all market participants. Therefore, it is highly recommended to clients to do an internal analysis and assessment on their side, including a data mapping, reporting logic and field transformations exercises in order to include the newly introduced fields. The current reporting solutions of counterparties will need to be adapted according to the new specifications (additional fields, flows and validations).