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QUORSUS

Regulatory Reporting Newsletter

INTRODUCTION

Hello and welcome to the latest edition of the Quorsus Regulatory Reporting Newsletter. In this issue we take a look back over the past 12 months which we as an industry have navigated, from the ESMA and FCA EMIR consultation papers, to the SEC's new requirements, to the CFTC's fast approaching 2022 deadline and a raft of regulation coming out of APAC.

Looking ahead to 2022, we feel that it will be framed by numerous competing and/or complementing regulatory initiatives which will impact Change, Operations, Compliance, Legal and Front Office teams for the foreseeable future and beyond.

Newsletter Terminology

- **ANE** Arranged, Negotiated or Executed
- **APAC** Asia-Pacific
- **ASIC** Australian Securities and Investments Commission
- **CDE** Critical Data Elements
- **CFTC** Commodity Futures Trading Commission
- **CPMI** Committee on Payments & Market Infrastructure
- **IOSCO** International Organization of Securities Commissions
- **DSB** Derivative Services Bureau
- **EMIR** European Market Infrastructure Regulation
- **ESMA** European Securities & Markets Authority
- **FCA** Financial Conduct Authority
- **HKMA** Hong Kong Monetary Authority
- **ISO** International Organisation of Standardisation
- **ITS** Implementing Technical Standards
- **JFSA** Japan Financial Services Agency
- **LEI** Legal Entity Identifier
- **MAS** Monetary Authority of Singapore
- **MiFIR** Markets in Financial Investment Regulation
- **PPD** Public Price Dissemination
- **REFIT** Regulatory Fitness & Performance Program
- **RTS** Regulatory Technical Standards
- **SDR** Swap Data Repository
- **SEC** Securities Exchange Commission
- **TRACE** Treat Relief & Compliance Enhancement
- **UPI** Unique Product Identifier
- **XML** Extensible Markup Language

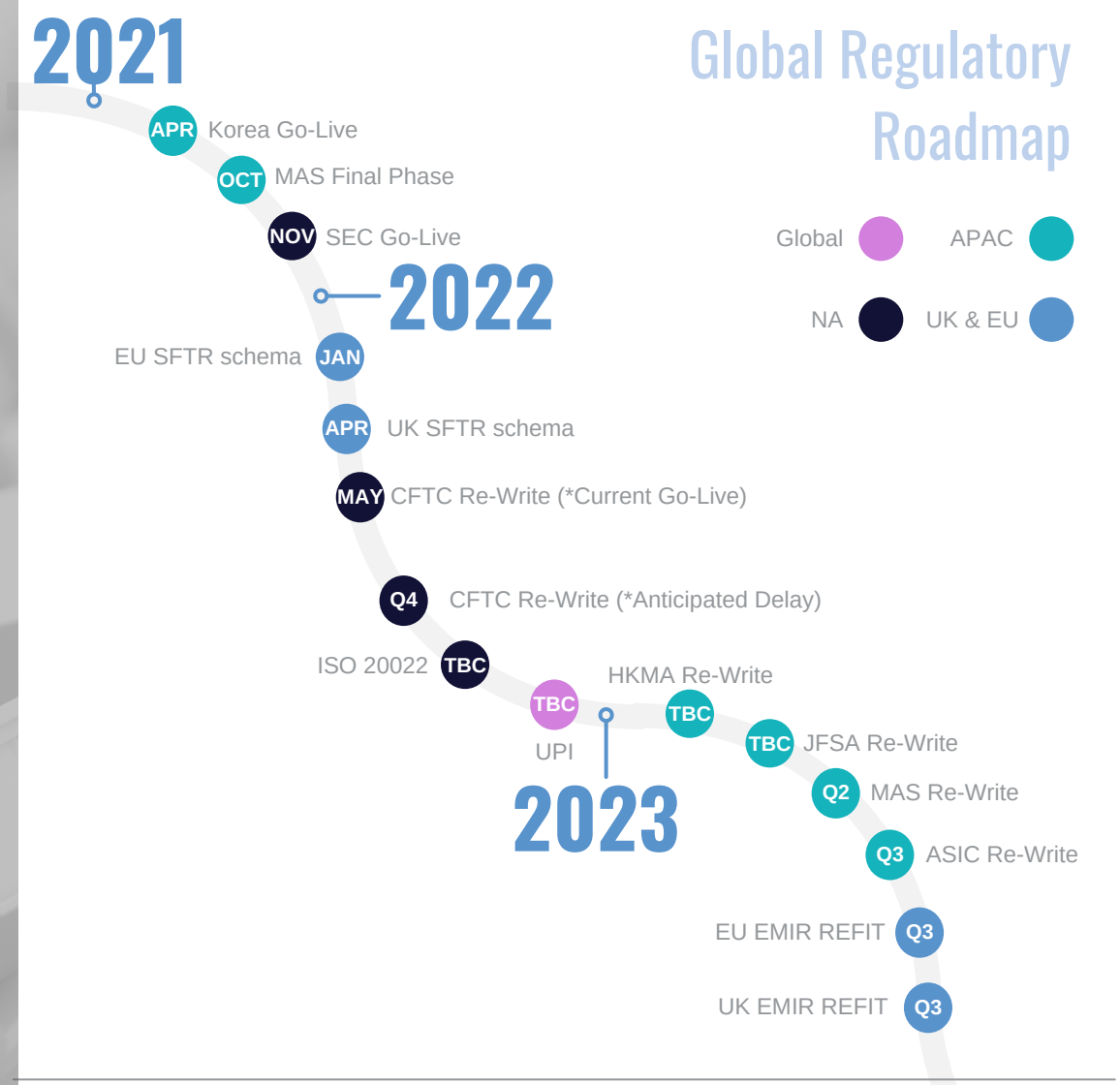
WHAT'S INSIDE THIS ISSUE:

Looking Back on the highlights of 2021 including *ESMA's Draft Guidelines for reporting under EMIR; the FCA's EMIR Consultation paper; SEC SBS Reporting; Consultation papers from ASIC & MAS embracing Critical Data Elements (CDE), Unique Product Identifiers (UPI) & ISO20022; and a summary of Regulatory Fines, their common themes & what firms can do to mitigate them.*

Looking Forward to the forthcoming initiatives in 2022 & beyond including *The push toward global standards and its challenges; implementation of CDE, ISO20022 & UPI, the CFTC re-write Go-Live & potential delays; EMIR's REFIT from both the UK and European perspective; SFTR amendments; APAC's Re-writes; the capacity of SDRs to deliver the functionality the industry will require; and finally the EC's latest MiFIR proposals.*

WHO WE ARE

Quorsus provides consultancy services to financial institutions facing a range of challenges and constraints across the post-trade landscape. We offer **unparalleled expertise in post-trade technologies, operations, regulatory solutions, and market infrastructure, helping our clients to achieve their goals through intelligent reengineering of platforms and process**. We pride ourselves on the strength and character of our consultants. This, combined with decades of industry expertise, ensures that our clients meet their objectives, however steep the challenge.



2021 IN REVIEW

THE CHALLENGES FOR FIRMS IN 2021 WERE NUMEROUS AND VARIED. THE COVID-19 PANDEMIC FORCED MANY INITIATIVES TO BE SHELVED AND HIRING TO SLOW OR STOP. THIS NOW APPEARS TO BE ABATING AS THE INDUSTRY RETURNS TO THE NEW "NORMAL"

Background

As the year draws to a close, the festive period is traditionally a quieter time of year. Change programmes are put on pause and IT releases are few and far between. There have been tireless efforts expended by change personnel in the hope that they'll be rewarded kindly by Santa; after all no one wants to be on the receiving end of a regulatory piece of coal. Whilst 2021 will be viewed as a marked improvement on its predecessor, it hasn't been without its challenges.

As life slowly returns to a new 'normal' following the COVID-19 pandemic, banks and other financial institutions appear to be hiring again as the realisation sets in that they can no longer kick the 'regulatory can' down the road; driven by the confirmation of implementation dates for new requirements, the need to invest in both personnel and infrastructure can no longer be avoided.

Whilst 2021 hasn't necessarily been the busiest of years in terms of go-live implementation, there has been a series of consultation papers and updates to regulatory and/or industry technical specifications which compliance officers will need to be on top of as they prepare to stand in front of their board of directors or investment committees with their wish list of IT changes.

Given the interwoven nature of the banking system, most firms will have cross-jurisdictional reporting obligations. Therefore, it is critical for firms to be mindful of the initiatives taking place globally. Even if a firm is not directly impacted, understanding the impact of these changes to their clients may be necessary.

2021 IN REVIEW (CONT.)

Europe & The UK

In July, ESMA published the much anticipated follow up to their 'Final report on draft technical standards' in the form of a consultation paper, namely the 'Draft Guidelines for reporting under EMIR'. The guidelines are a useful and necessary source of supplementary information to the technical standards which provides explanations and sample messages which will aid firms with their implementation.

The industry was given a 12-week window to opine on a series of far-reaching measures. Quorsus reported on these proposals in its second Regulatory Reporting Newsletter, highlights include:

- A migration to CDE (including UPI) with messaging;
- Standardisation for trade repository end of day reports utilising the XML schema with ISO20022 standards;
- A significant increase in the number and complexity of reportable fields and changes to actions and events; and
- An introduction of anomaly reports and greater expectations of data quality and a clear focus on reconciliations with enhanced requirements.

These are sizeable changes which will take considerable planning and resources. It is expected that ESMA will publish the final report on these guidelines towards the end of 2021 or early 2022 (on the proviso that the European Commission (EC), rubber stamps the adoption of the draft RTS and ITS).

Following the UK's official withdrawal from the European Union on 1 January 2021, the UK EMIR Consultation paper was finally released by the FCA and the Bank of England in November. Initial impressions indicate close alignment with the existing EU EMIR rule book.

However, it won't be until we (and the lawyers!) have gone through the details with a fine-tooth comb that any areas of divergence will be identified, and a view can be taken on what this means for each firm.

North America

Switching our attention to North America, the focal point of 2021 was the implementation of reporting Security-Based swaps to the SEC on 8 November, following the publication of its new rules in December 2019. The SEC made life relatively easy for firms by aligning much of its rule book with that of the CFTC. Whilst very similar, small nuances presented challenges in the form of PPD timeframes, block sizes, and the ANE construct for unregistered, non-U.S. reporting firms.

The other news story keeping reporting firms awake at night is the ongoing uncertainty relating to the CFTC rewrite, due to go live next year.

Despite much speculation that the timeframe is expected to be delayed, any announcement will only be possible once a Chairperson of the Commission is officially elected, which only occurred this week on 15 December 2021. It's only the Chairperson who has the power to officially move the timeline, which is expected to be any day now.

Whilst many industry participants will welcome this breathing space before the new rules go live, caution should be aired. At what cost will this extension come at? Will a firm need to go above and beyond what was originally expected? Or has the regulator come to the realisation that the bullish timelines originally set out needed to be pared back?

BOTH ESMA AND THE FCA PUBLISHED CONSULTATION PAPERS WHOSE INITIAL IMPRESSIONS INDICATE CLOSE ALIGNMENT WITH EACHOTHER

ANNOUNCEMENT OF ANY DELAY TO CFTC GO-LIVE IS PENDING THE APPOINTMENT OF A PERMANENT CFTC CHAIRPERSON

2021 IN REVIEW (CONT.)

APAC

The APAC region generally tends to take the 'wait and see' approach before following suit and changing its reporting rules. Whilst this may not be the most proactive approach, it does enable the region to learn from the mistakes of others and thus enhance its data quality more quickly over time.

Additionally, this approach allows the APAC regulators to utilise a 'big bang' approach which enables more fulsome implementations of new rules (for example, UPI, CDE, XML, etc) all at once rather than the piecemeal approach synonymous with her US neighbour.

In terms of go-live reporting, both Korea and MAS were active in 2021: Korea went live in April and MAS will bring FX, Commodity and Equity OTC derivatives into scope for all firms by the end of the year.

Looking to the future, both ASIC and MAS have confirmed their intentions of embracing CDE, UPI and XML messaging through the release of their consultation papers in 2021. As we near the end of 2021, it's become clear that regulators are taking a tougher stance with firms as the frequency of fines has increased throughout the year.

Disciplinary Action

The CFTC have been particularly hot on this subject through 2021, but especially in the month of September when five fines were shared amongst a mixture of market participants globally.

Common themes centre around incomplete and inaccurate reporting of swap data, and inaccurate reporting of valuation data. Highlights include:

- Inaccurate reporting of LEI data to a SDR (including satisfying certain backloading and supervisory responsibilities);
- Incomplete and inaccurate reporting of swap data to an SDR covering both Parts 43 and 45 requirements;
- Incomplete reporting of certain Primary Economic Terms of swap transactions;
- Inaccurate reporting of valuation data to an SDR; and
- Incomplete reporting of swap data to an SDR and inaccurate reporting of valuation data due to errors in reference and volume data.

Each of these fines may never have happened if each firm had the right control framework and an independent control testing programme in place. This should act as a timely warning to existing firms.

Not only do they need to ensure they have their house in order, but they must be meticulous in their planning and execution as the barrage of forthcoming regulatory change initiatives are announced. These lessons should be learnt as we move into 2022.

APAC REGULATORS ARE EXPECTED TO 'WAIT AND SEE' HOW OTHER JURISDICTIONS FARE WITH THEIR RESPECTIVE IMPLEMENTATIONS

CFTC HAS ISSUED SIGNIFICANT FINES FOR A RANGE OF INFRACTIONS

LOOKING FORWARD, THE YEAR AHEAD

Global Standards

With many of the upcoming global reg reporting refits and rewrites being pushed out to later dates, there remains plenty of uncertainty around timelines and requirements going into 2022 and beyond.

The biggest contributing factor for the delays is the desire to accommodate global standards, primarily driven by CPMI-IOSCO.

With the aim of regulators to receive globally harmonized aggregated reporting across jurisdictions, NCA's have to balance introducing implementation timeframes as soon as possible against the benefits of delaying go-lives to accommodate harmonised requirements and data attributes.

Implementing new rule sets before the external standards are fully established will push additional operational burdens and expenses of further implementation phases on reporting firms, reporting providers and trade repositories whilst long delays to compliance dates continue to restrict the ability of the regulators to efficiently monitor systemic risk in the markets. With many of the timeframes still unknown, planning and budgeting for future change projects is proving problematic for most firms.

So what exactly is the current state of play regarding the global external standards? The 'Technical Guidance for CDE' was issued in April 2018 and is relatively well understood by industry participants. However, there is still much work to be done before the requirements are cemented for the ISO 20022 schema and the UPI.

The ISO 20022 generic schema is not expected to be approved by industry bodies including ISO and Swift until Q1 2022 and the earliest estimate for the DSB making UPI available is expected to be Q3 2022. That isn't the end of the story as industry groups are pushing for a minimum lead time of 18 months between each jurisdiction finalising the schema and the respective compliance date.

With so much still to be confirmed, there could be plenty of curve balls yet to come and that's without the continued risk of a certain pandemic causing further issues.

North America

As mentioned earlier, the CFTC is expected to be the first mover to implement new requirements in 2022, although the 25 May compliance date is very much in doubt. Various industry groups and SDR's have been lobbying the CFTC for the rewrite to be delayed and it is widely expected that the request will be granted (maybe even by the time you're reading this).

The big question is for how long?! The widely expected six months to a year delay will enable reporting entities and SDR's to be better prepared for the new requirements but it will not be long enough to fully accommodate ISO and UPI, meaning further implementations will be necessary within a year or two. An even bigger question is whether all the reporting entities and SDR's will be ready for 25 May? If the delay is not approved expect some chaos!!

ACCOMMODATING GLOBAL STANDARDS MAY DELAY IMPLEMENTATIONS

INDUSTRY GROUPS HAVE SHOWN A PREFERENCE FOR AN 18-MONTH COMPLIANCE LEAD TIME FOR NEW SCHEMA

LOOKING FORWARD, THE YEAR AHEAD (CONT.)

Europe

The timelines for Europe seem to be more considered. The EC has committed to an 18-month implementation date from when EMIR REFIT is approved and the FCA is expected to align closely to their timeframe. With the EC expected to approve the technical standards in Q1 next year, the REFITs are likely to have a compliance date in Q3/Q4 2023.

The good news is this is late enough for both the ISO 20022 and UPI requirements to be accommodated. Therefore, firms who start preparing early could be able to build more strategic operating models with the probability of further REFITs in the near future being remote.

The biggest concern regarding EMIR REFIT is the possibility that we see divergence in requirements between ESMA and the FCA. In the first big test since Brexit, if the FCA decides on even minor changes from the ESMA requirements, firms will need to split their operating model with an inevitable increase in risk and cost.

APAC

APAC jurisdictions are also expected to see substantial change in 2022 with ASIC, MAS, JFSA and HKMA all planning rewrites in the next couple of years. HKMA set the ball rolling with minor changes to requirements planned for March with a more comprehensive rewrite currently planned for December.

JFSA is also planning a rewrite in December, however, is anticipated these December 2022dates are likely to be pushed out as they will be too early for the adoption of ISO and UPI. This would result in further rewrites being necessary for full harmonisation.

ASIC is expecting to publish their second consultation in Q1 next year, with rules being finalised in Q3 and compliance a year later in 2023. MAS are expected to follow a similar timeline to ASIC and closely align to the same requirements.

Other Regulations

Although technically not a rewrite, there are also significant changes ahead regarding SFTR reporting with amendments to the ISO Schema, Validation Rules and TRACE enhancements.

To add another layer of complexity into the mix, whilst the FCA have granted the industry its request to delay the go-live date until April, ESMA have denied the request and are sticking to the original date at the end of January.

Most firms are already under pressure to make the January date but may now have to support two different operating models for a period of time.

Just for good measure, late November saw the EC publish a draft legislative proposal for MiFIR which suggests that even more transaction reporting development is needed in the future.

TIMELINES FOR FOR EUROPEAN AND UK REFITS LOOK LATE ENOUGH TO ACCOMMODATE ISO20022 & UPI

UNDERSTANDING DIVERGENCES BETWEEN ESMA AND THE FCA WILL BE KEY

LOOKING FORWARD, THE YEAR AHEAD (CONT.)

Conclusion

There are far too many regulatory reporting changes on the horizon to mention in one newsletter. One thing is for sure, however: regulatory and compliance teams will need to closely monitor shifting timeframes and requirements and change/operational teams will become very thinly stretched.

As mentioned earlier, regulators are actively increasing oversight and issuing non-compliance fines, therefore complete, accurate and timely reporting has never been more important.

With no end in sight to significant regulatory reporting change, now could be the ideal time for firms to start assessing the following questions:

- What should the strategic operating model look like? Is it worth creating and implementing the model now or is it better to build short-term tactical solutions until the landscape looks more settled?
- Is it beneficial to maintain reporting capabilities in-house or find suitable outsource providers that can perform delegated reporting? The cost/benefits and risks of both models need to be weighed up when making the decision.
- What control and oversight program does the chosen model require? Poor oversight may result in reputational and financial risk from the resultant inaccurate / late reporting.

Quorsus will continue to monitor the regulatory reporting landscape in 2022 and bring any new developments to you in our Newsletters. In the meantime, we wish all our readers a very happy festive season and the best gift of all would be that the number made famous by Paul Hardcastle is much less spoken about next year.

REGULATORY OVERSIGHT AND ENFORCEMENT ARE BOTH INCREASING

FIRMS THAT PLAN EARLY MAY MITIGATE SIGNIFICANT FINANCIAL AND REPUTATIONAL RISK

If you would like to discuss more please reach out to our regulatory reporting leads:

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