

IMPROVING TRANSPARENCY

The value of consistent data over fragmented data

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“The volume of data collected and exchanged between national authorities and the European supervisory authorities has drastically increased. That's clear. Less clear is whether it's all essential. So we're taking forward a project on data standardisation to improve reporting with new technology. This should also give us a better idea of where the burden is unnecessary, so we can reduce it.”

– European Commissioner for Financial Stability,
Financial Services and Capital Markets Union, July 2016

The optimal conditions for investment are created by regulatory regimes that protect investors and facilitate responsible growth of capital markets. They also maintain consumer choice and properly balance benefits versus implementation costs. Financial market transparency, delivered through appropriately detailed and timely reporting, underpins well-regulated and robust markets where risks are monitored and properly understood.

The 2008 global financial crisis laid bare that financial markets were at that time lacking the regulatory framework that protects investors today. Enhanced reporting to regulators and disclosure to investors subsequently became a cornerstone of the regulatory response enshrined in the 2009 Pittsburgh Declaration – the global policy response to the 2008 crisis.

Today, regulators around the world continue to introduce reporting regimes in line with the objectives of the Pittsburgh Declaration. These initiatives are generally laudable in aim, sensible in conception and manageable in isolation, however, due to different reporting requirements, regulators cannot assess and compare the information they receive, particularly at the global level. In its review of the cumulative impact of post-2008 regulation, the European Commission has acknowledged the concerns raised by stakeholders regarding the usefulness of multiple and often duplicative data requests.

In this ViewPoint we analyse fund data and transaction reporting regimes in the United States and Europe Union. It is worth noting that regulators in Canada, Australia, Hong Kong, Singapore and Japan are embarking on similar projects to increase reporting requirements for monitoring purposes. We compare the aims and objectives, remit and reporting requirements of the US and European regimes and identify a number of challenges for regulators and firms created by this complexity. We conclude by making a number of recommendations to policy makers regarding how data could be requested and reported in a more streamlined, consistent manner. We encourage global securities markets standard setters to take on this difficult and complex issue by establishing an international working group to study global reporting.

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Tim Mcleod
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Liquidity Strategies
Group



Alexis Rosenblum
Vice President, Public
Policy

KEY RECOMMENDATIONS

By addressing the following issues, regulators would be in a position to strike a better balance between stimulating economic growth and adequately monitoring concentrations of risk in the financial system.

Over the **SHORT TERM**, we encourage regulators to focus on:

1. Clarity of purpose

It is important to understand how data that regulators gather would be analysed and used, and how the data could be leveraged to provide feedback to the broader market.

2. Standardisation of requested information

We encourage regulators to move towards standardisation of data requests. This ranges from reaching globally agreed measures and definitions of key terms through to a common approach on the detail and the frequency of requests.

3. Standardisation on how information is reported

Electronic data delivery whenever and wherever possible should be the objective. This would substantially improve the accuracy and quality of data as well as the timeliness of reporting.

At the global level we propose that the International Organization of Securities Commissions (IOSCO) expands upon its recently announced data gaps in asset management study by undertaking an assessment of how substantially similar data requests vary across their member jurisdictions and second, establish a working group tasked with agreeing on a common transaction reporting template for relevant capital market products and activities.

Over the **MEDIUM TERM**:

Migration to uniform reporting platforms

Major jurisdictions as EU and US each have multiple reporting platforms. A significant step, given the questions that need to be addressed around regulatory remit and data sharing, would be for each jurisdiction to commit to a single internal reporting platform.

Over the **LONGER TERM**:

A single global data repository

Subject to robust reassurances regarding cyber security and the protection of data, a single global data repository could be set as a long term objective. Short of that, reporting identical data to multiple databases would mark a significant improvement over the current framework.

The following section describes some of the more important new regulatory requirements in the US and the EU regarding both fund data and transaction reporting. The discussion is not exhaustive, but is intended illustrate the challenges firms operating in multiple markets, as well as regulators, face in the collection, aggregation and analysis of data.

Fund Data Reporting – Overview, Challenges and Recommendations

Overview

A lack of data was identified in the post-2008 crisis analysis as a key barrier to understanding the composition of funds, flows and the interconnectedness of investment funds with other market participants. The G20 identified alternative (private) funds as one area in particular where regulators lacked sufficient data to understand and analyse potential risk exposures. Although the consensus

view is that alternative funds did not cause the 2008 crisis, policy concerns remain as to whether the activities of alternative funds could lead to or amplify future crises. Regulators have therefore sought to obtain more information with greater regularity from these types of funds. As policy makers began to appreciate the importance of global cooperation on systemic risk monitoring and oversight, a further driver for more systematic alternative fund reporting was to enhance the flow of data needed for enhanced cross-border supervision and cooperation. IOSCO produced a high-level reporting template in 2009 in response to the G20 request to drive more convergence in reporting on alternative funds. The key data fields recommended by IOSCO included information on leverage, liquidity, investor concentration, counterparty exposure and asset concentration.

As explored below, the template has been expanded on considerably by regional regulation e.g. Forms PF and CPO-PQR in the US, and the European Securities and Market Authority (ESMA) reporting annex under the Alternative Investment Fund Managers Directive (AIFMD) in the EU.

More recently, the Securities and Exchange Commission (SEC) proposed to create a more comprehensive data reporting regime for registered funds. These efforts have been spurred by the SEC's increased post-crisis role as a prudential regulator, and recognition that reporting regimes have not kept pace with the changing strategies of registered funds. In the EU, a number of recent ad hoc data requests have been made on UCITS, particularly regarding liquidity and leverage, without clear indication of whether these are one-off requests or the start of a regular programme.

The information reported is designed to drive risk analysis by regulators including SEC in the US and in Europe, the 28 national securities regulators of the EU, given that the national authorities are primarily responsible for supervisory action. Regarding information sharing among regulators, the ESMA Memoranda of Understanding under the AIFMD allows for some information sharing with third country regulators for supervisory action, but it is unclear whether this provides the necessary pooled data for systemic risk analysis.

The remainder of this section provides an overview of investment fund reporting initiatives undertaken in Europe and the US over the past few years, identifies gaps in the data and highlights recommendations for improving harmonisation to facilitate global monitoring of risks.

Alternative / Private Fund Reporting

In the US, most alternative fund reporting was driven by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank), which directed the SEC to implement reporting requirements for alternative funds, which it did jointly with the Commodity Futures Trading Commission (CFTC).

Form PF

In October 2011, the SEC jointly adopted Form PF to implement the Dodd-Frank reporting requirements. Form PF requests a variety of data points, including identifying information about the fund and its adviser, assets under management (AUM), leverage, liquidity, investor types and concentration, performance, investment strategy, counterparties, and holdings by asset type, and several risk metrics. The SEC requires investment advisers registered with the SEC that advise private funds with at least \$150 million in AUM file to Form PF with the SEC. The frequency of reporting varies from quarterly to annually depending on the type of fund and AUM. Subsequently, in July 2014, the

SEC adopted additional rules that amended Form PF to provide additional information about liquidity funds to more closely track the data provided by registered money market funds on Form N-MFP and by doing so made these two forms more consistent with each other.

CFTC Reporting

In February 2012, the CFTC adopted Form CPO-PQR, as well as reporting for commodity trading advisors through Form CTA-PR. Importantly, given that many private funds regulated by the SEC are also considered commodity pool operators by the CFTC, the SEC and CFTC worked together to harmonise their approaches, resulting in the CFTC accepting Form PF as a substitute for most aspects of Form CPO-PQR. While this substituted compliance was quite welcome, as we have gained experience with the data requested by each form, we have encountered a number of overlaps between the forms requested by the SEC and the CFTC. More importantly, we observe that the data points requested in these forms are similar in nature but requested in slightly different ways, sometimes using different calculation methodologies, creating unnecessary complexity and hindering comparison. For example, when reporting the value of assets in the schedule of investments, Form PQR requires derivatives positions reported at market value, while Form PF requires the notional value of derivatives positions.

Reporting to the Financial Stability Oversight Council

In April 2016, the Financial Stability Oversight Council (FSOC), comprised of the chairs of the major US financial regulatory agencies, announced that it would form an inter-agency working group to study leverage use by hedge funds and the data it is receiving on its various private fund forms. The inter-agency working group is expected to recommend additional reporting by year-end 2016.

Reporting Under the EU AIFMD

The EU AIFMD, which came into force in 2013, imposes ongoing reporting requirements for managers of AIFs managed and/or marketed in the EU – the frequency varies from quarterly to annually depending on the AUM of the fund and the manager. For EU domiciled AIFs reports are made to a single regulator. Non EU AIFs marketed by private placement in multiple jurisdictions must, however, file separate forms in each EU jurisdiction in which private placement occurs. In principle, this is the same form, however, the form must be filed via different national platforms, each using a different format, timing and delivery mechanism. The complexity of complying with multiple filings decreases the attractiveness of using a single fund wrapper to market a fund strategy to investors in multiple jurisdictions, even though this approach enables managers to create scale within diversified portfolios which benefit investors.

Key Observations

For larger managers, implementing new reporting regimes require large internal teams to be mobilised to build and manage new reporting platforms. Smaller managers may need to retain third party vendors to assist in implementation and to manage the periodic reporting. Either of these paths increase costs, which are directly or indirectly borne by investors. Not only is the data slightly different between the SEC and the CFTC, the mechanics of submitting the information to the regulator are just different enough to be inefficient for registrants. The same is true for the different regulatory bodies that collect information under the AIFMD, creating significant operational complexity at a global level, leading to different technical standards and/or interpretation of data fields even on the basis of a common template.

These are significant technology projects and require close cooperation with regulators on testing and validating technical specifications to ensure successful implementation. Detailed technical engagement between regulators and industry is very much on an ad-hoc basis and still lacks adequate coordination at the EU level. For example under AIFMD in the EU, instead of building 30 different reporting engines (28 at national level and one each for ESMA and the European Systemic Risk Board) developing a single platform as is proposed for reporting under the Transparency Directive would free-up much needed regulatory resources and provide enhanced operational simplicity for the financial services industry – a significant win-win for regulators and industry.

Registered / Public Fund Reporting

Reporting in the US

In the US, regulatory reporting for registered funds is being reviewed and enhanced. Specifically, in May 2015, the SEC issued a proposal that would introduce new reporting requirements for US registered funds through two new forms: Form N-PORT and Form N-CEN. Form N-PORT is a form that registered funds would be required to complete on a monthly basis to provide information about a variety of aspects including: detailed information about fund holdings, securities lending activities, use of derivatives, and gross investor flows. As proposed, Form N-PORT filings would be disclosed publicly every third month with a two month lag. In addition to this monthly reporting requirement, the SEC proposed changes to annual filings completed by US registered funds. This aspect of the proposal would replace an existing form, called Form N-SAR, with a new form, called Form N-CEN. The information on both N-PORT and N-CEN would be sent to the SEC electronically in a structured data format to permit the SEC to perform data analyses using the information provided. SEC Chair White has indicated her intention is to finalise this rule by year-end.

In our [comment letter to the SEC](#), we noted that there may be a simpler approach to obtaining the data, particularly where there is overlap with existing forms and data already

provided to the SEC. In particular, we believe that the SEC should leverage its previous work on Form PF by asking US registered funds to respond to relevant questions⁹ on Form PF and only using Form N-PORT for the public disclosure of information that has a clear benefit to and can be readily understood by the public.¹⁰ We believe that much of the position-level data requested in Form N-PORT should remain confidential, disclosed only to the SEC and not the public domain, as this could lead to detrimental use of the data that could harm mutual fund investors. Given that Form PF is a private form reported directly to the SEC, we believe that leveraging the existing infrastructure for Form PF would be a better approach. This would facilitate consistency in data collection efforts, which would result in comparable data that could be analysed across products, increasing the value of the data to the SEC and potentially the Office of Financial Research (OFR). In a world in which registered funds include “liquid alternatives”, the ability to compare public fund and private fund data would be beneficial to regulators.

EU Reporting Requirements

Currently EU national regulators collect data from UCITS (under the EU public fund regime), either from managers or their administrators. In recent years the industry has seen a steady increase in ad hoc data requests (e.g. on liquidity risk management and leverage) from regulators who are increasingly gathering data to inform their discussions on the evolving regulatory agenda on asset management products and activities. Many of the data requests for UCITS are similar to questions asked about AIFs under the ESMA AIFMD reporting annex. We believe that a more coordinated approach around a common reporting platform on these questions for both AIFs and UCITS would allow firms to build a single system to respond to these data needs and deliver higher quality, more consistent data. Importantly, this would enable regulators to compare industry trends in a consistent manner regardless of the fund wrapper.

Recent Developments

While the level of data reported to regulators has increased dramatically, there is still a lag in feeding back aggregated data to the industry on sectoral and global trends and the development of potential risk. It is important to understand how data gathered will be analysed and used, and how it could be leveraged to provide feedback to the market, providing a broader social benefit to the reporting effort.

IOSCO provided a variety of aggregated data points in its most recent Hedge Fund Survey in 2015. This is a good start and IOSCO acknowledges more work is required on the appropriateness and consistency of data as well as educating market participants on the data received.

In the US, the OFR has analysed Form PF data and has periodically published high level conclusions. For example,

OFR's 2013 Annual Report concluded, based on data from Form PF, that hedge funds using a significant amount of leverage held liquid securities, thereby mitigating redemption and other risks, and those holding illiquid securities used relatively little leverage. They also find evidence suggesting that funds taking on more leverage take on less portfolio risk as measured by value-at risk (VaR) models. Further, the OFR issued a July 2015 report providing detailed analysis on the private liquidity funds that file Form PF. In addition, the SEC has begun publishing a detailed set of private fund statistics on a quarterly basis. Over time, these statistical releases could prove useful for policy makers and the public interested in better understanding certain aspects of US private funds. More recently, FSOC provided an update on its work on asset management, citing an analysis of leverage in hedge funds that was conducted based on Form PF data. Within the EU, the ESRB fulfils an analogous role in analysing data collected by ESMA and national regulators.

Challenges

The proliferation of templates, formats and definitions as well as issues associated with data sharing and confidentiality reduces the ability of regulators to share data on a cross-border basis, compare information and discern global trends. The current process leads to duplication and inconsistency in reporting by firms and operational complexity often requiring manual intervention.

Between the US and EU, the data called for each jurisdiction is similar in nature (i.e. position sizes, counterparties) but is requested differently on each form. More consistent data would create higher quality information that would facilitate regulators' ability to perform effective comparisons and analyses across fund types and jurisdictions. Whether monitoring for potential systemic risk, or testing compliance for investor protection, consistent data is essential.

In Exhibit 1 we highlight some of the key differences between Form PF and AIFMD Reporting Annex in terms of scope, information collected and definitions used between the two regulatory reporting forms. This highlights that reviewing the data reported under AIFMD and Form PF on the same fund could easily lead to different data sets by jurisdiction.

The global inconsistencies in the approach to reporting mean that from a policy perspective, regulators are likely to be unable to track developments across markets, such as the

build-up and concentration of risk, thereby undermining the central objectives of initiatives such as AIFMD and Form PF. The inconsistencies also present a major challenge to firms serving clients in multiple markets. Variations across jurisdictions will require split models to support the reporting requirement, consuming resources and creating significant complexity resulting in increased operational and potentially legal risk, and a likely increase in data error. Reporting data to multiple regulators gives rise to problems caused by the use of different filing transmission methods. While most regulators use some type of web portal, there are significant differences in terms of how firms transmit data (e.g. one fund at a time or in bulk) and how they obtain feedback from the various regulators when validation errors are encountered. Harmonizing data reporting with agreement on definitions, data elements, and reporting formats and methods would minimize these differences and benefit policy makers, asset managers, and end-investors.

Recommendations

To harmonise global fund data collection, we recommend:

► Consolidate regional reporting hubs as a first step

For example, in the EU there is much to be done on the coordination of a common European standard and the development of a central European data reporting hub. This could work not only for AIFMD but also the reporting of data on liquidity and leverage in UCITS. We recommend that this data hub be located within ESMA, and accessible by national regulators to enable their ongoing supervisory duties. The ESRB would also require access, in order to give both regulators and markets high quality aggregated data on trends that may contribute to potential systemic risk. Subject to unresolved issues relating to cyber security and adequate protection of client data, a consolidated reporting hub would make a material contribution to the development of high quality data sets, particularly in relation to ownership of assets across all asset owners.

► Regulatory dialogue

Increase cooperation between key international regulators to develop consistent definitions and FAQs as well as mutual recognition of each other's forms would significantly reduce processing time and allow for timelier and more consistent regulatory dialogue. In this regard, we are encouraged by the June 2016 announcement from IOSCO outlining its priorities to address data gaps in the asset

CALCULATING LEVERAGE

One key area that must be addressed is the definition of leverage. The multiple regulatory definitions of leverage that exist globally are not consistent and do not lend themselves to global monitoring efforts. In particular, Form PF requires funds to provide information about borrowing and derivatives but does not require private funds to report a comprehensive net leverage figure. To the contrary, AIFMD requires funds to provide information on gross notional exposure associated with borrowings and derivatives as well as a measure of economic leverage – referred to as commitment leverage.

Exhibit 1: COMPARISON OF FORM PF AND AIFMD REQUIREMENTS

	AIFMD (EU)	Form PF (US)*
Scope	All AIFs (i.e., all non UCITS funds)	All private funds managed by advisers with more than \$150 million in private fund AUM Most questions focused on large hedge fund advisers (>\$1.5 billion in hedge fund AUM)
Reporting Frequencies	Minimum annual / Quarterly for large AIFs and/or managers with large AUM (calendar basis)	Minimum annual by fiscal year / Quarterly for large hedge fund advisers by fiscal quarter
Deadline	1 month after reporting period ends for all fund types except fund of funds 15 extra days for fund of funds	60 or 120 days after reporting period ends / deadline is based on fund type
AUM Valuation	Set methodology that typically includes notional value of derivatives	Regulatory AUM calculated in line with Form ADV, which includes market value of derivatives
Balance Sheet Leverage (borrowings)	Borrowings by reference to specified periods for which the creditor is contractually committed to provide financing. Borrowing embedded in instruments such as derivatives are included.	Value of borrowings and breakdown of by creditor type (e.g., US financial institution). Value of reverse report, breakdown by creditor type, of collateral breakdown Requires reporting of fund's liabilities under US GAAP.
Total Leverage (derivatives and borrowings)	Reporting of both the gross notional exposure and commitment leverage	No total leverage measure requested Long and short dollar value of derivatives exposure by instrument type Value of collateral and credit support in relation to derivatives
Risk Measures and VaR	AIFMD requires EEA AIFMs to perform portfolio risk and liquidity stress tests. Non-EEA AIFMs are not subject to these requirements, so only report this information to the extent they perform these tests. Reporting on stress testing of risk factors Requires VaR to be reported if calculated	For hedge funds with AUM greater than \$500 million: Requires market risk stress test results based on hypothetical stress scenarios to be reported including effect on long and short positions. VaR reported if calculated
Fund Liquidity Profile and Investor Liquidity Terms	Requires reporting of portfolio risk and liquidity risk profiles using a days to liquidate approach. Investor redemption frequency (daily, weekly, monthly, none) of the fund and any restrictions on withdrawals and redemptions.	Requires reporting of portfolio risk and liquidity risk profiles using a days to liquidate approach. Investor redemption frequency (daily, weekly, monthly, none) of the fund and any restrictions on withdrawals and redemptions.
Exposures	All currency exposures must be reported and converted into the fund's base currency.	All non-USD currencies reported together
Expected Annual Investment Return	Reporting on fund's expected annual investment return.	Not included.

*Note this table excludes Section 3 of Form PF, which must be completed by large liquidity fund advisers and Section 4, which must be completed by large private equity advisers.

management industry, provided it does so in a way that each national securities regulator requires the same information to be reported.

► Matching data fields

It would be a significant achievement to move from a close fit to a direct match of data fields. This should be possible between jurisdictions so the collection and reporting of data is identical in requirement for the vast majority of cases.

► Globally agreed reporting template

We recommend taking the opportunity of forthcoming

reviews of AIFMD and FSOC inter-agency working group to allow the relevant authorities to negotiate a common form under the auspices of IOSCO. This could take into account developments in global data standardisation such as the FSB work on Legal Entity Identifiers (LEI).

► Feedback mechanisms to the market

As the primary role of much data collection is for monitoring market risk, we believe it is essential to have a feedback mechanism to the industry as to what the data is telling regulators about each market. Reports by IOSCO, SEC, OFR and FCA among others, provide useful insights.

Transaction Reporting – Overview, Challenges and Recommendations

Overview

In the United States, the key elements of post-2008 crisis transaction reporting reforms required reporting of all swap and security-based swap transactions to Swap Data Repositories (SDR), which are newly created regulated entities under Dodd-Frank. This regime is intended to allow for a comprehensive audit trail of derivatives transactions – both OTC and centrally cleared derivatives – to regulators and public reporting of these transactions. Notably, post-crisis rulemaking to implement reforms to derivatives markets was delegated to multiple agencies under Dodd-Frank. In particular, reforms for swaps have been promulgated by the CFTC while reforms for securities-based swaps are being written by the SEC, some of which are still in process. This has resulted in slightly different rules depending on the type of instrument. In addition, the OFR has undertaken a project to help the CFTC enhance its swap data collection efforts.

In the EU, the Markets in Financial Instruments Directive (MiFID I) introduced a transaction reporting regime across the EU in 2007. The scope of this regime is set to expand

significantly in 2018 when the recast Markets in Financial Instruments Directive (MiFID II) and the Markets in Financial Instruments Regulation (MiFIR) come into effect. MiFID II also introduces a new position reporting regime for commodity derivatives, which is currently under development.

Other EU product specific transaction reporting regimes in place or in development include:

- ▶ the EMIR reporting regime for derivative transactions, valuations and collateral under the EU regulation on Exchange Traded Derivatives (ETD), OTC derivatives, Central Clearing Counterparties (CCPs) and trade repositories, which came into effect in February 2014.
- ▶ a reporting regime for wholesale energy market contracts under the EU Regulation on Wholesale Energy Market Integrity and Transparency (REMIT), which came into effect in October 2015 for the first wave of reportable products; and
- ▶ a reporting regime for securities finance transactions such as securities lending and repo under a proposed regulation on Securities Financing Transaction Regulation (SFTR), currently progressing through the EU legislative process.

CHALLENGES ARISING FROM REPORTING IN THE EU - A CASE STUDY IN COMPLEXITY

In the coming months the reporting requirements on firms operating in and/or concluding transactions on trading venues in the EU will sharply increase, in volume and complexity. The new EU transaction reporting regime is comprised of multiple elements. Here we compare MiFID II with the various product-specific regimes to illustrate the similarities and differences that firms operating under these regimes must take into account.

Why report?

The MiFID II, MiFIR and REMIT reporting regimes focus on the prevention of market abuse, whilst the reporting regimes under EMIR and the proposed SFTR focus on the monitoring of systemic risk in specific markets.

Who reports?

The MiFID II and MiFIR reporting regimes apply to EU regulated investment firms and banks. Unregulated end-users are not subject to these requirements. With some exceptions, EMIR, REMIT and the proposed SFTR apply to anyone trading the relevant products, regardless of their regulated status. Given the similarities between EMIR and the proposed SFTR, it is likely that the SFTR will have a similar scope of application. The application of the MiFID II reporting regime to non-EU branches is unclear. ESMA proposes to apply the MiFIR transaction reporting regime to non-EU branches of EU firms.

What data is reportable?

Certain products will be within the scope of multiple reporting regimes. For example, derivative transactions may need to be reported under MiFID II / MiFIR, EMIR and/or REMIT. There will be additional scope problems under MiFIR due to the broad range of transactions subject to the regime and the fact that ESMA has said it will not publish a 'golden source'.

When is reporting required?

Broadly speaking, the trigger events for reporting under EMIR, REMIT and SFTR are the same – execution, conclusion, modification or termination of a contract. ESMA's proposals for the MiFIR reporting regime include a broad range of trigger events, including transmission of orders.

How is data reported?

The information that must be reported is not consistent across the regimes and some information will need to be obtained from, or checked with, other parties (e.g. clients or counterparties) in some cases on a trade by trade basis. A transaction may trigger reporting requirements under different regimes and it is possible that these obligations may be triggered at different times. For example, where a give-up occurs within the EMIR reporting deadline and there has not been any change to the economic terms of the original trade, the post give-up trade should be reported under EMIR. However, under MiFIR, ESMA proposes that the original trade should be reported and not the post give-up trade.

DEEP DIVE: CHALLENGES AND RECOMMENDATIONS

By comparing the US and EU transaction reporting regimes currently in place, and those in development, it is possible to identify a number of issues that arise from the complexity of multiple and at times overlapping reporting requirements. We have identified a number of challenges relating to the consistency, optionality and functionality of the regimes. Here we take a deeper dive into those issues, and make recommendations to address them.

How the data is requested

We observe that the definition of in-scope funds vary from domicile of the fund, to domicile of the fund and / or investment advisor, to location of a trading desk. Fields required for reporting also vary, or differ in formatting or validation requirements. These inconsistencies appear to be a product of legal precedent and preference, but could be addressed to achieve underlying policy objectives.

We recommend that IOSCO first undertakes a study to assess how substantially similar data requests vary across their member jurisdictions and second, establishes a working group tasked with agreeing a common transaction reporting template for relevant products. The expectation should be that IOSCO member regulators would adopt the common global template, or explain why they need to deviate.

How the data is required to be provided

1. Single side vs dual sided reporting

There is a lack of consensus in the regulatory community on whether single-sided or dual-sided reporting is most effective for collecting data on OTC derivatives and securities finance transactions. Single-sided reporting requires only one party in a transaction to report, which is typically carried out by dealers (sell side). Dual-sided reporting requires both parties to report, meaning that end-investors such as pension funds and insurance companies must also report. The US derivatives reporting regime generally requires single sided reporting by either one party to the transaction or a clearing or trading facility through which the transaction is conducted. While there are differences in the US across the SEC and CFTC regimes, the US also offers flexibility, in some cases, for counterparties to delegate reporting to the other counterparty to the swap, a service provider, or trading facility. The duty to report remains however with one party. Under US rules, the hierarchy for this reporting duty places the burden on the entity most practically suited to conduct the reporting, which is beneficial to end investors from both a compliance and cost perspective.

By contrast, the EU regime under EMIR requires double sided reporting, which is duplicative and costly. Although the EMIR Review is considering the strengths and weaknesses of the double sided approach, the SFTR regime will likely take a double sided approach based on EMIR.

We recommend to the EMIR Review that the EU regime move to single-sided reporting (and SFTR be aligned).

In our view, single sided reporting with clear definitions of the parties involved in a transaction and an obligation on the non-reporting party to ensure data accuracy, would improve data integrity and reduce 'noise'. This transition from dual to single- sided reporting could be achieved relatively easily by the majority of the market as it focuses on an existing part of the current process, rather than creating a new requirement.

2. Carefully consider "one-size fits all" approaches to reporting

The SFTR sought to leverage existing reporting methodologies to make efficient use of regulatory resources and industry resources. The EMIR model provides the template for SFTR reporting. While the attempt to align approaches is laudable, a number of the features of SFTs mean additional complexity arises if a reporting approach designed for OTC derivatives is applied to products with very different characteristics. For example, a requirement to report at the transaction rather than position level under the SFTR creates transactional 'noise' and presents challenges in identify the counterparties and securities exchanged. It is also important for regulators to acknowledge business practices – e.g. collateralising at portfolio level, aggregating loan deliveries across multiple LEIs – when setting requirements, and not forcing a change in methodology that may disadvantage investors, due to basing the regime on that which is more appropriate for OTC derivatives.

We recommend specifically for securities finance transactions, that product characteristics and market conventions be taken into account, to generate better reporting information. With actual delivery of shares often far from the trade data, "date of conclusion" should be the settlement date of the transaction. There isn't any actual title transfer until settlement date of the SFT. Failing that, the first exchange – i.e. collateral charge date – would be a more appropriate reporting point than the transaction date, which may well be months in advance of the settlement date, and is often followed by multiple LEI allocation changes. Consistent data are critical to the success of SFTR and SFTR reporting regimes, but it should be noted that different SFTs have unique attributes and lifecycle events

That must be accommodated in the reporting requirement - one size doesn't fit all. We recommend doing more with less – SFTTR proposed templates are extensive.

3. Evaluate the effectiveness of the requirements

Just as for SFT reporting, where we question the value of collateral reuse information, we encourage regulators to consider which data points are truly effective in achieving the goal of identifying systemic risk. Significant complexity arises from the pairing and matching requirement under EMIR (which doesn't have an equivalent in the US). The requirement mandates that a unique transaction identifier (UTI) and legal entity identifier (LEI) must pair both sides of a trade. Once paired, the set of submissions pass through a matching mechanism that reconciles approximately 66 fields. As the number of data points to match is high, matching rates across the industry are very low (<20%) after more than two years of the requirement being in force. To further confuse matters, notwithstanding whether transactions under EMIR pair and match, each of these transactions would be legally confirmed and therefore valid – they would be “market good”.

An additional issue concerning UTI matching (short of going single sided reporting) is the current lack of clarity on which party should generate the UTI. A common formula to construct the UTI (e.g. LEI + TD + SD + Asset ID) may help, resulting in a higher matching rate, reduced operational overhead on transmitting and consuming the UTI and removes conflict on the role each counterparty plays.

The challenges of pairing and matching could be mitigated if the electronic platforms used for legal confirmation could be leveraged for all data fields required for matching. A number of the fields required for matching are not part of the legal confirmation, and where matching exceptions are concentrated. This speaks to the issues the industry faces in sourcing and matching these additional fields. Simplification of the matching requirements, in terms of fields in scope, would also be beneficial.

4. Assess practical implementation challenges

Finally, significant challenges in reconciling and verifying reporting exist also for paper OTC derivatives, which may have non-standard booking methodologies across the industry. Where inconsistent booking methodologies exist, there are significant variations in reporting methodologies.

This could be addressed by an industry initiative, under the auspices of a global trade association, to develop a global standard for booking methodologies.

Optionality

Excessive optionality in the acceptable values for a given data field can also lead to operational challenges, for both firms and regulators. For example, where five or six possible IDs can be used to represent the underlying security in a derivative, reconciliation of this field under EMIR requires the reporting firm to source all possible ID's for all securities in derivatives, and compare them to find a match.

We recommend specifically for EMIR, that when ESMA further defines the Level 3 RTS (Regulatory Technical Standards), it may be beneficial to reduce acceptable values for a given field. Reduction, if not elimination, of free form text fields will also aid the improvement of reconciliation and pairing / matching rates. In addition, the advancement of a UPI (Unique Product Identifier) has potential to solve the problem if the end result would be one universally accepted ID for a given security. This is rooted in a broader industry challenge where one security has a number of different ID's.

Furthermore, the use of text strings can lead to difficulties in deciphering reported information and performing reconciliations and controls. In our experience, the use of free form text fields leads to very low match rates and often challenges in reconciliation and controls. Conditional requirements (i.e. populate field B, if field A is blank) create add complexity in reporting, reconciliations and controls.

Trade Repository Functionality

Since not all trade repositories have functionality to enable reporting parties and/or regulators to access their database directly, this creates an operational challenge for reporting firms and for regulators alike. As a result, firms' oversight and monitoring of that data requires reporting in Excel, which is practically very difficult given the size of files being used and Excel's capabilities with such large data sets. In our view, the option to query, search and view a dashboard of open exceptions is far superior to relying on spreadsheets. Correcting reporting errors can also be a very difficult process requiring trial and error or in depth analysis by trade repository developers. Where reporting is delegated, coordination across parties is also required to correct errors.

We support trade repositories providing direct access to the database of reported information to alleviate many of the oversight and control challenges that exist today. Regarding the reporting sent to regulators and reporting parties, if regulators were to have direct access to the database of information this would greatly enhance oversight capabilities. Such a development would increase the volume and frequency data available for analysis, provide more timely oversight of exceptions / rejections and improve efficiency for firms battling with spreadsheet limitations.

Turning Data into Information

It is possible to identify a number of steps that regulators and industry could take over the short to medium term to convert the myriad data points that are currently being reported to many different regulators around the world into more meaningful information. This would generate information that better helps to fulfil the policy objectives underlying the reporting requirements.

The key to progress with reporting hinges on further cooperation between significant regulators internationally, such as ESMA and the SEC to develop consistent definitions and FAQs, as well as at least mutual recognition of each other's forms. This would significantly reduce processing time and allow for timelier and more consistent regulatory dialogue. We have also recommended taking the opportunity of forthcoming reviews of AIFMD to allow ESMA, the SEC and other key regulators to negotiate with each other for a common form under the auspices of IOSCO. This could take into account developments in global data standardisation such as the FSB work on LEIs.

To improve transaction reporting, we suggest that IOSCO is well placed to undertake a study to assess how substantially similar data requests vary across their member jurisdictions and second, establish a working group tasked with agreeing on a common transaction reporting template for relevant products and activities. The expectation should be that IOSCO member regulators would adopt the common global template (or give their reasons that justify opting for specificity away from the global standard). We have expressed a preference for single sided reporting of derivatives and SFT transactions as well as proposed ways to address the challenges created by the pairing and matching requirement under EMIR. Industry also has a role to play in driving towards more standardised reporting and in respect of booking methodologies. Likewise, trade repository functionality could be enhanced so as to reduce reporting firms' reliance on reporting through spreadsheets, and in doing so reducing firms' operational and legal risk.

The regulatory dividend from better data

If substantial progress could be made on each of the four objectives, this would represent an important dividend for regulators and for market confidence more generally. Higher quality data would result when accuracy supplants the potential for errors that arises with overlapping and inconsistent reporting. More consistent and high quality data produces high quality "information" – rather than "noise" – facilitating more targeted market intelligence and a more complete understanding of risk in markets.

One important benefit from achieving this objective would be that regulators could better compare trends across asset classes, identify outliers and potentially aggregate data across funds to understand trends. This

is a point that has been recognised by IOSCO itself in its 2015 Hedge Fund Survey. According to IOSCO, "Data also became more comparable and therefore more meaningful due to better explanations and guidance in relation to the definitions used in the questionnaire. A number of European regulators have therefore been educating firms through communications on common reporting errors. Regulators have also provided feedback to ESMA to improve the quality and consistency of data submitted, by clarifying the definitions and methodology of key metrics. ESMA has issued further guidance with its regularly updated AIFMD Q&As."

A focus on streamlining data requests and data collection with globally agreed definitions not only generates more consistent interpretations of the data but would leverage a single operational spend rather than building multiple reporting pipes. This would lead to better allocation of regulatory resources by saving significant time and money.

Benefits for end-investors and asset managers

A positive broader feedback loop would be generated by better data. Data-driven policy making, leading to enhanced monitoring and targeted supervision creates the framework for a balance to be struck between effective risk mitigation whilst providing the space for innovation and managed risk taking, paving the way to stimulate economic growth. This proportionately regulated environment would ultimately engender increased investor confidence.

From a practical perspective, the agents working on behalf of end-investors in markets, such as asset managers, would also stand to benefit from a global focus on streamlining reporting. This focus would eventually improve asset managers' ability to produce timely and accurate information, reducing the likelihood of compliance errors and inadvertent mistakes resulting from confusing definitions from one report to another. The elimination of the duplication of efforts and the streamlining of reporting facilitates automation, which represents a more cost-effective and more efficient channelling of resources towards investment. End-investors may also benefit from this cost-saving.

Conclusion

In conclusion, there are four overarching themes that we urge global policy makers and the industry to consider in future discussions on improving transparency to regulators:

► Clarity of purpose

We consider it legitimate to ask how data gathered by regulators will be used, for what purpose and how it could be leveraged to provide feedback to the broader market.

► Standardisation of requested information

We encourage regulators to move towards standardisation of data requests. This ranges from reaching globally accepted definitions of key terms through to an agreement on the detail and the frequency of requests.

► **Standardisation on how information is reported**

Electronic data delivery whenever and wherever possible should be the objective. This would substantially improve the accuracy and quality of data as well as timeliness.

► **A single global data repository (over time)**

Short of that, reporting the same data to multiple databases would still be an improvement over the current situation.

The detail underpinning each of these recommendations is summarised in Exhibit 2.

With the bulk of global regulatory reform initiatives currently in implementation or under review, now would be the optimal

time to take a step back and re-calibrate the regulatory framework to ensure that reporting delivers the right information to allow public policy objectives to be met whilst ensuring that the regulatory burden on firms is proportionate. The reward for making progress on reporting would be significant for regulators, particularly those tasked with the identification of risk in the global financial system. The benefits of more streamlined data collection and reporting firms are self-evident. However, the biggest prize of all could be reserved for the end-investors, since financial market transparency, delivered through appropriately detailed and timely reporting to regulators, underpins well-regulated and robust markets creating the right conditions for much needed investment.

Exhibit 2: SUMMARY OF RECOMMENDATIONS BY POLICY MAKING BODY

Level	Policy making body	Objective	Timescale
Global	IOSCO	Completion of asset management data gaps initiative	Short
		Global principles on feedback mechanisms to the market	Short
		Mutual recognition of data reporting templates	Medium
	FSB-IOSCO	Matching data fields by product	Medium
	IOSCO / industry	Develop global standards for booking methodologies for derivatives transactions	Medium
	FSB-IOSCO	Trade repositories to provide direct access to regulators to alleviate control and oversight challenges	Medium
	IOSCO	Globally agreed data reporting templates	Long
EU	ESMA	Develop European hub for AIFMD and UCITS data reporting	Short
		Reflect specificities of SFT transactions in the implementation of the SFTR reporting regime	Short
		Reduce scope for divergence within reporting under the EMIR Regulatory Technical Standards	Short
	European Commission	Align EMIR and SFTR reporting with global / US single sided approach	Medium

Notes

1. See: http://ec.europa.eu/archives/commission_2010-2014/president/pdf/statement_20090826_en_2.pdf
2. Former European Commissioner for Financial Stability, Financial Services and Capital Markets Union, Jonathan Hill. Keynote speech at Bruegel, 13 July 2016.
3. See: <https://www.sec.gov/news/press/2011/2011-226.htm>
4. See <https://www.sec.gov/News/PressRelease/Detail/PressRelease/1370542347679>
5. Liquidity funds in this context refers to cash management vehicles that are not registered 2a-7 money market funds.
6. See: <http://www.cftc.gov/PressRoom/PressReleases/pr6176-12>
7. See: http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/faq_cpocta110515.pdf
8. In addition, the National Futures Association, the CFTC-designated self-regulatory organization for Commodity Trading Advisors (CTAs) and Commodity Pool Operators (CPOs) also requires that CTAs file NFA Form PR and CPOs file NFA Form PQR. These reports contain similar but not identical data fields as the CFTC's Form PQR and the SEC's Form PF and similar but not identical filing schedules. <https://www.nfa.futures.org/NFA-electronic-filings/CPOFAQsFormPQR.pdf>
9. See: <https://www.treasury.gov/initiatives/fsoc/news/Documents/FSOC%20Update%20on%20Review%20of%20Asset%20Management%20Products%20and%20Activities.pdf>
10. See: <https://www.sec.gov/news/pressrelease/2015-95.html>
11. See: <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD515.pdf>
12. OFR, 2013 Annual Report (Dec. 5, 2013).
13. *Id.* at 95 & fig.65.
14. See: <https://financialresearch.gov/briefs/files/OFRbr-2015-05-Private-Fund-Data-Shed-Light-on-Liquidity-Funds.pdf>
15. See for example: <https://www.sec.gov/divisions/investment/private-funds-statistics/private-fundsstatistics2015q3.pdf>
16. For example, Form PF requires up to 500 separate data points required per fund per filing.
17. For example, under AIFMD and Form PF there is around a 30% direct overlap, a further 40% which is a close fit and 30% where data requirements differ. See Footnote 20 for the source.
18. For a more detailed analysis Regulatory Reporting under AIFMD – a Update and Comparison to SEC's Form PF – October 2014 at <https://www.ropesgray.com/newsroom/alerts/2014/October/Regulatory-Reporting-Under-AIFMD-an-Update-and-Comparison-to-SECs-Form-PF.aspx>
19. See: <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD533.pdf>
20. See: <http://www.fsb.org/what-we-do/policy-development/additional-policy-areas/legalentityidentifier/>
21. See <http://www.cftc.gov/PressRoom/PressReleases/pr6899-14>
22. For reporting securities lending, typically the buy side of the transaction would hold the relevant LEI-level data and therefore be the reporting entity.
23. Unlike a buy / sell trade, a securities lending transaction has a lifecycle that starts with the trade settling, and continues through until it is finally returned. During this life cycle, various life cycle events will occur: Settlement; collateralisation; billing; dividends; corporate actions; returns etc.. The SFTR demands information on all lifecycle events, which will significantly increase 'noise' and the likelihood of mismatches.
24. See: <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD515.pdf>

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