EMIR: Reporting to Trade Repository Obligations and Interactive Brokers Delegated Service to help meet your obligations

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1. Background: In 2009 the G20 pledged to undertake reforms aimed at increasing transparency and reducing counterparty risk in the OTC derivatives market post the financial crisis of 2008. The European market infrastructure regulation ("EMIR") implements most of these pledges in the EU. EMIR is a EU regulation and entered into force on 16 August 2012.

2. Financial instruments and asset classes reportable under EMIR: OTC and Exchange Traded derivatives for the following asset classes: credit, interest, equity, commodity and foreign exchange derivatives Reporting obligation does not apply to exchange traded warrants.

3. Who do EMIR reporting obligations apply to: Reporting obligations normally apply to all counterparties established in the EU with the exception of natural persons. They apply to:

Financial Counterparties ("FC")
Non-financial counterparties above the clearing threshold ("NFC+")
Non-financial counterparties below the clearing threshold ("NFC-")
Third country Entities outside the EU ("TCE") in some limited circumstances

The reporting obligations essentially apply to any entity established in the EU that has entered into a derivatives contract.

4. Financial counterparties ("FC"): include banks, investment firms, credit institutions, insurers, UCITS and pension schemes and Alternative Investment Fund managed by an AIFM. The Alternative Investment Fund ("AIF") will only become an FC if the manager of that AIF is authorised under the Alternative Investment Fund Managers Directive ("AIFMD"), *so a fund outside the EU may be subject to EMIR reporting requirements.*

5. Non-Financial Counterparty ("NFC"): A NFC is defined as an undertaking established in the EU other than those defined as a FC or a Central Counterparty ("CCP"), like the Clearing Houses. NFCs have lesser obligations than FCs. But when an NFC breaches a "clearing threshold" it becomes an NFC+, when it is subject to almost the same obligations as FCs (including collateral and valuation reporting). NFCs below the clearing threshold are known as NFC-s. In practice anyone other than a natural individual person (i.e. an individual or individuals operating a joint account) is defined as an NFC- and subject to reporting obligations.

INTERACTIVE BROKERS DELEGATED REPORTING SERVICE TO HELP MEET YOUR REPORTING OBLIGATIONS

6. What service will Interactive Brokers offer to its customers to facilitate them fulfill their reporting obligations i.e. will it offer a delegated service for trade reporting as well as facilitating issuance of LEI: As noted above, both FCs and NFCs must report details of their transactions (both OTC and ETD) to authorized Trade Repositories. This obligation can be discharged directly through a Trade Repository, or by delegating the operational aspects of reporting to the counterparty or a third party (who submits reports on their behalf).

Interactive Brokers intends to *facilitate the issuance of LEIs* and *offer delegated reporting to* for customers for whom it executes and clear trades, subject to customer consent, to the extent it is possible to do so from an operational, legal and regulatory perspective.

If you are subject to EMIR Reporting you will shortly be able to log into the IB Account Management system and apply for an LEI and delegate your reporting to Interactive Brokers.

We intend to include valuation reporting but only if and to the extent and for so long as it is permissible for Interactive brokers to do so from a legal and regulatory perspective and where the counterparty is required to do so (i.e. in cases where it is a FC or NFC+).

However, this would be subject to condition that Interactive Brokers uses its own trade valuation for reporting purposes.

7. Can EMIR reporting be delegated: EMIR allows either counterparty to delegate reporting to a third-party.

If a counterparty or CCP delegates reporting to a third party, it remains ultimately responsible for complying with the reporting obligation. Likewise, the counterparty or CCP must ensure that the third party to whom it has delegated reports correctly. Brokers and dealers do not have a reporting obligation when acting purely in an agency capacity. If a block trade gives rise to multiple transactions, each transaction would have to be reported.

FUNDS AND SUB-FUNDS - The obligations under EMIR are on the counterparty which may be the fund or sub-fund. The fund or sub-fund that is the principal to transactions will have to provide details of their classification (FC, NFC+ or NFC-), authorization for delegated reporting and Legal Entity Identifier ("LEI") application.

8. Exemptions under Article 1(4) and 1(5) of EMIR: Articles 1(4) and 1(5) of EMIR exempt certain entities from some or all of the obligations set out in EMIR, depending on their classification. Specifically, exempt entities under Article 1(4) are exempt from all obligations set out in EMIR, while exempt entities under Article 1(5) are exempt from all obligations except the reporting obligation, which continues to apply.

9. Entities qualifying under Article 1(4) and 1(5) of EMIR: Article 1(4) initially applied only to EU central banks, Union public bodies involved in the management of public debt and the Bank for International Settlements. Subsequently the application of the Article 1(4) exemption was extended to include the central banks and debt management offices of the United States and Japan. The Commission has indicated that further foreign central banks and debt management offices may be added in the future if they are satisfied that equivalent regulation is put in place in those jurisdictions. Article 1(5) broadly exempts the following categories of entities:

Multilateral development banks;
Non-commercial public sector entities owned and guaranteed by central government; and
The European Financial Stability Facility and the European Stability Mechanism.

10. OTC and Exchange Traded Derivatives: There is no distinction between reporting of exchange traded derivatives ("ETDs") and OTC contracts within the level 1 regulations, implementing technical standards, or regulatory technical standards of ESMA.

The contract is to be identified by using a unique product identifier. In addition, a unique trade identifier will be required for transactions. In the event that a globally agreed system of product identifiers does not materialise, it has been suggested that International Securities Identification numbers ("ISIN"), Alternative Instruments Identifiers ("AII"), or Classification of Financial Instruments Codes ("CFI") may serve as alternatives.

11. Trade repository Interactive Brokers use: Interactive Brokers (U.K.) Limited will use the services of DTCC Derivatives Repository Ltd. ("DDRL"), which is part of the U.S. DTCC, based in the United Kingdom.

12. Issuance of Legal Entity Identifiers ("LEI")

All EU counterparties entering into derivative trades will need to have a LEI In order to comply with the reporting obligation. The LEI will be used for the purpose of reporting counterparty data.

A LEI is a unique identifier or code attached to a legal person or structure, that will allow for the unambiguous identification of parties to financial transactions.

"EMIR": Further Information on Reporting to Trade Repository Obligations

13. Thresholds which determine whether an NFC is an NFC+ or NFC-: Breaching any of the following clearing threshold values will mean classification as an NFC+. Positions must be calculated on a notional, 30-day rolling average basis:

- EUR 1 billion in gross notional value for OTC credit derivative contracts;
- EUR 1 billion in gross notional value for OTC equity derivative contracts;
- EUR 3 billion in gross notional value for OTC interest rate derivative contracts;
- EUR 3 billion in gross notional value for OTC FX derivative contracts; and
- EUR 3 billion in gross notional value for OTC commodity derivative contracts and other OTC derivative contracts not covered above.

For the purpose of calculating whether a clearing threshold has been breached, an NFC must aggregate the transactions of all non-financial entities in its group (and determine whether or not those entities are inside or outside the EU) but discount transactions entered into for hedging or treasury purposes. The term "hedging transactions" in this context means transactions objectively measureable as reducing risks directly relating to the commercial activity or treasuring financing activity of the NFC or its group.

14. Reporting Of Exposures: FCs and NFC+s must report on:

- Mark-to-market or mark-to-model valuations of each contract
- Details of all collateral posted, either on a transaction or portfolio basis (i.e. where collateral is calculated on the basis of net positions resulting from a set of contracts rather than being posted on a transaction by transaction basis)

15. Timetable to report to Trade repositories: The reporting start date is 12 February 2014:

- New contracts they enter into on or after February 12th, on a trade date +1;
- Positions open from contracts entered into on or after 16 August 2012 and still open on February 12th, 2014 must be reported to a trade repository by February 12th 2014;
- Positions open from contracts entered into before 16th August and still open on February 12th, 2014 must be reported to a trade repository by 13th May 2014;
- Reporting of valuation and collateral must be reported to a trade repository by 12th August 2014;

Contracts that were either entered before, on or after 16 August 2012 but not open on 12th February 2014 must be reported to a trade repository by February 12th, 2017.

16. What must be reported and when: Information must be reported on the counterparties to each trade (*counterparty data*) and the contracts themselves (*common data*).
There are 26 items that must be reported with regard to counterparty data, and 59 items that must be reported with regard to common data. These items are set out within tables 1 and 2 of the Annex to the ESMA's Regulatory technical standards on minimum details to be reported to trade repositories.
Counterparties and CCPs have to make a report:

- when a contract is entered into
- when a contract is modified
- when a contract is terminated

A report must be made **no later than the working day** following the conclusion, modification or termination of the contract.

17. What has to be reported and who is responsible for reporting: Reporting applies to both OTC derivatives and exchange traded derivatives. The reporting obligation applies to counterparties to a trade, irrespective of their classification. Please note:

- Reporting of valuation and collateral is only required for FCs and NFC+s
- Every trade must be normally be reported by both counterparties.

THIS INFORMATION IS GUIDANCE FOR INTERACTIVE BROKERS CLEARED CUSTOMERS ONLY
NOTE: THE INFORMATION ABOVE IS NOT INTENDED TO BE A COMPREHENSIVE OR EXHAUSTIVE NOT A DEFINITIVE INTERPRETATION OF THE REGULATION, BUT A SUMMARY OF ESMA'S EMIR REGULATION AND RESULTING TRADE REPOSITORY REPORTING OBLIGATIONS.