

New in RegTech:

Enhanced transaction reporting leans on tech, Proposed customer ID rules for US advisers, ESG reporting changes in Europe & Latest US adviser compliance tips

by:

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Transaction reporting: EMIR Refits highlight tech

What is the state of [transaction reporting](#)? For starters, the need to remain compliant is more relevant than ever, as regulators around the globe continue to reinforce reporting requirements.

But as the space continues to mature, the focus is shifting from the “what” to the “how”. That is, from simply being compliant, to identifying how financial firms can leverage technology to refine existing compliance and reporting procedures and execute them with efficiency, precision and cost-effectiveness.

With that in mind, below are some takeaway notes from the recent [Trade & Transaction Reporting Conference](#) of June 27th in Amsterdam, where I and other industry experts were pleased to present and trade insights on the latest challenges and developments. Some of the takeaways:

Data insights: EU EMIR Refit go-live

- With that in mind, below are some takeaway notes from the recent Trade & Transaction Reporting Conference of June 27th in Amsterdam, where I and other industry experts were pleased to present and trade insights on the latest challenges and developments. Some of the takeaways:

- Reporting systems are running, and data is flowing. However there are still certain hiccups observed in data quality, which is leading to rejection rates.

Benchmarks, upskilling and a robust control framework

- If a firm's resources are already stretched, with regard to capacity or expertise, the additions and transitions required to comply with EMIR Refit will be difficult to achieve. As well as repositioning and upskilling current resources, firms may benefit from enlisting the help of outside experts. These resources have dedicated expertise in reporting regimes, and are now well ahead of the curve on EMIR Refit, with [UK EMIR Refit](#) implementation required by September 2024.

- Having the right control framework is vital, as we have seen with EU Refit that there is a need to improve on data quality and the delegated reporting workflow.

- Anusha Shetty, Product Manager, Global Transaction Reporting

“As part of the original consultation process, we received requests for supporting guidance on how the updated UK derivatives reporting framework will be implemented. In response, we’re providing guidance to support the implementation of the updated UK EMIR reporting requirements that go live on 30 September 2024.”

| FCA, “Changes to UK EMIR reporting requirements: draft questions and answers”

U.S. investment advisers could face new rules on customer identification

In May the SEC and FinCEN proposed customer identification requirements for advisers. The [proposed rule](#) would require SEC-registered investment advisers and exempt reporting advisers to establish, document, and maintain written customer identification programs

The proposal is designed to prevent illicit finance activity involving the customers of investment advisers, by strengthening the AML/CFT (anti-money laundering and countering the financing of terrorism) framework for the investment adviser sector.

This would expand KYC (know your customer) requirements to for identification and ongoing books and records requirements. More to come as this moves to adoption.

Click [here](#) to read the full press release from the U.S. Securities and Exchange Commission, and [here](#) for its Fact Sheet on the proposal.

– Kyrstin Ritsema, Executive Director, Compliance Services

“Criminal, corrupt, and illicit actors have exploited the investment adviser sector to access the U.S. financial system and launder funds. This proposal would help investment advisers better identify and prevent illicit actors from misusing their services . . .”

| Andrea Gacki, Director, Financial Crime Enforcement Network (FinCEN)

ESG: EU regulators suggest big changes for SFDR

In June the EU’s ESAs (regulators ESMA, the EBA and EIOPA) proposed [significant changes to SFDR](#) – the disclosure regime for investment firms marketing funds in the EU – for consideration by the European Commission.

The proposals are in light of the Commission’s public and targeted consultations on possible improvements to SFDR (mentioned in our previous [RegTech Reports](#) – and about which the Commission provided an [update](#) in May).

Among the many changes suggested by the regulators:

- the creation of sustainability labels (see their [graphic](#))
- clarifying the definition of “sustainable investment” in SFDR
- consumer-testing, for developing the labels
- extending the Taxonomy’s current environmental focus, to social issues
- adjusting sustainability disclosures to consider investor needs, distribution channels, and retail versus professional investors
- exploring additional financial products to be covered by SFDR requirements
- disclosure of adverse impact indicators for all financial products, justified by a cost-benefit analysis
- evaluation of framework to assess the sustainability of government bonds

Firms don't need to act quite yet. As the next step, the ESAs will let the Commission absorb their suggestions, as well as its own consultation feedback. Meanwhile the ESAs "stand ready to support the Commission in providing any necessary additional technical assistance". Stay tuned for further updates.

- Greg Hotaling, Regulatory Content Manager at Confluence

"The ESAs acknowledge that the framework could be improved and that the disclosures to investors in the SFDR may be complex by nature and difficult to understand, in particular for retail investors."

| Executive Summary, "Joint ESAs Opinion On the assessment of the Sustainable Finance Disclosure Regulation (SFDR)"

U.S. investment adviser compliance: excerpts from our latest Monthly Alert

Form N-PX

The SEC has adopted amendments to Form N-PX under the Investment Company Act of 1940 to enhance the information mutual funds, ETFs" and certain other funds currently report about their proxy votes making that information easier to analyze. The Commission has also adopted rule and form amendments under the Securities Exchange Act of 1934 that would require an institutional investment manager subject to the Exchange Act to report how it voted proxies relating to executive compensation matters on Form N-PX, as required by the Exchange Act. The SEC may use the information in Form N-PX for regulatory, disclosure review, inspection, and policymaking purposes.

Investment adviser registrations

Your regulatory filings are critically important, including those regulatory filings necessary to maintain individual adviser registrations. The accuracy of the information contained in the Form U4 filing is extremely important, as this information is available to the investing public via the IAPD system, as well as the Form ADV Part 2B for state registered advisers.

Individuals providing advisory services on behalf of your Firm (Investment Adviser Representatives – "IARs") are required to maintain appropriate registrations in accordance with each state's regulations (unless otherwise exempt from such registration requirements). While the definition of an IAR varies state-by-state, basically any individual within your firm who meets with and provides advice to clients or manages accounts or portfolios of clients should be considered an IAR.

IAR registrations are maintained through the Central Registration Depository system. As part of your ongoing compliance program, you should be actively monitoring and maintaining all appropriate IAR registrations that may be required for providing advisory services to clients.

Professional designations and continuing education

As a reminder, the CCO is responsible for monitoring use of professional designations by IARs (procedures for monitoring professional designations are included in your Policies & Procedures manual, within Section H. Supervision). Certain professional designations are applicable to use for meeting the qualification requirements of investment adviser representatives. Most notably, these specific designations can provide a waiver for the 65 examination requirement. As such, you should also ensure that each IAR has satisfied their continuing education requirements for any professional designation. A sample log for tracking Professional Designations can be downloaded [here](#).

Enforcement update

Earlier this month, the SEC announced [charges](#) against a registered investment adviser for performance advertising that was believed misleading, as well as not fair and balanced. The charges stemmed from a time period of 2021 – 2023 where the adviser presented performance returns that were experienced by a single investor and that did not constitute fund performance.

– Kyrstin Ritsema, Executive Director, Compliance Services

About Confluence

Confluence provides regulatory and investor communications solutions powered by data and analytics that make it easier to create, share and operationalize mission-critical reporting essential to the investment management industry.

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