INTERVIEW
J. Christopher Giancarlo Outlines CFTC's Priorities

Q&A
EC's Olivier Guersent on the CMU, EMIR Review

MARGIN
Industry Prepares for September Deadline

IQ

ISDA® Quarterly

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* THORNY PROBLEMS

Policy-makers consider how to improve the efficiency and effectiveness of regulatory reforms

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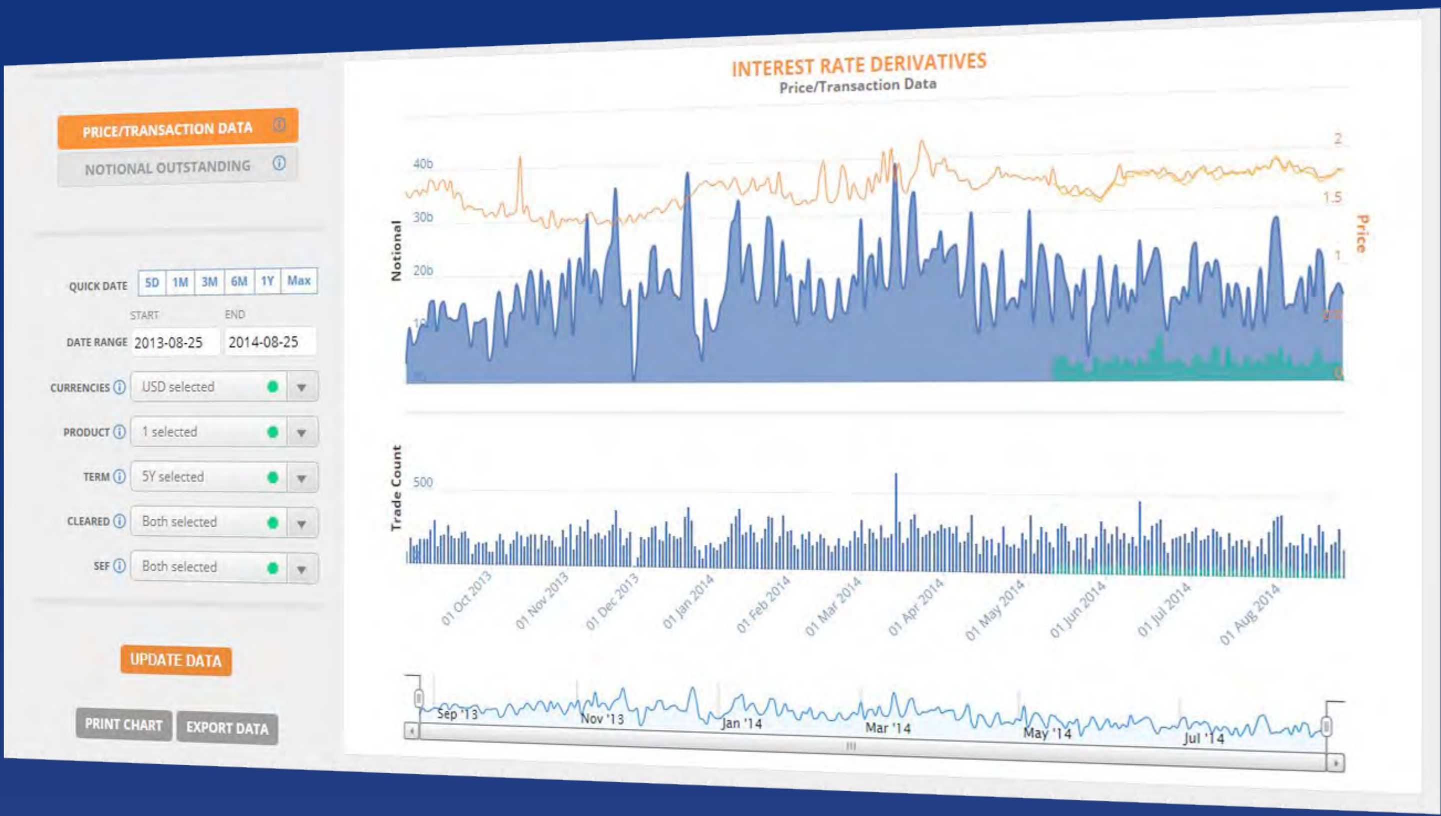

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A New Agenda?

Is regulation of financial markets entering a new phase? And if so, what will this new phase look like?

To some, the very thought that policy-makers might be considering changes to the post-crisis regulatory framework is anathema. Wall Street caused the crisis, they point out, and ensuring the stability of the financial system and the broader economy is vital. So any changes are to be opposed – regardless of whether they are actually intended to improve the new rules.

To others, there is an urgent need to jump-start economic growth and job creation, and that means reducing the burdens and costs that the public sector has imposed over the past decade. Many regulations are complex, duplicative and expensive to comply with and offer no real value in reducing systemic risk. So they should be dramatically streamlined.

There is, though, another way to view these important questions about the future of financial regulation. It's based not on political philosophies but on cold, hard facts. First and foremost, the objectives of reform are being achieved. In each of the five key elements of derivatives regulatory reform – clearing, margining, reporting, capital and trade execution – the industry's progress has been real, lasting and substantial.

The second important fact is that ISDA and the derivatives markets do not want to undo this progress. We've worked hard to implement the five pillars of regulatory reform for some time now. So let's be clear: we're not advocating for a repeal of Dodd-Frank (or Title VII) in the US, or the European Market Infrastructure Regulation in Europe.

But we do think – and here's the third key fact – that the rules need to be improved. Our cover illustration highlights this view. Regulations, like rose bushes, have really good parts and some not-so-good parts, and they need to be carefully pruned to stay healthy.

There can and should be a spirited analysis and deliberation about whether and how to strengthen financial regulation as we move forward. As this debate takes shape, we are encouraged that there seems to be a renewed appreciation for the important role that financial markets play in the global economy.

In these discussions, it will be all too easy to characterise efforts to improve regulation as being nothing more than trying to repeal or roll back reform. This would be wrong. We at ISDA believe our markets can be safe *and* efficient.

Steven Kennedy
Global Head of Public Policy
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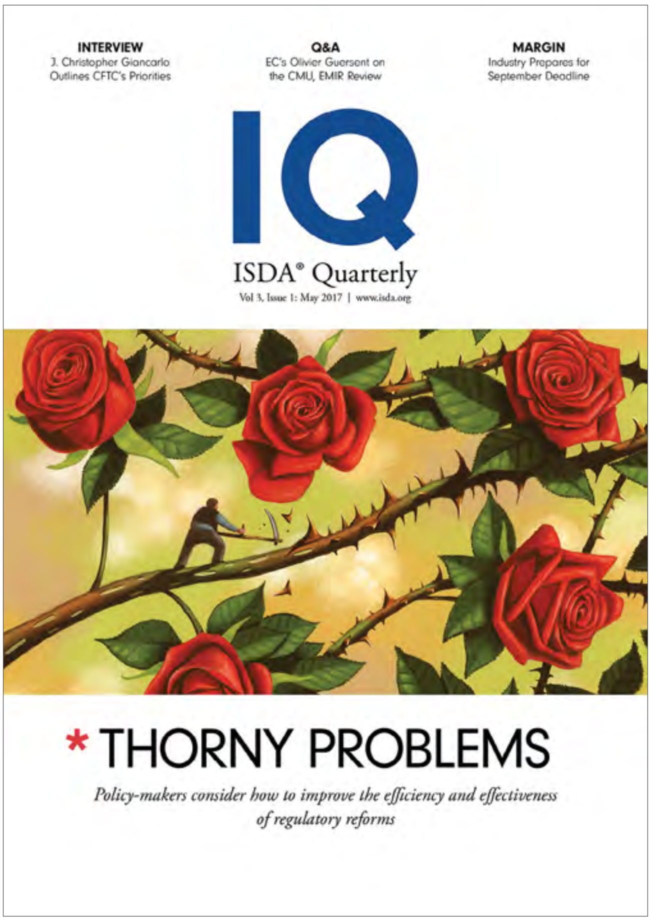

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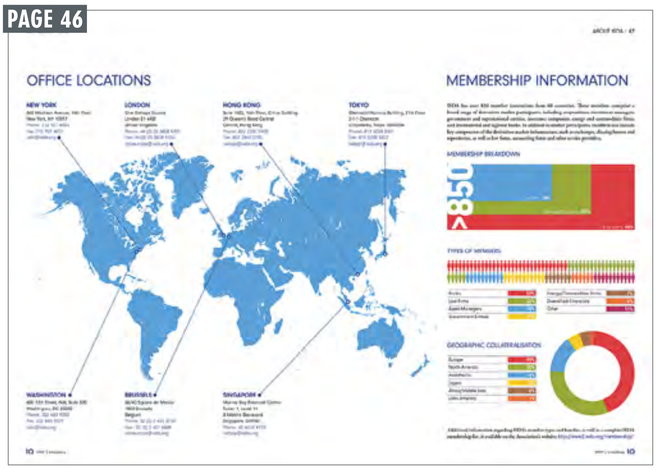

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"I have come to the conclusion that the CFTC's flawed swaps trading implementation has caused numerous harms, foremost of which is driving global market participants away from transacting with entities subject to CFTC swaps regulation"

J. Christopher Giancarlo, CFTC

A Global Framework Benefits All

There are clear benefits in having a globally harmonised regulatory framework that supports economic growth, writes ***Scott O'Malia***

There has been a lot of speculation in recent months about whether the global regulatory consensus, formed in the aftermath of the financial crisis, is coming to an end. Those who voice this theory point to several recent events to support their reasoning – from rhetoric on regulatory change by the new US administration, to Brexit, to the delay in agreeing the latest raft of measures from the Basel Committee on Banking Supervision.

But this is not necessarily a given. Listen to what officials in the US and European Union (EU) are saying, and it suggests they may have more in common than what is at first apparent.

The Basel framework is a case in point. The largest global banks have raised more than $1 trillion in new capital since the crisis, and have significantly increased the amount of liquid assets on their balance sheets. The banking sector is much more resilient as a result of the Basel reforms. However, ISDA studies have shown that additional measures being considered by the Basel Committee will further increase capital for banks, which will have an impact on business lines that are important for end-user financing and hedging.

"Both the EU and US appear to be moving in the same direction: a regulatory framework that supports economic expansion"

We believe policy-makers should carefully assess whether the forthcoming Basel measures tick some important boxes. Do they support economic growth? Are they risk-sensitive? Are they free of operational complexity that will undermine the effectiveness of internal models?

It seems these kinds of questions are starting to be asked. Late last year, the European Commission (EC) put forward revisions to the EU's Capital Requirements Directive/Regulation that diverge from the Basel framework in several important ways.

Significantly, the EC has taken steps to smooth implementation of new trading book rules by proposing a 35% discount on market risk capital requirements during a three-year phase-in period. This will avoid a sudden hike in capital requirements for those banks with trading businesses once the rules are introduced – something that could have had a negative impact on liquidity and market-making capacity.

While a welcome inclusion, the fact a discount was considered important suggests a broader recalibration of the standardised and internal model approaches is necessary. We also think further thought needs to be given at the Basel level to the eligibility criteria for using internal models under the Fundamental Review of the Trading Book. The current requirements are unclear, operationally complex and largely untested – raising the prospect that banks will have to use the standard approach. This may result in an overall 2.4 times hike in market risk capital compared to current levels, according to industry studies. We support the premise that internal models should be robust and transparent, but not at the cost of inappropriate eligibility criteria and validation requirements that result in reliable models failing the test.

The EC has also proposed an amendment to the leverage ratio. Unlike the Basel framework, the EC's proposals recognise the risk-reducing benefits of client initial margin, and don't require banks to count this margin towards leverage ratio exposure. This is an important distinction: it makes the economics of client clearing more viable for clearing-member banks and creates greater consistency with other policy objectives to encourage clearing.

At a high level, these changes are aimed at encouraging the financing of the real economy and fostering economic growth. Crucially, those objectives are in line with the stated objectives of the new Trump administration. In other words, both the EU and US appear to be moving in the same direction: a regulatory framework that supports economic expansion. An important ingredient to achieving that is make sure the capital rules don't have a detrimental impact on market liquidity and the ability of banks to extend credit and provide hedging products to end users.

There is a clear benefit to having a global capital framework that achieves these goals and works for everyone. A common agreement means less complexity, lower costs and a level playing field. We therefore encourage the Basel Committee to consider its final rules with a focus on ensuring economic growth.

Scott O'Malia
ISDA Chief Executive Officer

ISDA Sets Out Smart Contract Future

Smart contracts offer the prospect of reduced costs and increased operational efficiencies in the derivatives market, but will only reach their full potential if the industry builds the right foundations first. That's according to panellists at an ISDA seminar in March, who highlighted the need for common standards and processes.

A variety of derivatives smart contract prototypes have been rolled out over the past year, raising the prospect that market participants will be able to realise greater efficiencies and lower operational costs by automating many post-trade processes. However, the industry has yet to settle upon standard definitions and workflows, which could limit their effectiveness.

Speaking at a 30th anniversary of the ISDA Master Agreement event at Middle Temple Hall in London on March 7, Scott O'Malia, ISDA's chief executive, drew a parallel with the early days of the derivatives market, when trading was hampered by a lack of standard documentation. Back then, the launch of the ISDA Master Agreement in 1987 brought common standards to the market, setting the path for rapid growth (see page 8).

"Just as the industry was transformed by the standard Master Agreement, we believe that we must focus on establishing common standards now, which include standard definitions, processes and, of course, legal agreements," he said.

The scope for creating greater efficiencies in the post-trade management process is significant, he added. New regulatory requirements on trading, clearing, margining and reporting have meant extra processes have been layered on top of existing systems. What's more, the pace of the reform has meant banks have had to take a tactical approach to meeting deadlines, resulting in a complex set of interdependent, duplicative systems and processes with inconsistent operating rules, panellists said.

"The primary concern with new regulation has not been delivering it in a strategic or future-proof way. It has been 'can we get it done?'" said Kieran Higgins, head of trading and flow sales at NatWest Markets and an ISDA board member, also speaking at the March 7 event. "The scope for improvement is vast. One of the key things to implement is standardisation."

Standardisation was the focus of a September 2016 ISDA white paper on the future of derivatives processing and market infrastructure. The paper highlighted three priorities for achieving greater standardisation: data, processes and documentation.

ISDA has already worked to develop an approach to the generation, communication and matching of unique trade identifiers. But further work is required to develop a globally consistent product identifier that is open and accessible to all market participants, the paper states. An initiative is currently under way by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions to develop a global product identifier.

The paper also highlights the need for a redesigned and reordered workflow, with common processes and definitions agreed by the industry. These processes could be encoded as common domain models that would describe the necessary data, functions and participants of the market, and govern how they interact with one another.

In addition, further work is needed to standardise and digitise the existing suite of derivatives documentation to improve the electronic interconnectivity of the industry, the paper says. ISDA has already launched an interest rate swap smart contract proof of concept based on Financial products Markup Language in November, but a number of challenges to mass take-up of smart contracts remain.

"Some of the fundamental challenges associated with smart contracts include representing contractual obligations in a standard code using consistent and well-defined processes and definitions, and anticipating and solving for contract failures, disputes and recourse through the courts," said O'Malia.

These challenges are starting to be addressed in ISDA working groups, alongside work to develop data and processing standards, added O'Malia.

"The work in the areas of smart contracts, process automation and a consistent data taxonomy is in its early stages. We are at the very edge of unexplored territory, and that is an incredibly exciting place to be," he said. "Thirty years ago, ISDA was able to create a common standard that helped create the derivatives market as we know it. I believe we know have an opportunity to help shape the future of the market for the next 30 years and beyond."

> "The primary concern with new regulation has not been delivering it in a strategic or future-proof way. It has been 'can we get it done?'"
>
> **Kieran Higgins, NatWest Markets**

ISDA Master Agreement Celebrates 30 Years

The ISDA Master Agreement was critical to the success of the derivatives market, and set a common foundation for negotiating trades that remains in place to this day, according to speakers at an anniversary event celebrating the 30-year anniversary of the ISDA Master Agreement.

The event, held at Middle Temple Hall in London on March 7, was attended by members of the original drafting team, who described how a lack of standard definitions and terms in the early days of the derivatives market had presented a major hurdle to growth.

"People fought about everything," said Jeff Golden, chairman of PRIME Finance and a principal author of the Master Agreement, speaking on a panel at the seminar. "They fought about things not because their positions were necessarily right, but invariably because they were familiar, and the game was so unfamiliar otherwise."

Every dealer had developed its own documents, each with its own unique terms and definitions. That meant every trade required negotiations between the two parties to agree on a common set of terms – a process that was agonisingly slow and limited the volume of trades that could be executed.

"Each and every trade required a separate agreement," said Golden. "Negotiations were lengthy, repetitive and costly."

Some participants in the market realised things could not continue this way, and ISDA – initially called the International Swap Dealers Association – was set up in 1985 to tackle the problem. The result was the ISDA Master Agreement, first published in proto-form in 1987. This provided much of what was missing from the market – a common language and a common template for negotiating trading relationships, which radically reduced the time taken to execute a trade.

> "Each and every trade required a separate agreement. Negotiations were lengthy, repetitive and costly"
>
> **Jeff Golden, PRIME Finance**

"It's easy to underestimate the standardisation process that occurred in 1987," said Michael Canby, a former partner at Linklaters who led the English law drafting team for the 1987 Master Agreement. "Now we take it for granted, but at the time it was a big deal. I would comment upon the exemplary levels of cooperation and compromise that took place among the participants pushing that agreement."

The differentiating factor for the Master Agreement was that it was flexible enough to cover all derivatives asset classes and instruments. It also allowed close-out netting of all transactions covered by the agreement – a critical element that enabled dealers to allocate capital more efficiently.

"The genius of the ISDA Master Agreement was to create a document that worked for every trade, everywhere. It opened the path for the development of new derivatives asset classes and instruments. It was a perfect example of industry cooperation creating something simple, comprehensive and durable," said Scott O'Malia, ISDA's chief executive.

ISDA AGM Focuses on Future of Public Policy

The push by policy-makers and governments to encourage economic growth, and the policies needed to achieve that, will be debated by senior regulators and derivatives market executives at ISDA's 32nd annual general meeting (AGM) in Lisbon on May 8-10.

With the Group of 20 (G-20) derivatives reforms now largely in place, there have been calls in both the US and Europe to consider the raft of measures implemented since the crisis to eliminate duplication, inefficiency and complexity. A key driver is a growing political impetus to ensure the regulatory framework is able to support economic growth.

"The financial system is much more resilient as a result of the G-20 reforms, but there is a growing consensus that the regulatory framework should be assessed in an effort to improve it further. That means ensuring the rules are risk sensitive, appropriate and coherent, and support lending and hedging – all requisites for economic growth," says Scott O'Malia, ISDA's chief executive.

The AGM will feature panel discussions that will consider how the drive for economic growth and changes such as Brexit and the 2016 US elections are shaping the public policy agenda. Delegates will also hear a regulatory perspective from J. Christopher Giancarlo, acting chair of the Commodity Futures Trading Commission, Steven Maijoor, chair of the European Securities and Markets Authority and Svein Andresen, secretary-general of the Financial Stability Board.

As part of a push to create greater efficiency in derivatives markets, AGM speakers will also debate the role of new technologies, including the potential for smart contracts. ISDA published a white paper last year on the future of derivatives market infrastructure, which identified a number of opportunities to further standardise data, processes, definitions and documentation. Putting those in place will be critical to the ability of firms to create efficiencies and lower operational costs through technology, the paper states.

THE COVER PACKAGE

Thorny Problems

With policy-makers increasingly looking to stimulate economic growth, this issue of **IQ** *features a collection of articles that look at how this will affect the public policy agenda, and the changes that could be made to make the regulatory framework more efficient*

Financial regulation is all about balance. Policy-makers naturally want to ensure the financial system is resilient enough to withstand market shocks. Go too far in the restrictions and costs that are imposed on markets, however, and the pipes that fuel investment and economic growth risk being squeezed shut.

It's this balance that policy-makers have been wrestling with. Regulators have implemented a succession of measures since the crisis to make the financial system more robust. Banks have to hold more capital, reporting requirements mean there's more transparency in derivatives markets than ever before, and clearing has helped mitigate counterparty credit risk.

But a growing chorus of voices are calling on regulators to relook at the reforms, with an eye to making the framework more efficient, less complex and less burdensome for end users. By recognising what works well and what could work better, the objective is to make the regulatory framework stronger, and reduce unnecessary burdens that discourage trading, investment and hedging.

At the same time, there are growing concerns about the impact of additional capital measures, which ISDA studies have shown will lead to further significant increases in capital. Critics argue a hike in capital, on top of increases that have already occurred, will reduce the ability of banks to engage in trading and market-making. That could affect market liquidity, as well as bank lending, intermediation and the provision of risk management services, all important for economic growth.

In this issue of **IQ**, we look at the policy agenda across the globe, and the initiatives being considered to improve the regulatory framework. The first article looks at what has been achieved to make the system more resilient in the eight years since the Group of 20 published its derivatives reform objectives (pages 10-13). **IQ** then considers the future of public policy in the US (pages 14-17), Asia-Pacific (pages 22-25) and Europe (pages 30-32).

To get a flavour of regulatory priorities, **IQ** also includes interviews with Commodity Futures Trading Commission acting chair J. Christopher Giancarlo (pages 18-21) and Olivier Guersent, director-general for financial stability, financial services and capital markets union at the European Commission (pages 26-29). IQ

"Project KISS mandates an agency wide review of CFTC rules, regulations and practices to make them simpler, less burdensome and less costly"

J. Christopher Giancarlo, CFTC

* Evolution of the Market

Significant progress has been made in meeting the Group-of-20 derivatives reforms, with rules for clearing, reporting, capital and margin in place across the globe. **IQ** *assesses the steps that have been taken, and looks at what's left to do*

September 2017 will mark the eighth birthday of the Group of 20's (G-20) landmark commitment to reform derivatives markets. Intended to tackle systemic risk and improve transparency, the 2009 objectives triggered a wave of legislation and rule-making across the globe, along with years of resource-intensive compliance efforts by industry participants. Eight years on, the reforms have been rolled out in multiple jurisdictions, resulting in a safer, more resilient and more transparent financial sector. But there are some outstanding issues left to be resolved.

The 2009 objectives focused on four key areas: clearing of standardised derivatives, reporting of all derivatives trades, higher capital for non-cleared transactions, and trading of standardised derivatives on electronic execution venues where appropriate. These were augmented in 2011 with a requirement to post margin on non-cleared trades.

Importantly, the G-20 also stressed that these reforms should be implemented in a globally coordinated way to avoid fragmentation and an unlevel playing field. While the five main objectives have now largely been implemented, cross-border harmonisation remains a work in progress.

Clearing

Clearing requirements are now in place in multiple territories, including the US, European Union (EU), Japan, Australia, South Korea and China.

Japanese regulators were the first to introduce a limited clearing mandate in November 2012, followed by the US Commodity Futures Trading Commission (CFTC), which implemented its first mandate for certain interest rate derivatives (IRD) and credit default swap (CDS) indices from March 2013. Initially targeting swap dealers and private funds, the mandate expanded to include other participants over 2013[1].

By the fourth quarter of 2016, 85.2% of average daily IRD notional volume was cleared, according to data submitted to US swap data repositories (SDRs) and compiled by ISDA SwapsInfo.org[2]. In comparison, less than 20% of total IRD notional outstanding was cleared globally prior to the crisis (see Chart 1)[3].

The interest rate derivatives market is the largest derivatives asset class, comprising 80% of overall notional volume at end-June 2016, according to the Bank for International Settlements.

Clearing volumes are now moving ahead of clearing mandates in many cases. In the EU, for instance, 66% of Europe's IRD market was cleared at the end of the first quarter of 2016, according to the European Securities and Markets Authority – before the first EU mandates came into force in June 2016.

[1] Category 1 entities, which include swap dealers and private funds, were required to begin clearing mandated instruments on March 11, 2013; Category 2 entities, which include commodity pools, private funds and persons predominantly engaged in activities that are in the business of banking, or activities that are financial in nature, were required to clear mandated swaps as of June 10, 2013; Category 3 firms comprise all other entities, including employee benefit plans, as well as third-party subaccounts, and were required to begin clearing on September 9, 2013. The mandate for interest rate derivatives was expanded to include other currencies in October 2016: http://www.cftc.gov/idc/groups/public/@lrfederalregister/documents/file/2016-23983a.pdf

Clearing services have also emerged globally for other, non-mandated products, including inflation swaps, non-deliverable forwards and – to a limited extent – swaptions and cross-currency swaps. In fact, ISDA estimates approximately 98% of what can be cleared in the IRD space is now being cleared[4].

Despite the progress, however, more work is required in certain key areas. One is the resilience, recovery and resolution of central counterparties (CCPs). Several clearing houses have become systemically important as a result of global clearing mandates, making it vital this infrastructure is secure as possible.

CCP resilience is the most important line of defence, and ISDA has made a series of recommendations on transparency, stress testing and CCP skin in the game[5]. But robust and transparent recovery and resolution frameworks are also critical. Regulators have prioritised these issues, and are drawing up global principles via the Financial Stability Board (FSB), the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO). ISDA believes any recovery and resolution framework should be transparent, provide maximum predictability of outcomes, and create the right incentives for all participants.

Other regulations appear to be working against the objective to encourage clearing. The Basel Committee on Banking Supervision's leverage ratio, for instance, currently does not recognise the exposure-reducing effect of segregated client collateral. According to an ISDA study, failure to recognise segregated client initial margin results in an 85% increase in leverage ratio exposure for client clearing. This will have a significant impact on the economics of client →

CHART1: CLEARED IRD GROSS NOTIONAL OUTSTANDING (%)

Source: Bank for International Settlements, ISDA

[2] http://isda.link/swapsinfoq42016

[3] http://isda.link/marketanalysisdec2016

[4] http://isda.link/marketanalysisdec2016

[5] http://isda.link/ccprecoverypaper

ISDA has called for any further capital measures to be appropriate, risk sensitive and consistent

clearing, and may make it difficult for clearing members to provide this service. This has contributed to concerns about the clearing house access – particularly for smaller entities.

Reporting

On paper, reporting has been the most successful of the G-20 reforms, with mandates now in place in most of the FSB member jurisdictions. As a result, the vast majority of derivatives transactions are now reported. This means regulators have more access to information on derivatives trades and exposures than ever before, allowing them to drill down to the individual counterparty level.

However, regulators are no closer to being able to aggregate data across borders and different trade repositories, hampering their ability to monitor systemic risk. That's because of different reporting rules between jurisdictions, variations in data standards and reporting formats, and inconsistencies in what has to be reported.

There are also divergences in which party should report. For instance, while many regulators have placed responsibility for reporting on a single counterparty, European regulators require both parties to report the trade – an obligation that creates cost and complexity for end users, and has not resulted in higher quality data.

ISDA has recommended that responsibility for the accuracy of reported data should be assigned to one counterparty in order to harmonise reporting standards[6]. Development and adoption of global data standards are also vital. CPMI-IOSCO is currently drawing up global product identifier standards, which ISDA believes are necessary to improve data quality and aggregate exposures.

CROSS-BORDER TRADING

between US and EU dealers in euro IRS fell from 28.7% of cleared activity in September 2013 to 7.6% by the end of 2015

Capital

Banks now have to hold much higher levels of capital as a result of reforms by the Basel Committee, and that capital has to be able to absorb losses. A capital surcharge has also been introduced for systemically important firms. In addition, the stock of high-quality liquid assets held by banks has increased considerably in response to new liquidity requirements.

In the US, the aggregate ratio of common equity capital to risk-weighted assets for 33 large US bank holding companies more than doubled from 5.5% in the first quarter of 2009 to 12.2% in the first quarter of 2016, according to the US Federal Reserve. This reflects an increase of more than $700 billion in common equity capital.

It's a similar story in Europe. According to the European Banking Authority, the average common equity Tier 1 ratio of 51 large EU banks was just over 13% at the end of 2015, from approximately 9% in 2012.

However, while those increases were necessary in the wake of the financial crisis, there are concerns about the impact of further capital hikes. Increasing the capital burden too high could impact bank lending, their ability to underwrite debt and equity issuance, and their willingness to provide hedging services to end users.

Studies by ISDA have shown that further measures currently being considered by the Basel Committee would ultimately result in higher capital requirements for banks, which could have an impact on business lines that are important for end user financing and hedging.

In its consultation responses, ISDA has called for any further capital measures to be appropriate, risk sensitive and consistent. In addition, regulators should continue to conduct studies to monitor the impact of current and forthcoming capital and liquidity measures on banks overall, specific business lines important for economic growth, and end users.

Margin

New margining requirements for non-cleared derivatives trades were introduced for the largest derivatives users from September 1, under rules that came into effect in the US, Japan and Canada. The EU followed suit in February, while Australia, Hong Kong and Singapore rolled out their regimes from March 1, 2017[7]. Under those rules, so-called phase-one entities now have to exchange initial and variation margin when trading non-cleared derivatives with each other.

Variation margin requirements also came into effect for all in-scope entities from March 1, capturing a much wider scope of derivatives users. Following concerns about the industry's ability to renegotiate more than 150,000 outstanding credit support annex agreements – and awareness that those that didn't would be unable to access the market to hedge, despite the fact that many already post variation margin – global regulators announced in February that they would be flexible in enforcement.

[6] http://isda.link/entitybasedreporting

[7] Hong Kong and Singapore expect progress in compliance for both IM (for phase one) and VM (all in-scope entities) during a six-month transition period. Australia expects phase-one entities to comply from March 1, 2017. There is a six-month transition for VM requirements for covered entities, but all trades executed after March 1 must be back-loaded for VM exchange by September 1, 2017

Attention now turns to the next phase of the initial margin rollout in September 2017. Other waves of compliance will follow each September through to 2020.

ISDA has been working to help industry implementation efforts through the publication of regulatory compliant documentation and protocols, and the launch of the ISDA SIMM – a common calculation engine for computing initial margin requirements, which will reduce the potential for disputes.

Trading

Trading mandates are so far in place in the US and Japan, and Europe will follow in January 2018 with implementation of the revised Markets in Financial Instruments Directive and regulation (MIFID II/MIFIR).

The US is furthest along, following rollout of the CFTC's swap execution facility (SEF) regime in October 2013. The first mandates for certain IRD and CDS index instruments were introduced in February 2014, though a process known as 'made available to trade' (MAT).

According to ISDA SwapsInfo.org, 53.7% of the IRD average daily trading volume reported to US SDRs was traded on a SEF in the fourth quarter of 2016. The proportion was higher for CDS indices: 73.1% of average daily notional volume was SEF-traded over the same period (see Chart 2).

While this lags the proportion of cleared trades in the US, the universe of products mandated for trading is limited to the most liquid cleared maturities and currencies[8]. For instance, a large proportion of total US IRD volume comprises transactions in non-MAT currencies, maturities and start period, which means they trade off-SEF.

Nonetheless, ISDA believes targeted amendments to the SEF rules would encourage further trading on these venues (see pages 14-17).

Cross-border harmonisation

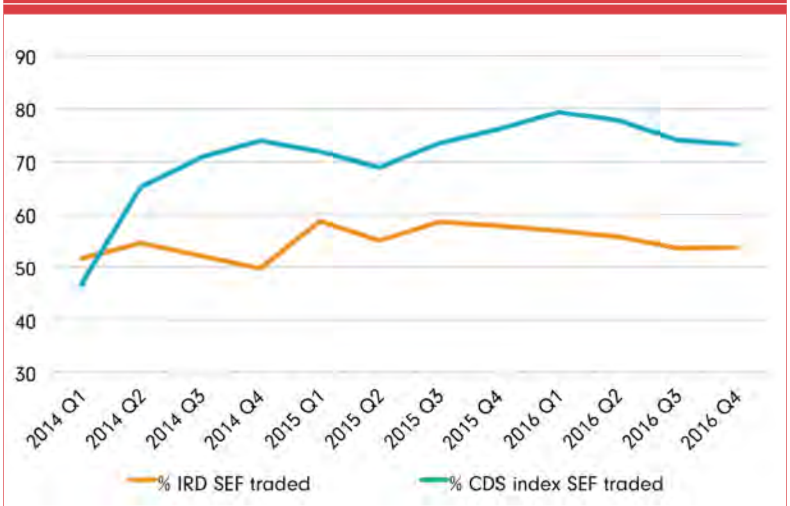
Underlying the G-20 commitments on clearing, trading, reporting, capital and margin was a pledge to implement global standards consistently in a way that ensures a level playing field and avoids fragmentation of markets.

Despite this, there is evidence that markets have fragmented across geographic lines due to differences in the scope and timing of domestic rules. For instance, 28.7% of cleared activity in the European interdealer euro interest rate swap market was conducted between European and US counterparties in the month prior to the introduction of the US SEF rules. The proportion of cross-border trading dropped precipitously after the SEF rules were introduced, and had fallen to just 7.6% by the end of 2015, according to ISDA research[9]. The existence of multiple liquidity pools could raise trading costs and make it harder for market participants to manage risk effectively during periods of market stress.

Many of the problems could be resolved through greater harmonisation of global rule sets and an effective process for granting equivalence/substituted compliance. A transparent equivalency mechanism based on broad outcomes would help minimise the compliance challenges and fragmentation of liquidity.

There has been some progress, with the US and EU coming to an agreement on the equivalency of their CCP rules last year – although that took three years of negotiations. Quick substituted compliance/equivalence determinations in other areas – in particular, trading – will be necessary to prevent further fragmentation of markets. This ought to be achievable: ISDA has published analysis that shows the SEF rules and MIFID II/MIFIR are broadly similar in outcomes[10].

CHART 2: IRD AND CDS INDEX SEF TRADING (%)



Source: ISDA SwapsInfo.org

Conclusion

The G-20 derivatives reforms are now well progressed in terms of implementation. With the start of new margining rules for non-cleared derivatives from September 1, 2016, all five commitments are in place to various extents across the globe, and the derivatives market is more resilient and transparent as a result. But the various regulatory frameworks are lagging in some areas – notably, the G-20 pledge to apply the rules consistently across borders. Without this, derivatives markets will be less effective and cost-efficient for users.

[8] http://isda.link/irdclearingseftrading

[9] http://isda.link/crossborderfragupdate

[10] http://isda.link/useutradingplatform

* Time for a Tune-up

Much of the Dodd-Frank framework is now in place, but there's growing recognition that the rules could become more effective by cutting duplication and reducing complexity. **IQ** *looks at some of the areas ripe for improvement*

Imagine if no technology or engineering firm ever tried to make its product better, or to learn from the glitches that have become clear through use. We'd all still be driving to work in our Model T Fords, booting up our IBM 650s each morning, and taking calls on our 1970s-vintage Motorola cell phones. Fortunately, these products have evolved over time, as developers have progressively ironed out creases in design and functionality, and made improvements to reflect changes in use or environment.

The same concept applies to financial regulation. Draw up a whole new regulatory framework when nothing like it has existed before, and it stands to reason that not everything will work out quite as it's meant to. Over time, legislation and regulation can become stale, requiring policy-makers to make updates and revisions as market practice and technology changes. Sometimes, an intended result of regulatory change hasn't materialised – or, worse, an unintentional outcome has emerged that needs to be corrected.

A growing number of voices are now calling for US policy-makers and regulators to take a cold-eyed look at the raft of measures implemented post-crisis, and to make refinements where necessary. In fact, several initiatives are already under way, including a review by the US Treasury and the Commodity Futures Trading Commission's (CFTC) KISS project (keep it simple, stupid).

A review doesn't mean repealing Title VII of the Dodd-Frank Act – the section dealing with derivatives – but it does mean improving parts of the derivatives regulatory framework in order to enhance economic growth, market liquidity and effective risk management.

Regulatory progress

The Dodd-Frank Act covered a vast swath of the financial landscape, from bank resolution to derivatives regulation to consumer protection. As a result, significant improvements have been made since the financial crisis to how derivatives are traded and reported, the level of capital held by banks, and how derivatives users manage and mitigate counterparty credit risk.

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In combination, these reforms have significantly reduced systemic risk. But over time, it has become clear that certain elements of the regulatory framework are overly cumbersome and duplicative, without any corresponding benefits from a systemic-risk perspective.

Refining these requirements will help ensure the US regulatory framework is stronger while still maintaining the progress that has been made. That can be achieved by making sure the rules enhance risk management, by eliminating duplication and reducing complexity, by strengthening market liquidity and mitigating fragmentation, by calibrating the rules to ensure they are appropriately risk sensitive, and by improving transparency.

Enhance risk management

Certain requirements have been applied in broad and sometimes overly prescriptive ways, which has limited the ability of firms to manage risks in the most effective way.

An example is the treatment of internal risk transfers that are used by firms to more efficiently manage risk. These internal transactions are widely used by corporates and financial institutions to centralise risk across a group within a single treasury function, which is then able to net those exposures to reduce credit and market risk. In other words, they are used for internal risk management purposes and do not create additional third-party counterparty credit exposures – in fact, they help to reduce risk.

As it stands, Dodd-Frank requirements on trading, clearing and margin apply to these so-called inter-affiliate transactions, in the same way as trades between unaffiliated third parties. This acts as a disincentive for firms to manage their risk centrally, could result in higher risk exposures being faced by individual affiliates, and increases costs associated with swaps trading. It is also at odds with the treatment of inter-affiliate trades by overseas regulators.

Rather than rely on exemptions and no-action relief, legislative amendments are needed to make it clear that inter-affiliate transactions should not be regulated as swaps under the Dodd-Frank Act, but should instead be subject to very specific requirements. The House of Representatives has already included a carve-out for inter-affiliate trades in legislation reauthorising the Commodity Exchange Act, but the Senate has not yet followed suit.

In other areas, the rules are inconsistent with key policy objectives. For example, one of the key goals of regulatory reform is to encourage clearing in order to reduce counterparty credit risk. However, the current leverage ratio proposal within the US prudential capital framework is a major roadblock and economic disincentive for clearing firms to clear trades on behalf of their clients.

The proposal fails to recognise the exposure-reducing effect of segregated client collateral and leads to an increase in the amount of capital needed to support client clearing activities. The end result is that the economics of client clearing will make it difficult for clearing firms to provide this service.

> New market risk rules could result in an increase in capital of between
>
> **1.5 – 2.4**
>
> times compared to current market risk capital levels

Eliminate duplication and reduce complexity

Dodd-Frank and other post-crisis reforms were primarily intended to mitigate systemic risk. Despite this aim, the broad reach of certain requirements sets an undue compliance burden on derivatives users that is not always justified by the benefits it brings.

The Volcker rule is a case in point. Introduced to ban proprietary trading by US insured depository institutions and their affiliates, the rule creates an immense compliance burden on banks, regardless of the extent of their trading activities.

Coming in at 71 pages when originally published by five US regulatory agencies in December 2013, the final rule was accompanied by 850 pages of explanatory text, much of which attempts to draw a distinction between banned activities and permitted market-making and risk-mitigating hedges.

To ensure banks are on the right side of the line, each trading desk has to regularly report a variety of metrics, as well as monitor and collect detailed information on customer activity in order in order to meet the criteria for the market-making exemption. Using this 'reasonably expected near term demand of customers' information to set new risk and position limits has required wholesale changes in how banks record market-making and customer trades, and has resulted in hefty compliance costs for banks of all sizes.

There are plenty of examples of complexity and duplication elsewhere in the rules. Much of this arises from having separate CFTC and Securities and Exchange Commission (SEC) rules for swaps and security based swaps.

An example of this is the different approaches to regulatory reporting taken by the two agencies, with their rules diverging on required data fields and the format of submission. This creates needless complexity and cost for derivatives users, and makes it all but impossible for regulators to quickly and accurately aggregate exposures across derivatives instruments. Swap dealer registration requirements and compliance regimes, among other things, →

Rules should be subject to a robust cost-benefit analysis to ensure the costs of complying with new regulations do not outweigh the benefits

→ are also likely to differ between the CFTC and SEC, creating inconsistencies and duplication.

Duplication also exists between US and overseas rules. This could be largely resolved by scaling back the extraterritorial reach of US rules to ensure they align with language in the Dodd-Frank Act: that US rules should only apply to activities that have a "direct and significant" effect on US commerce. This should go hand in hand with efforts to improve the substituted compliance regime to ensure determinations are made quicker and are based on broad outcomes. Without closer harmonisation and an effective substituted compliance process, derivatives users will find it increasingly difficult to hedge efficiently and in a cost-effective way.

In all cases, rules should be subject to a robust cost-benefit analysis to ensure the costs of complying with new regulations do not outweigh the benefits. Unnecessary compliance costs inhibit the ability of firms to deploy capital elsewhere – for instance, lending or investment.

Strengthen market liquidity and prevent market fragmentation

Derivatives markets have historically been global, but evidence has emerged over the past two years that this global liquidity pool is fragmenting along geographic lines. This has largely been attributed to a lack of harmonisation between rule sets and the extraterritorial reach of US rules.

The US swap execution facility (SEF) rules have been cited as one contributor to fragmentation – largely because of the extraterritorial reach of those requirements and the fact they were introduced before similar rules were implemented in other jurisdictions. As Europe prepares to roll out its revised Markets in Financial Instruments Directive and regulation, it's vital that a substituted compliance decision is made quickly, based on broad outcomes, in order to prevent further fragmentation. A reduction in liquidity would result in higher costs and less choice for end users.

The substituted compliance process would be further helped by amending the SEF rules to promote trading on SEFs, improve market liquidity and bring the requirements more in line with the approach in other markets.

As they stand, the CFTC's SEF rules – particularly an obligation for 'required transactions' to trade on an order book or a request-for-quote system where requests are sent to three participants – are unnecessarily restrictive and at odds with language in the Dodd-Frank Act, which merely requires trading to take place "by any means of interstate commerce".

In a petition filed with the CFTC[1], ISDA recommends allowing a broader range of execution mechanisms – a change that would promote further trading on SEFs and make cross-border equivalence and substituted compliance determinations more achievable.

Calibrate rules to ensure they are appropriately risk sensitive

The Dodd-Frank rules are broad in scope and capture a diverse spectrum of financial entities, but many are

ISSUES TO CONSIDER

- **Enhance risk management:** The regulatory framework should be reviewed to eliminate barriers to entry and ensure the regime does not inadvertently discourage or prevent firms from effectively managing their risks.
- **Streamline regulation to eliminate duplication and reduce complexity:** A regulatory review should aim to eliminate duplication, complexity and unnecessary compliance burdens that dampen the ability of financial institutions to fund the growth of the real economy.
- **Strengthen market liquidity and mitigate market fragmentation:** US rules should apply only to those transactions that have a direct and significant impact on the US economy in order to avoid fragmentation of markets, a reduction in liquidity and higher costs for end users.
- **Calibrate rules to ensure they are appropriately risk sensitive:** Regulatory requirements should be set at an appropriate level, commensurate with risk, to ensure banks are able to provide financing and hedging facilities to the real economy.
- **Improve transparency:** Data and reporting requirements should be standardised and simplified to cut costs and complexity for end users, while ensuring regulators are able to aggregate exposures and spot possible systemic risks.

More needs to be done to fix the reporting framework. Critical to this effort is the standardisation of reporting fields, reporting formats and data standards

neither big nor complex. For instance, while exemptions for certain Title VII requirements currently exist for corporate end users and certain small financial institutions – commercial banks, savings banks, farm credit institutions and credit unions with total assets at or below $10 billion – the rules would still capture larger banks that have very small derivatives exposures and other financial players of all sizes, such as asset managers and insurance companies.

This means they are subject to the compliance costs of meeting margin and clearing requirements, even though their derivatives activities may not pose a risk to the financial system. As an alternative determinant for compliance, regulators could consider risk-based thresholds – for instance, based on swaps exposure.

Similar considerations should apply for bank capital and liquidity rules. Banks have improved their capital and liquidity positions significantly since the crisis, and further changes to capital rules are under development. But it is important this capital is appropriate and commensurate with risk. Increasing the capital burden too high could impact bank lending, their ability to underwrite debt and equity issuance and their willingness to provide hedging services to end users.

Studies by ISDA have shown further measures currently being considered by the Basel Committee on Banking Supervision will ultimately result in higher capital requirements for banks, which will likely have an impact on business lines that are important for end user financing and hedging. This includes new market risk rules, which could result in an increase in capital of between 1.5 and 2.4 times compared to current market risk capital levels[2].

A comprehensive impact study by regulators would help gauge the impact of current and forthcoming capital and liquidity measures on banks overall, specific business lines important for economic growth, and end users. That study should look to ensure the rules are appropriate, risk sensitive and coherent to avoid a detrimental impact on market liquidity, and to ensure banks are able to continue to lend to the real economy. There should also be an assessment of US-specific measures that diverge from global standards and curb risk sensitivity, including the Collins Amendment and the Federal Reserve's annual comprehensive capital analysis and review (CCAR).

Improve transparency

In many respects, the data and reporting requirements within the Dodd-Frank Act have been one of the most successful parts of the regulatory reform effort. Every swap is now required to be reported to an authorised swap data repository (SDR), providing regulators with a rich source of information on derivatives exposures.

The problem is that regulators are little closer to being able to aggregate that information than they were before the crisis. Differences in reporting requirements between the CFTC, SEC and overseas regulators, along with variations in reporting formats and a lack of global data standards, has hampered the ability of regulators to obtain a clear view of derivatives exposures.

While improvements have been made – notably, the repeal of the SDR indemnification requirement, which had hampered the sharing of derivatives transaction data across borders – more needs to be done to fix the reporting framework. Critical to this effort is the standardisation of reporting fields, reporting formats and data standards, both between the CFTC and SEC but also US and overseas regulators.

Conclusion

The derivatives markets are safer and more resilient than they were before the crisis – and the introduction of Dodd-Frank and related regulation has played a large part in that. But the regulatory framework is not perfect. Over time, it has become clear that certain elements are overly cumbersome, duplicative and aren't contributing to a reduction in systemic risk. Worse, the compliance burden and costs imposed by these requirements are constraining the ability of firms to invest, lend and hedge.

Eight years on from the G-20 commitments, there is a growing consensus that the post-crisis reform framework could – and should – be made better.

[1] http://www2.isda.org/attachment/NzY2Mg==/ISDA%20CFTC%20Petition.pdf

[2] http://www2.isda.org/attachment/ODM0OA==/QIS4%202015%20%20FRTB%20Refresh%20Report_Spotlight__FINAL.pdf

* Keeping it Simple

*The Commodity Futures Trading Commission's (CFTC) acting chair, **J. Christopher Giancarlo**, has set out an ambitious set of priorities, with a focus on making the rules simpler and less burdensome, and encouraging economic growth. In this interview with* **IQ**, *he describes those priorities in more detail*

IQ: What are your priorities for the CFTC?

J. Christopher Giancarlo (CG): As many know, I outlined my initial priorities in March, which I like to call 'making market reform work'. These priorities include: providing customer choice in trade execution; fixing swap data reporting; achieving cross-border harmonisation; encouraging fintech innovation; and cultivating a regulatory culture of forward thinking.

Specifically, with regards to providing customer choice in trade execution, I would like to work with staff and commissioner Sharon Bowen to examine a better regulatory framework for swaps trading, as set out in my 2015 white paper. To me, making market reform work for America means allowing market participants to choose the manner of trade execution best suited to their swaps trading and liquidity needs, and not have it chosen for them by the federal government. I believe this approach is consistent with Congressional intent, better aligns regulatory oversight with inherent swap market dynamics and, critically, helps to attract global capital to US trading markets.

As for swap data reporting, a great amount of hard work and effort has gone into gathering swaps market data, including establishing swap data repositories (SDRs) under the Dodd-Frank Act. This is a very positive development. Yet, nine years after the financial crisis, regulators still lack sufficient quality data from which to piece together a comprehensive picture of swaps counterparty dynamics and exposures in global markets. This is an issue that former CFTC chairman Timothy Massad acknowledged – we need to have greater visibility into counterparty credit risk. This is especially true as emerging technologies, such as blockchain, are so promising.

The third step to making market reform work is achieving greater cross-border harmonisation. As our regulatory counterparts continue to implement swaps reforms in their markets, it is critical that we make sure our rules do not conflict and fragment the global market-place. That is why the CFTC must operate on a basis of comity, not uniformity, with overseas regulators. I believe the CFTC should move to a flexible, outcomes-based approach for cross-border equivalence and substituted compliance.

Making market reform work for America also means embracing technological change and encouraging financial innovation. To date, the CFTC and other US financial regulators have fallen behind foreign jurisdictions in promoting financial technology. The time has come for the CFTC to lead other US financial regulators in adopting a proactive approach to fintech.

Lastly, I want to create a regulatory culture of forward thinking. The CFTC must get ahead of the curve of the enormous changes taking place in global derivatives markets. Last year, I spoke about the fundamental ongoing transformation of global trading markets from analogue to digital, from human to algorithmic trading, and from standalone centres to seamless trading webs. In too many ways, the CFTC remains an analogue regulator of an increasingly digital market-place, curtailing its effectiveness in overseeing the safety and soundness of markets. I hope to change that. I have outlined a forward-looking digital technology agenda for the CFTC – I have every intention of moving forward with that agenda. It is time 21st century trading markets are matched with 21st century regulation.

IQ: You've launched Project KISS to reduce regulatory burdens. Can you provide a sense of its scope and purpose?

CG: Project KISS stands for 'keep it simple, stupid'. It is a phrase I inherited from my father that basically means if we don't have to complicate things, then we shouldn't. The phrase is directed towards me. In a nutshell, Project KISS mandates an agency wide review of CFTC rules, regulations and practices to make them simpler, less burdensome and less costly. This aligns with President Trump's February 24, 2017 executive order that seeks to stimulate economic growth through regulatory reform. Project KISS takes the first step towards achieving such regulatory reform by re-evaluating current CFTC rules, regulations and practices with the purpose of reducing excessive regulatory burdens and stimulating economic growth.

I hope the CFTC will soon issue a call for recommendations from the public to make our existing regulations simpler, less burdensome and less costly. We look forward to receiving sensible recommendations that we can look to implement.

However, I need to issue a word of caution here, and let me be very clear: this exercise is not about identifying existing rules for repeal or even rewrite. It is about taking our existing rules as they are and applying them in ways that are simpler, less burdensome and less of a drag on the American economy.

IQ: How can the CFTC be a smarter regulator and improve market intelligence?

CG: In my opinion, becoming a smarter regulator means developing a more comprehensive approach to optimising the openness, transparency, competitiveness and soundness of the markets the CFTC oversees. Towards this end, we are currently implementing three initiatives. First, elements of the market surveillance branch, previously housed in the division of market oversight (DMO), are being moved to the division of enforcement (DOE). Second, other elements of that branch are being reorganised within the DMO as a new market intelligence unit (MIU). Third, the CFTC has created a new post and appointed its first chief market intelligence officer (CMIO), reporting directly to the chairman.

Realigning market surveillance within the DOE will strengthen the CFTC's mission to identify and prosecute violations of law, such as spoofing, manipulation and fraud. Moreover, it will foster increased efficiencies through knowledge sharing and cross training under unified leadership, therefore benefitting the CFTC's surveillance mission and enforcement responsibilities. Surveillance will have the same powers and abilities as it currently has.

The mission of the new MIU will be to understand, analyse and communicate current and emerging derivatives market dynamics, developments and trends. This will increase the agency's knowledge of evolving market structures and practices to inform sound policy-making at the CFTC and promote efficient and sound markets.

The CFTC has just appointed Andy Busch as its first ever CMIO, bringing his extraordinary market insight and well-honed communication skills to the important work of the CFTC. Mr. Busch will help activate the CFTC's latent capability for market intelligence, giving us better insight into the needs of participants in the futures and swaps we oversee. He will engage with market participants, industry analysts, economists, policy-makers and other regulators to communicate to the broader public the emerging trends in the futures and swaps markets.

IQ: Cross-border harmonisation of derivatives regulations continues to be an issue. How are you planning to address this?

CG: In my opinion, we haven't done enough to provide clarity and certainty, starting with the July 2013 interpretative guidance that many European Union regulators saw as a betrayal of the earlier agreed 'path forward' document. While we have made some progress in cross-border harmonisation since then, the CFTC's current cross-border approach too often has been over-expansive, unduly complex and operationally impractical. Moreover, the CFTC's substituted compliance regime remains a somewhat arbitrary, rule-by-rule analysis of CFTC and foreign rules, under which a transaction may be subject to a patchwork of US and foreign regulation. As a result, the CFTC has had a hard time with international cooperation and comity.

"I believe we need to look at whether the time has come to recalibrate bank capital requirements to better balance systemic risk concerns with healthy economic growth"

→ Going forward, I believe the CFTC should follow a new approach that starts with thoughtful deference to fellow Group-of-20 regulators and the Pittsburgh Summit's goal of consistency in regulatory outcomes. Further, I believe the CFTC must set clear limits on the cross-border application of its swaps rules to achieve the ends of market reform in a spirit of cooperation and deference.

IQ: You've indicated the CFTC intends to play a larger role in setting capital standards for US firms. Why and how will the CFTC fulfil this role?

CG: I remain quite concerned with the changing nature of trading liquidity in US and global derivatives markets. Since the passage of Dodd-Frank and the progression of Basel III, banks and other dealer firms have been subject to dozens of new federal and overseas regulations affecting their capacity to support customer trading activity, including disparate requirements for capital retention, asset haircuts, leverage reduction and increased margin requirements. These measures prioritise bank capital reserves over investment capital, and balance sheet surplus over market-making, economic growth and opportunity. The result is a market in which traditional dealers can support little risk, a situation that, in itself, nurtures another type of system-wide risk: liquidity risk – a first-order concern for market regulators like the CFTC.

I believe the CFTC should use its position and influence within the Financial Stability Oversight Council (FSOC) to bring the perspective of trading markets into its deliberations. The CFTC should encourage FSOC to address the question of whether the amount of capital that bank regulators have caused financial institutions to take out of trading markets is calibrated to the amount of capital that needs to be kept in global markets to support increased commercial lending and the overall health and durability of US financial markets. I believe we need to look at whether the time has come to recalibrate bank capital requirements to better balance systemic risk concerns with healthy economic growth.

IQ: You published a white paper on swap execution facilities (SEFs) in 2015. Do you continue to be concerned about market liquidity and what changes are you considering to SEFs to improve it?

CG: First, let me say that I publicly support the core reforms of Title VII of Dodd-Frank – namely, swap data reporting, central counterparty clearing and registration of swap dealers. I support these particular reforms because many of them had their genesis in the private sector before the crisis. I support them because, properly implemented, they are the right policy response to some of the structural deficiencies at issue in the financial crisis.

I have been outspoken about the CFTC's particular implementation of these reforms. Where it has been successful, I have been supportive, such as the CFTC's implementation of the swaps clearing mandate. Where CFTC implementation has been less successful, I do not believe it is constructive just to complain about it, so I have researched and proposed alternatives that can influence the debate.

I believe the CFTC swaps trading and SEF rules are among the least successful of the CFTC's Dodd-Frank implementation. I see a fundamental mismatch between the CFTC's swaps trading framework and the distinct liquidity, trading and market structure characteristics of the global swaps market. The CFTC's current approach is over-engineered, disproportionately modelled on US futures markets, and doesn't account for both human discretion and technological innovation. It prevents market participants from choosing the manner of trade execution best suited to their swaps trading and liquidity needs and instead has the CFTC choose it for them.

I have come to the conclusion that the CFTC's flawed swaps trading implementation has caused numerous harms, foremost of which is driving global market participants away from transacting with entities subject to CFTC swaps regulation. It has fragmented global markets into a series of distinct liquidity pools that are less resilient to market shocks and less supportive of global economic growth.

I have outlined what I believe is a new approach towards a better regulatory framework that implements

Congressional intent for swaps trading and will also increase business lending and economic investment, supporting greater job creation and broader-based prosperity.

IQ: Concerns about the quality and efficiency of data and reporting standards have been voiced by the CFTC and market participants. How can these problems be corrected?

CG: I agree the significant data reforms in Dodd-Frank have not achieved their intended purpose of serving as a tool to assess and quantify the counterparty credit risk of large banks and swap dealers. The CFTC has faced many challenges in optimising swaps data, ranging from data field standardisation and data validation to analysis automation and cross-border data aggregation and sharing. Market participants vary significantly in how they report the same data field to SDRs. Those same SDRs vary in how they report the data to the CFTC.

The CFTC has taken some steps to address these challenges. Last year, final rules were adopted to clarify reporting obligations for cleared swaps. And, two years ago, the CFTC staff published a request for comment on draft technical specifications for certain swap data elements in an effort to improve data standardisation. While these are steps in the right direction, much more needs to be done. However, I also recognise that if the CFTC and its overseas regulatory counterparts act singularly, then we will all struggle to achieve the important objective of full visibility into swaps counterparty exposure.

In November 2014, the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) established a working group to develop global guidance on the harmonisation of key over-the-counter derivatives data elements. I am committed to ensuring the CFTC continues to work diligently within CPMI and IOSCO, and will continue to lead other international efforts towards standardising and harmonising swap data reporting. I hope to work within these international bodies to bring all parties together and finally make swaps data usable for its intended purpose.

IQ: You've spoken a lot about fintech. How is it changing the way in which the CFTC works to fulfil its mission?

CG: I believe the CFTC and other US financial regulators are falling behind foreign jurisdictions in promoting fintech. I am impressed by the UK Financial Conduct Authority (FCA), which has created an innovation hub that allows fintech firms to introduce innovative financial products and services to the market and test new ideas through its regulatory sandbox. Several other jurisdictions are following the FCA's lead.

Like our foreign counterparts, I believe the CFTC must embrace innovation. That means our rules must first do no harm to blockchain and other promising fintech innovations, using the same forward-thinking approach American regulators took two decades ago in the early days of the internet.

I advocated last year that the CFTC, as well as other US market regulators, should take the following five steps in order to capitalise on the growth of the fintech industry and other emerging market technologies. First, financial regulators should designate dedicated technology savvy teams to work collaboratively with fintech companies – both new and established – to address issues of how existing regulatory frameworks apply to new digital products, services and business models derived from innovative technologies, including distributed ledger.

Second, financial regulators should foster a regulatory environment that spurs innovation similar to the FCA's sandbox, where fintech businesses, working collaboratively with regulators, have appropriate space to breathe to develop and test innovative solutions without fear of enforcement action and regulatory fines.

Third, financial regulators should participate directly in fintech proof of concepts to advance regulatory understanding of technological innovation, and determine how new innovations may help regulators do their jobs more efficiently and effectively.

Fourth, financial regulators should work closely with fintech innovators to determine how rules and regulations should be adapted to enable 21st century technologies and business models. Fifth, financial regulators should provide a dedicated team to help fintech firms navigate through the various state, federal and foreign regulators and regimes across domestic and international jurisdictions.

I fully intend to incorporate all these steps in the CFTC's approach to fintech. Indeed, we will soon complete a review of certain fintech innovation issues – to listen and learn from fintech innovators. We will have a lot more to say about that review and the CFTC's new approach to fintech.

IQ: In addition to cross-border harmonisation, a consistent rule set between US derivatives regulators – the CFTC and the Securities and Exchange Commission (SEC) – is also important. Given the CFTC's expected revisit of the SEF rules and the SEC's SEF proposal, how are you planning to address this issue?

CG: The CFTC and the SEC have had a long history of working together to ensure that market participants are not burdened with duplicative and inconsistent rules and regulations. While we have had good discussions with nominee Jay Clayton on working together, it is premature to further share our ideas until he is confirmed.

* Cross-border Headaches

Clearing and reporting rules are in place in many Asia-Pacific jurisdictions, but cross-border complexities still need to be ironed out and non-cleared margin rules continue to present challenges. **IQ** *asked four senior executives in the region for their thoughts*

The Participants

John Feeney, head of pricing and conduct coordination, FICC, National Australia Bank
Tomoko Morita, senior director and head of the Tokyo office, ISDA
Keith Noyes, regional director, Asia-Pacific, ISDA
Neh Thaker, global co-head of FX, rates and credit, Standard Chartered Bank

IQ: Which of the Group-of-20 (G-20) derivatives reforms have been most successful in Asia-Pacific?

John Feeney, National Australia Bank: Clearing and reporting of derivatives have been successful in Asia-Pacific. Most jurisdictions managed the implementation of reporting in a coordinated manner and resolved most of the data and nexus issues in a timely fashion. The infrastructure and technology challenges were generally met within a reasonable time frame and expense for reporting entities.

Likewise, clearing has been accepted and generally embraced by many Asia-Pacific entities. In many cases, the capital advantages encouraged an early uptake of clearing, and central counterparties (CCPs) have been active in providing services for Asia. In particular, the hours of operation of the larger CCPs have been gradually increased to minimise lodgement delays in this time zone.

Tomoko Morita, ISDA: Japanese regulators have introduced all the derivatives reforms agreed by the G-20 – namely, mandatory clearing, trade data reporting, trading on electronic platforms and margining of non-cleared derivatives, although the margin rules are still in the process of implementation.

I would say clearing has been the most successful reform in Japan. According to data published by the Japanese Financial Services Agency (JFSA), 70% of interest rate swaps were cleared by the end of March 2016, compared with 50% in March 2014. The reforms have contributed to greater standardisation and have led to safer and more

"Clearing has been accepted and generally embraced by many Asia-Pacific entities. In many cases, the capital advantages encouraged an early uptake of clearing"

John Feeney, National Australia Bank

efficient markets in Japan. Trade data reporting has also been successful in helping to increase transparency, both for regulators and for the public. But further data standardisation is necessary across jurisdictions in order for the data to be more useful for regulators and to reduce costs for market participants.

Keith Noyes, ISDA: Central clearing has generally worked well. It has taken some time for Asian CCPs to sort out European Union (EU) equivalence and US derivatives clearing organisation exempt status issues – and a few outstanding cases remain. But Asian CCPs have, by and large, achieved the standards set by the Basel Committee on Banking Supervision and International Organization of Securities Commissions, and significant derivatives volume is now being cleared at Asian or global CCPs. We are also seeing Asian CCPs taking the lead on the clearing of new products such as cross-currency swaps, FX options and currency forwards. This type of innovation is healthy for the industry.

Neh Thaker, Standard Chartered Bank: Over-the-counter (OTC) derivatives trade reporting has been successfully implemented in a number of key jurisdictions in Asia. The vast majority of OTC derivatives across asset classes are now subject to trade reporting, increasing transparency for both regulators and industry participants.

However, further work is required to support additional standardisation of data fields. Harmonisation of required data elements across individual jurisdictions would both allow regulators to aggregate trade data on a global basis, and would simplify the operationalisation of trade reporting by dealers operating in multiple jurisdictions. In addition, many trade repositories are used solely for domestic trade reporting. Individual jurisdictions should be encouraged to permit trade reporting to repositories licensed in non-domestically located jurisdictions, provided appropriate data-sharing arrangements are in place between national regulators.

IQ: Which new policy initiatives will have the most impact in 2017?

John Feeney, National Australia Bank: The introduction of the net stable funding ratio (NSFR), the standardised approach for measuring counterparty credit risk (SA-CCR) and the Fundamental Review of the Trading Book (FRTB) will all have a significant impact in Asia-Pacific. In particular, the FRTB will be difficult and expensive to implement, as it will require significant upgrades to infrastructure and processes in many cases in order to qualify for an advanced capital calculation. Much like the rest of the world, this will likely continue to surprise (on the downside) as we finalise preparations over 2017/18.

SA-CCR is somewhat more advanced than the FRTB, as many of the final rules have been released by jurisdictions. In some cases, the impact on capital use has led firms to review pricing and portfolios. The NSFR is generally accepted across the region, and firms have adjusted funding portfolios to comply with the new regulations.

Tomoko Morita, ISDA: The implementation of margin rules for non-cleared derivatives will have the biggest impact on the derivatives market this year. The margin rules were introduced in Japan in September 2016, but only global dealers were captured in the first phase – and they have the necessary infrastructure to comply with the requirements to a certain extent. From March 1, all financial institutions trading OTC derivatives in Japan were required to exchange variation margin, although the JFSA has allowed some transitional relief on certain cross-border transactions. In order to comply, firms had to amend existing agreements or execute new credit support annexes (CSAs), as well as enhance their operational process and infrastructure. This required a lot of resources, and has affected market structure, business strategies and priorities.

Keith Noyes, ISDA: Without doubt, the implementation of mandatory exchange of variation margin for non-cleared derivatives was the biggest →

"Another issue is that access to clearing in Asia, particularly for smaller market participants, is becoming a real concern"

Neh Thaker, Standard Chartered Bank

→ consumer of bandwidth at the outset of 2017. The timing of the publication of final rules in many jurisdictions made meeting the March 1 compliance date extremely challenging. This prompted various regulators to allow some flexibility in meeting the requirements, amid fears that many counterparties would not be able to trade with each other for compliance reasons from that date. Working through the backlog of documentation that needs to be updated to new regulatory compliant agreements will continue to consume resources for months to come. Operationally, Asian firms will also struggle to meet US and European T+1 margin settlement requirements.

Looking forward, new Basel capital rules will have a disproportionate cost impact on emerging markets when they are implemented in 2018, and many aspects of the EU's revised Markets in Financial Instruments Directive will significantly increase compliance costs when they come into force.

Neh Thaker, Standard Chartered Bank: Many of the largest trading hubs in Asia have implemented mandatory margin requirements on OTC derivatives. Together with the largest jurisdictions in the West, the application of these requirements to market participants is now scheduled to go live later in 2017. While dealers have been exchanging variation margin on OTC derivatives for years, the introduction of daily variation margin requirements to the market at large is one of the biggest structural changes to the OTC derivatives industry in its brief history.

One of the largest implementation challenges facing the market in Asia is operational readiness. Many have underestimated the amount of time market participants will require to put in place new, complex legal documentation to comply with the rules. That's on top of the operational infrastructure market participants will need to implement in order to price, exchange and settle required margin within the accelerated time frames required by the rules.

IQ: What challenges have emerged in the region as a result of the reforms?

John Feeney, National Australia Bank: The implementation of variation margin requirements on March 1 was a significant challenge. However, regional regulators in Hong Kong, Singapore and Australia were proactive and timely in their recognition of the documentation challenges, and allowed additional time for full compliance. This has made the implementation substantially easier, and allows for a more orderly transition to variation margin exchange.

Initial margin will become obligatory for some firms in Asia-Pacific from September 1, 2017. Given the difficulty faced by the 20 or so phase-one banks in September 2016, the challenges for phase-two banks are likely to be even greater. The choice of custodian, setting up accounts and ensuring systems can accommodate initial margin will be increasingly important before September 2017.

Tomoko Morita, ISDA: While the market has become safer and more resilient, it has become more expensive to trade OTC derivatives. As a result, financial institutions with low trading activities may decide to discontinue trading derivatives, or corporations may opt to give up hedging their business exposures using derivatives and remain unhedged. This is not the intent of the reforms. In order for derivatives markets to remain accessible for firms that need to manage their risks, the industry needs to look at how to further standardise operational flows to create efficiency.

Another challenge is the lack of cross-border harmonisation. A large part of the derivatives market is traded across borders, meaning trades can be subject to multiple regulations. Those regulations sometimes conflict with each other, and may ultimately lead to market fragmentation.

Keith Noyes, ISDA: As the joke goes, it is hard to imagine the world having too few lawyers. But, in truth, there are not enough lawyers to negotiate all of the new variation margin CSAs that need to be signed in Asia. As Asian banks come into scope for initial margin exchange, initial margin CSAs and custodial agreements will need to be negotiated. Margining negotiations have also highlighted the challenge of dealing with counterparties from non-netting jurisdictions.

At the same time, Asian jurisdictions are addressing 'too-big-to-fail' issues through recovery and resolution regulation, and vigilance is required to ensure these regulations do not come at the expense of close-out netting certainty.

Neh Thaker, Standard Chartered Bank: Many of the key Asian jurisdictions have increased central clearing of derivatives and reduced the systemic risks associated with unsecured bilateral trading relationships. Most jurisdictions in Asia, however, require market participants to use domestically licensed CCPs. Increased cross-border availability of CCPs would help facilitate further expansion of central clearing and enhance multilateral netting benefits, as firms are generally unable to net exposures across different clearing houses. CCP proliferation also tends to put additional pressure on pricing for users of indirect clearing services.

Another issue is that access to clearing in Asia, particularly for smaller market participants, is becoming a real concern. There are a couple of drivers here. First, the current leverage ratio treatment of cleared client derivatives (ie, where initial margin collateral collected from clients is not permitted to reduce the clearing member's leverage-ratio exposure) has caused many providers to step away from client clearing entirely. The resulting consolidation in the clearing broker space has reduced diversified access to clearing services.

Second, the business model underlying client clearing requires significant economies of scale, so many clearing brokers find it difficult to take on smaller clients because of the level of transactional activity relative to the operational costs of onboarding and ongoing provision of clearing services.

IQ: What refinements are necessary?

John Feeney, National Australia Bank: The two refinements that are regularly discussed in Asia-Pacific are close-out netting enforceability and the Commodity Futures Trading Commission's (CFTC) cross-border application of swap provisions.

Close-out netting has been important for both the calculation of credit exposure and capital for firms. Although many jurisdictions support netting under insolvency, several important ones are not clear on the enforceability. This issue is also important when calculating initial and variation margin, and can lead to substantial differences in calculated amounts between firms.

The CFTC cross-border application of swap provisions has received a lot of attention across the region. Very few regional banks are captured under the current swap dealer requirements, but this could change under the CFTC's latest proposed rules. The new 'foreign consolidated subsidiary' (FCS) definition includes many counterparties that have previously been exempt from swap dealer registration calculations. If they are included, many Asia-Pacific banks that have trading relationships with FCS entities would review their counterparties or have to register as swap dealers.

Tomoko Morita, ISDA: Refinements to cross-border treatment is necessary to avoid a decrease in liquidity and increased market fragmentation stemming from inconsistent national regulations. Equivalence or substituted compliance determinations could resolve this if they are implemented in a timely manner. These determinations should be based on outcomes, not on a line-by-line comparison of the rules, and should be flexible to allow for minor differences in market practices and infrastructure – for example, standard settlement cycles, settlement processes, trust account frameworks and legislation. It is also necessary to consider and monitor the comprehensive effect of all related regulations by conducting an impact assessment on the G-20 derivatives reforms, as well as capital and liquidity requirements, to determine the effect on financial institutions and market infrastructure.

Keith Noyes, ISDA: Enforceability of close-out netting certainty is the fundamental building block on which all trading counterparty risk management is based. The past few years have seen several wins in this space, including in Malaysia, Australia, Singapore and – pending legislative assent – India. However, work remains in countries such as China, Indonesia and Vietnam. We would also like to see regulators recalibrate the leverage ratio to recognise the benefits of margin offsets. This would improve incentives to provide client clearing services. We also think a more tolerant approach to T+1 settlement timing issues is called for in the margin rules. It seems incongruous that regulators allow clean exposure for the first $50 million of initial margin exposure, but insist on T+1 rather than T+2 settlement for far smaller daily exchanges of initial and variation margin. Due to time-zone differences, T+1 settlement will continue to be challenging for the Asia-Pacific region.

Neh Thaker, Standard Chartered Bank: Under the margin rules in most of the jurisdictions in the West, dealers are required to collect gross levels of margin from counterparties in non-netting jurisdictions. Gross margin is calculated as the total out-of-the-money value of transactions owed by the non-netting counterparty, with no offset for in-the-money transactions. These gross posting requirements substantially increase the cost of transactions undertaken by non-netting counterparties. Importantly, many of the world's remaining non-netting jurisdictions are located in Asia-Pacific.

US and EU firms are active in Asia-Pacific and provide important sources of liquidity to local markets. As the US and EU margin rules have an extraterritorial reach to activity undertaken by US and EU firms in Asia-Pacific, many non-netting counterparties in these emerging markets will face the choice of paying up for hedging solutions or foregoing hedging entirely. Cleared derivatives alternatives often do not exist in these emerging markets.

In addition to the margin rules, the implementation of the FRTB may have a disproportionate impact across Asia-Pacific, given the less liquid nature of derivatives in the region. The requirement to calculate capital on a base liquidity horizon results in higher capital charges for products that trade less frequently. This may adversely affect the pricing of, and access to, OTC derivatives hedging solutions in Asia-Pacific.

* Targeting Growth

With implementation of the post-crisis reforms coming to an end, the European Commission is turning its attention to other initiatives, including the need to spur economic growth. ***Olivier Guersent****, director-general for financial stability, financial services and capital markets union, discusses the EC's priorities with* **IQ**

IQ: What are your priorities for the year ahead?

Olivier Guersent (OG): The financial crisis of 2007-2008 led to a massive overhaul of the European Union's (EU) financial services rules, resulting in the adoption of over 40 pieces of financial services legislation since 2009. The peak of that wave has now passed, and the focus of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) has shifted to three main objectives.

First, we want to contribute to giving a new boost to jobs, growth and investments. We will remain focused on our capital markets union (CMU) agenda by implementing the planned actions, and by putting forward a mid-term review to take stock of the implementation and possibly identify new measures.

Second, DG FISMA intends to contribute to a deeper and fairer internal market. To do this, we stand ready to assess and potentially revise existing rules, following the approach of the 'call for evidence' we launched at the end of 2015.

In 2017, we will encourage the European Parliament and the Council of the European Union to adopt the banking risk-reduction package and the initiative on recovery and resolution of central counterparties (CCPs) that we propose. We have also just presented an action plan to make the single market for financial services a reality for consumers. In addition, we intend to achieve progress on country-by-country reporting. And we have just launched a consultation on the European Supervisory Authorities (ESAs) to identify areas where their effectiveness and efficiency can be strengthened and improved, in parallel with a reflection on the governance of the European Systemic Risk Board in the context of the macro-prudential review.

Finally, we are deeply involved in assessing the opportunities and challenges arising from the digitisation of financial services. The fintech consultation that we launched on March 23 will help us gauge how fintech can make the EU single market for financial services more competitive, inclusive and efficient.

Third, DG FISMA will continue working for a deeper and fairer economic and monetary union. In particular, we will continue to engage with the European Parliament and the council to bring the European deposit insurance scheme as close as possible to final adoption.

Alongside these internal priorities, DG FISMA will, of course, continue to be active on the international front. We will continue promoting international coordination in the context of the Group of Seven and Group of 20 (G-20), ensure continuity in the work of the Financial Stability Board, and promote cooperation and improve financial relations with third countries. We will also focus increasingly on international work in the area of capital markets. For example, DG FISMA will devote considerable resources to establishing equivalence between different trading venues, as mandated by the revised Markets in Financial Instruments Directive rule book, with the aim of avoiding their potential fragmentation. This work will focus on both share and derivatives trading.

IQ: To what extent is the push to develop robust liquid European capital markets and encourage economic growth driving the policy agenda?

OG: The CMU is a core component of the European Commission's (EC) investment plan for Europe to boost growth and jobs, including youth employment. It includes several actions to develop robust and liquid European capital markets, and encourage economic growth. The

CMU seeks to better connect savings to investment and strengthen the EU financial system by enhancing private risk-sharing, providing alternative sources of financing to companies, and increasing options for retail and institutional investors. Removing obstacles to the free flow of capital across borders will strengthen the economic and monetary union by supporting economic convergence and improving the liquidity of capital markets in the EU. This, in turn, will have a positive effect on economic growth across the EU.

The ongoing mid-term review aims to ensure the CMU action plan stays relevant in a changing economic, political and technological context, and responds to the challenges of developing an EU-27 capital-market capacity that can stand on its own two feet and support the competitiveness and long-term funding of the European economy. The review is based on close engagement with member states, supervisory authorities, the industry and other key stakeholders. In particular, we have carried out a public consultation to gather stakeholders' views on how to develop and complement the actions put forward in the CMU action plan. We are currently analysing the responses, and the EC plans to adopt a CMU mid-term review communication by the summer.

IQ: How important is it to ensure risk sensitivity and use of internal models within bank capital rules?

OG: Risk sensitivity is absolutely crucial. The same risks should be treated alike across institutions and jurisdictions, and if risks differ, different capital requirements should apply. This way, we can ensure that bank capital rules can be applied consistently across jurisdictions and, at the same time, certain unique characteristics of regional financial markets and institutions can be reflected. We also provide adequate incentives for banks to efficiently manage their risks.

In a system with insufficient risk sensitivity, we would end up treating very different risks in a similar way across institutions and jurisdictions. Take the example of mortgage loans. European banks tend to hold a large amount of low-risk mortgages on their balance sheets compared to banks in many other jurisdictions. Under the current framework, these loans can attract relatively low risk weights, in particular if internal models are used – and they often are – to determine these risk weights. In principle, these low risk weights are perfectly justified by the low underlying risks, and it would not make sense if capital requirements for these exposures were the same as those for mortgages with much higher risk.

Of course, the most risk-sensitive way to assign capital requirements is through internal models. During the ongoing negotiations to finalise the Basel III framework, certain ideas are being discussed that would put in place excessive constraints on internal modelling. This is the case with the proposed output floor, which – if too high – would severely limit risk sensitivity. This is one of the reasons why – as we have repeatedly said – we do not believe such a floor is an essential part of the framework.

IQ: Do you expect to reach a compromise at the Basel level on output floors?

OG: The positions of the various parties in the negotiations are still quite divergent. The crucial issue is the output floor. The position of the EC is that output floors, whatever their calibration, are inconsistent with the ambition of the exercise being conducted in Basel to treat the same risks in the same way across jurisdictions. Actually, it ends up treating very different risks in pretty much the same way across jurisdictions. Moreover, it leads to inefficient allocation of resources and makes the balance sheet of a risky bank look a lot like the balance sheet of a non-risky bank. That removes the incentive of bank managers to efficiently manage their risks.

From the EC's perspective, we would only support an agreement that is sufficiently consensual in the EU to be carried over into European legislation. The process has been slowed by the ongoing changeover in the US administration. Once that process is concluded, the pace of negotiations should pick up again. →

→ **IQ:** The EC has proposed divergences from the Basel proposals on the leverage ratio, net stable funding (NSFR) and Fundamental Review of the Trading Book. What was the rationale for making those changes?

OG: The banking risk-reduction package proposed by the EC in November 2016 respects the general balance and level of ambition of global standards. The EU has actively contributed to the development of international standards at the Basel Committee, and always tries to have the main specificities of the European economy and financial markets properly reflected. The EC, however, proposed targeted adjustments to the calibration of some of the Basel standards to better factor in the specificities of the EU banking system and to take into account how the European economy is funded. These adjustments are generally either limited in scope or of limited duration, such as phase-in periods that allow us to monitor the impact of the new rules.

The purpose of these adjustments – throughout the package in general and for the leverage ratio, the NSFR and the new market risk standard more specifically – is both to support bank lending to the economy and to ensure regulatory consistency. By regulatory consistency, I mean not only consistency with the existing bank regulatory framework, but also with important ongoing initiatives, such as the development of market-based finance through the CMU.

Stimulating bank lending and growth was, for instance, the main driver behind the exemption of development bank activities from the leverage ratio. It also drove the beneficial treatment that covered bonds – as one of the main sources of funding for EU banks – were granted in the NSFR and the market risk rules.

One important illustration of regulatory consistency is the interaction with the centralised clearing obligation introduced under the European Market Infrastructure Regulation (EMIR). Throughout the proposal, we have tried not to disincentivise banks from providing client clearing services, which are essential for smaller institutions to access CCPs. This is reflected, for instance, in the proposed deduction of initial margin received from clients from a bank's leverage exposure, and in the exemption of client clearing activities from the NSFR requirement.

It is also very important that our banking regulation framework, while attaining its primary objective of maintaining financial stability, does not discourage banks from playing their important role in the development of the CMU. For this reason, we proposed, among other measures, to phase-in the introduction of the new market risk framework and observe its impact during a transitional period. A sudden increase in the level of capital requirements for market risk could disincentivise banks from performing their essential market-making function and discourage corporates from seeking access to the capital markets via banks, which would undermine one of the main objectives of the CMU.

All in all, these targeted adjustments will ensure the consistency of our regulatory framework and contribute to the funding of the EU economy, while respecting the spirit of international agreements and maintaining the highest level of prudential standards for banks.

IQ: Do you expect it to be more or less difficult to reach a global agreement on capital rules given the change in US administration?

OG: Only time will tell. I am a firm believer in international cooperation. I think that having international standards in place is in everyone's interest. The alternative would ultimately make us all worse off.

IQ: What are your priorities as part of the EMIR Review?

OG: EMIR was adopted in 2012 in response to the G-20 commitments in 2009 to increase the stability of the over-the-counter (OTC) derivatives market. As shown in the report we published in November 2016, EMIR is considered to have increased transparency and mitigated systemic risks in the OTC derivatives market overall. It is, of course, too early to review the impact of EMIR comprehensively, as certain core requirements, such as clearing and margining, became applicable only relatively recently and are still being phased-in.

"I am a firm believer in international cooperation. I think that having international standards in place is in everyone's interest"

"Fine-tuning of the rules could help simplify and increase the efficiency of specific requirements, such as reporting"

Many respondents, however, argued that there is room for a targeted recalibration of EMIR requirements, without compromising the objective of enhancing financial stability. Fine-tuning of the rules could help simplify and increase the efficiency of specific requirements, such as reporting. Second, it could reduce disproportionate costs and burdens for certain counterparties, such as small financials, non-financial counterparties and pension funds. Finally, it could address obstacles to access to central clearing for smaller counterparties. Taken together, these improvements will help reduce costs and burdens in order to foster investment in the real economy. They will also contribute to the CMU by making markets safer, more efficient and more transparent.

We are therefore working on targeted amendments to EMIR in specific areas where action is necessary to simplify the requirements or to make them more proportionate. The adoption of a legislative proposal is currently envisaged before the summer 2017.

IQ: Could the process for granting equivalence be improved? If so, how?

OG: The EC is working on equivalence issues on an ongoing basis, and is in touch with a range of foreign jurisdictions. The EU's equivalence rules support engagement with third countries on prudential considerations, to the benefit of both the EU and third-country financial markets. Equivalence decisions are taken unilaterally by the EC often based on an assessment of the relevant third country. Key considerations for such assessments are whether reliance on the rules and supervision of the third country in a specific area may or may not give rise to risks for financial stability or market conduct for the EU. To date, the EC has delivered more than 200 decisions granting equivalence to third-party jurisdictions deemed equivalent to the EU.

On February 27, the EC published a stock-taking report that shows third-country equivalence in EU financial regulation is effective. There are areas where the process could be further refined – for example, in bringing more coherence and robustness to EU assessments of the prudential systems of third countries. There is scope to further improve our processes internally, building further on a risk-based and proportionate approach and strengthening monitoring and enforcement. Our stock-taking report has been well received by other EU institutions and stakeholders. We have started a timely public discussion, which will help inform next steps.

IQ: Are data reporting rules working as expected? What can be done to improve the rules and reduce duplication and operational complexity?

OG: Various interactions with stakeholders, including responses received to the call for evidence, have shown that financial institutions are concerned with duplicative reporting requests coming from different regulatory authorities. I also often hear that financial institutions are faced with multiple additional ad-hoc data requests from their supervisors. In my view, these issues can be addressed to a great extent by better cooperation between different regulatory and supervisory authorities, and also by maintaining regular contacts and exchange of views between industry representatives and regulators. I also hear that the situation is improving as supervisors, such as the Single Supervisory Mechanism, manage to find appropriate forums to exchange their concerns and find practical solutions.

When it comes to the EU regulatory framework, the EC is currently looking at how to make regulatory reporting more efficient, less burdensome for those institutions that need to report, and more effective for the recipients and users of the reports. The ongoing public consultation on the operations of the ESAs – which is open until May 16 – seeks stakeholders' views on how the supervisory reporting and disclosure framework could be improved, and whether the European Banking Authority (EBA) could emerge as a supervisory data hub for all EU banks. An EU-wide data depository could include some access rights to regulators and supervisors, and would be particularly useful for banks, which could direct other regulators' reporting demands to this data hub.

Finally, I also regularly observe the call from credit institutions for more proportionate reporting requirements. I should mention here that the EC attaches great importance to ensuring proportionality in the EU legislation. The proposal amending the Capital Requirements Regulation and Capital Requirements Directive includes measures to bring more proportionality in supervisory reporting. Under the proposal, the EBA would also have to review the current rules on reporting, with a view to eliminate those individual reporting requirements – particularly for small institutions – that could not pass a cost-benefit test. Last but not least, the EBA would also have to develop an IT tool that would direct small banks to those rules that are relevant to their size and activities.

* All Eyes on EMIR

The European Commission is reviewing the European Market Infrastructure Regulation, raising hopes that further clarity will be given on the process for equivalence, and that complexities related to reporting and clearing will be eliminated

As soon as the European Market Infrastructure Regulation (EMIR) was enacted in August 2012, the clock started ticking on a regulatory review of the measures, which had been included in the legislation. The outcome of that review is now weeks away from publication by the European Commission (EC), and industry participants hope some of the most complex and inefficient elements of the framework will be addressed.

EMIR covers a wide range of issues, from clearing and reporting to the recognition of market infrastructures in other jurisdictions for the purpose of meeting European Union (EU) regulatory standards. While many of the requirements have been implemented, participants argue that certain elements are not working as well as they could, and are having a disproportionate impact on non-financial corporates and small financial institutions. Other parts of the framework are overly complex, inefficient and create an unnecessary compliance burden, critics point out.

The process for making equivalence determinations is a case in point. Derivatives markets are global, but regulators in various jurisdictions have developed rules that differ in the scope and timing of implementation. In order for markets to function efficiently and avoid a fragmentation of liquidity, regulators need to be able to rely on and defer to regulations in other jurisdictions that meet similar broad outcomes. While a number of equivalence decisions have been made by European regulators, the process has often been slow and bogged down by detail. Equivalence for US central counterparty (CCP) rules, for instance, took roughly three years to resolve.

"It is vital that EMIR offers a clear and viable route to equivalency for non-EU CCPs, as this will help maintain a global market that can support economic growth," says Roger Cogan, head of European public policy at ISDA. "If cross-border clearing is hampered, then this will fragment markets and increase costs associated with derivatives use, with consequences for investment."

In a letter to the EC on January 27, the European Securities and Markets Authority (ESMA) raised concerns that the CCP equivalency process under EMIR is too rigid. As things stand, a third-country CCP must first apply for recognition to ESMA. The EC would then need to complete an equivalence determination of the relevant rules in that third country

"It is vital that EMIR offers a clear and viable route to equivalency for non-EU CCPs, as this will help maintain a global market that can support economic growth"

Roger Cogan, ISDA

before ESMA can grant recognition. According to ESMA, the conditions for granting recognition are too restrictive and leave little freedom to deny equivalence so long as certain criteria specified in EMIR are met. ESMA has consequently proposed the introduction of a risk-based assessment.

ISDA and its members believe equivalence decisions should be made based on broad outcomes, rather than a rule-by-rule comparison of the two sets of rules. That would involve incorporating a degree of proportionality in the approach to CCP equivalence decisions, which balances risk and commercial concerns.

ISDA has also argued for a decoupling for the link between third-country CCP recognition under EMIR and the qualifying CCP (QCCP) treatment under the EU's Capital Requirements Regulation (CRR). Currently, a third-country CCP that has not been recognised under EMIR would be classified as a non-QCCP under the CRR. That means EU firms would not be able to participate in those third-country CCPs that haven't been recognised without being subject to high capital requirements (applied at a consolidated level), which could limit the amount of business they transact in these markets.

ISDA has recommended that the rules should be changed to allow EU firms to act as clearing members at non-recognised third-country CCPs, as well as those that have not applied for recognition, so long as those CCPs follow principles set out by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions. Trades subject to an EU clearing obligation would still have to be cleared through a recognised CCP, however.

"If a clearing house is not given the QCCP designation, then EU market participants may find it uneconomical to clear their trades there due to higher capital requirements. If third-country CCPs that don't intend to offer services in Europe under EMIR cannot be offered this designation, then there is a concern that the operations of EU firms elsewhere in the world would be, in effect, shut out of these clearing houses, producing a more limited and more fragmented market," says ISDA's Cogan.

Equivalence is likely to remain a hot topic in 2017. A staff paper from the EC published in February outlined an approach to equivalence that would be more rigorous for "high-impact" third countries that are closely linked to the EU – a step that was interpreted in the press as being in response to the Brexit vote in the UK. The EC also raised the issue of ongoing monitoring through onsite inspections to ensure continuing compliance with the equivalence criteria.

There is also uncertainty about equivalency in the context of derivatives trading rules. The revised Markets in Financial Instruments Directive and regulation (MIFID II/MIFIR) is set for implementation from January 2018, which will require certain instruments to trade on regulated venues. According to ISDA analysis, the MIFID II/MIFIR requirements are broadly similar to the US swap execution facility (SEF) rules. But unless an equivalence determination is made based on broad outcomes, EU firms would be unable to trade an instrument that is subject to an EU trading obligation on a SEF, contributing to a fragmentation of liquidity.

Clearing

Equivalence isn't the only area of focus. Industry participants also hope challenges associated with clearing are addressed in the review. As it stands, a clearing mandate can only be suspended following the approval of regulatory technical standards, but this can take months to go through the required consultation and approval process.

However, a market shock that affects liquidity or the failure of a clearing house would require a much faster →

WORKING TOWARDS AN ISIN FOR DERIVATIVES

One of the key challenges facing the industry is designing a consistent way to identify different derivatives products throughout the trading lifecycle. A global product identifier will aid the harmonisation of reporting standards, and will give regulators a greater ability to aggregate trade data across borders and get advance warning of future crises.

Work is under way at the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions to achieve this, but European regulators have already moved forward with a related approach for the purposes of the revised Markets in Financial Instruments Directive and regulation (MIFID II/MIFIR).

Specifically, the European Securities and Markets Authority (ESMA) requires firms to use International Securities Identification Numbers (ISINs) as the product identifier for transaction reporting, post-trade transparency and reference data requirements based on fields set out in MIFID II/MIFIR regulatory technical standard 23.

The Association of National Numbering Agencies is tasked with issuing these ISINs, and has set up an entity to deliver the ISIN for derivatives, called the Derivatives Service Bureau.

"ISDA and the wider industry have had concerns with the way ISINs are structured and their suitability for the purposes required in MIFIR. However, ISDA, its members and the industry as a whole look forward to a successful technology solution being delivered for this key piece of infrastructure that underpins MIFID II/MIFIR," says Ian Sloyan, a director in the data and reporting department at ISDA.

In May last year, ISDA published a whitepaper laying out four principles for the creation of a global product identifier – it should be appropriately granular, have an open governance structure, open source data, and be adaptable for other suitable business uses.

response. EU firms might theoretically be forced to continue clearing a particular product, even though the only CCP that clears it has failed or lost its regulatory authorisation – effectively meaning the product can't be traded. Or liquidity might drop to such an extent that it becomes difficult for a CCP to perform its risk management duties. The continued presence of a clearing obligation in these circumstances would do more harm than good in the market, participants say.

In response to this issue, ISDA has proposed a mechanism to allow ESMA to suspend the clearing obligation for three months. This would involve a notification from ESMA to the EC, and a determination as to whether legislation needs to be amended to deal with the underlying issue. ESMA could then extend the suspension by a further three months if necessary. Any trades executed during the suspension period would not be eligible for clearing after the clearing obligation comes back into effect.

MIFID II: PACKAGE TRADE CERTAINTY

With the revised Markets in Financial Instruments (MIFID II) set to be implemented in January 2018, regulators have been racing to hammer out the remaining details of the rules. One of those details is the transparency rules for package orders, particularly in relation to pre-trade transparency.

Package orders consist of several components – for example, a bond and a swap – in order to provide the end user with a tailored, specific hedge or trading exposure. By trading those components as a package, end users are able to achieve significant cost and execution efficiencies. While those benefits mean packages are regularly used as a whole, the fact each one can be so specific to a user means individual combinations might trade infrequently.

However, proposed rules published by the European Securities and Markets Authority (ESMA) in November 2016 would have applied pre-trade transparency requirements to a wide variety of highly bespoke and rarely traded packages. ISDA argued this could have resulted in greater execution risk and higher costs for users, because other participants had the potential to take advantage of that pre-trade information. That might have forced end users to abandon packages in favour of trading the components separately – a strategy that comes with more complexity and risk – or opt for simpler alternatives that do not exactly match their needs.

Instead, ISDA recommended that a package should have no more than three components in order to be subject to pre-trade transparency requirements. All those components should be in the same currency, and come from the same MIFID II-specified asset class and sub-asset class. In addition, all the individual components should be liquid in their own right and should be traded on the same trading venue.

On February 28, ESMA released final draft regulatory technical standards (RTS) on package orders, which included many industry suggestions. The RTS stated that for a package trade to be subject to pre-trade transparency rules, all of its components must be subject to the trading obligation, there must be no more than four components within it, and components must belong to the same asset class.

While recent proposals from the EC on CCP recovery and resolution include measures to allow the suspension of a clearing mandate when a CCP is in difficulty, it is not clear whether the EC will support a wider power for ESMA and/or national competent authorities to suspend the clearing obligation.

"A flexible approach could be extremely important in helping the market navigate periods of extreme stress," says Cogan. "Supervisors shouldn't be straitjacketed by regulation if it creates negative consequences in some scenarios."

Other issues relate to frontloading – a topic ISDA has long flagged as being operationally complex to implement. Despite several adjustments by ESMA to mitigate complexity, market participants say the challenges caused by the requirement outweigh any possible benefits, and argue that removal of the obligation would not reduce the incentives to clear within EMIR.

Reporting

A key area of focus in the review is likely to be in areas where the rules impose unnecessary compliance and cost burdens on smaller users of derivatives. Action has already been taken to some extent, with the publication of a delegated act by the EC in March that delayed implementation of the clearing obligation for category three counterparties – financial entities with €8 billion or less in derivatives notional outstanding – because of concerns these smaller firms would struggle to access to client clearing or indirect clearing services.

There are also concerns about the burden imposed on end users by Europe's reporting rules, which require both parties to a transaction to report each new derivatives trade. This is out of line with the approach taken in many other jurisdictions, where data is reported by one counterparty – usually the dealer in a bilateral transaction.

Market participants argue the EU approach creates cost and complexity for little apparent gain. According to research conducted by ISDA, the aggregate cost for end users in meeting Europe's dual-sided reporting requirements is estimated to be in excess of €2 billion. Despite this, data quality is poor. A lack of clarity around what needs to be reported and how, and differences in reporting requirements between trade repositories, means trade pairing rates are low – around 60%. The matching of all data points on reports is even lower. That's despite the fact that other risk mitigation processes under EMIR, such as legal confirmation and portfolio reconciliation, achieve much higher success with data from the same trade sets.

Instead, ISDA, the Investment Association, the Alternative Investment Management Association and the Global Financial Markets Association support an 'entity based' approach rather than the current dual-sided mandate. This would streamline and simplify operational complexity, lead to an improvement in data quality, and reduce the cost burdens placed on end users.

"There is no doubt that EMIR makes the European derivatives market more resilient, but we hope these issues are addressed to ensure the framework is as efficient as it can be in its own right and complements rule sets in other jurisdictions," says Cogan.

Devil in the Data

Banks need access to large troves of previously uncollected data to prove eligibility to use internal models under new market risk capital rules. ***ISDA*** *has been working with the industry to interpret the requirements and set specifications for data pooling*

In weighty regulatory documents, the smallest details can sometimes present the biggest challenges. So it is with the Basel Committee on Banking Supervision's minimum capital requirements for market risk, known as the Fundamental Review of the Trading Book (FRTB). Risk factor modellability, which is just a single page in the final text, has become one of the most perplexing and operationally complex requirements of the entire 88-page rule book.

For banks that want to continue using internal models to calculate market risk capital and avoid the more punitive standardised approach, the stakes are high. The FRTB requires detailed analysis of risk factors to determine eligibility for inclusion in internal models. For a risk factor to be considered modellable, it must have at least 24 observable prices per year, with a maximum period of one month between observations.

On the face of it, the concept might appear to make reasonable sense. Models require robust data, so the Basel Committee has set minimum requirements before a risk factor can be classified as modellable. But reaching a common understanding of what actually constitutes an observable price and putting those requirements into practice is a lengthy process that requires banks, regulators and technology vendors to collaborate closely.

"The rules on modellability of risk factors have been one of the most closely scrutinised components of the FRTB, because banks can't rely on using internal models without dealing with it. There is a recognition that if banks can find a way to pool their data together, they will observe a lot more data, so fewer risk factors should be non-modellable," says John Mitchell, director of market risk management at Credit Suisse.

Model importance

The importance of retaining internal models under the FRTB has been well articulated since the final Basel Committee trading book standards were published in January 2016. Quantitative analysis by ISDA and a group of industry associations last year found that a failure to secure internal model approval for all desks within an institution may lead to a 140% hike in market risk capital requirements, while non-modellable risk factors (NMRFs) could account for as much as 30% of the internal models capital charge.

Recognising the significance of NMRFs, ISDA convened a working group of 43 banks in mid-2016, with the aim of agreeing a common interpretation of the requirements and mapping out a practical way of applying them.

"If banks try to use their own data to find 24 real transactions with no more than one month between each one, then a large number of risk factors would not be eligible for internal modelling. This is particularly true for less liquid products, so there is a clear case to be made for sharing data," says Panayiotis Dionysopoulos, director in the risk and capital team at ISDA.

The Basel Committee's text sets out criteria that the 24 observable 'real' prices must meet for a particular risk factor to be deemed modellable. For instance, the price must be one at which the institution has conducted a transaction, it must be verifiable for an actual transaction, it must have been obtained from a 'committed quote', or it must have been gathered from a third-party vendor.

Lack of granularity

While the criteria is clearly expressed, the lack of granularity made it evident that the industry needed to come up with a single interpretation and then seek approval from regulators. Without a clear industry position, each bank would have adopted its own →

"The rules on modellability of risk factors have been one of the most closely scrutinised components of the FRTB, because banks can't rely on using internal models without dealing with it"

John Mitchell, Credit Suisse

"The crucial point is what exactly is required from the 24 observations per year. If it is an actual trade the bank has done, then that's a very high hurdle"

Eric Litvack, ISDA

→ reading, which could have led to an inconsistent testing of risk factors.

"The crucial point is what exactly is required from the 24 observations per year. If it is an actual trade the bank has done, then that's a very high hurdle, but if it is a trade that somebody else has done, that's a lower hurdle. If it's price data available from portfolio reconciliation and other operational processes, then it becomes much more workable. There has to be a single, credible interpretation for this to work," says Eric Litvack, chairman of ISDA.

In that context, the industry working group's first objective was to reach agreement on a single interpretation of key elements of the Basel Committee text. Members held concerns about a number of important issues, including the possibility that a risk factor might have 24 observable prices, but given seasonal dips in volume in August and December, there might sometimes be more than a month between observations.

The ISDA working group also sought consensus on the fairly vague notion of a 'committed quote', which is listed in the FRTB as a characteristic of a real price but not precisely defined. It has therefore been assumed that a committed quote must be accompanied by evidence that a market participant has provided a firm bid or offer price and has the ability to execute on the quote.

"There has been a lot of helpful discussion on interpretation of the rules, particularly when it comes to committed quotes. There hasn't always been widespread consensus, but the working group has been an essential forum to move closer to broad agreement on key issues, which should help progress internal developments or allow a more coherent challenge to recently proposed European Union regulations," says Mark Penney, head of capital management for global markets at HSBC.

One particular challenge is the diversity of banks affected by the FRTB, as it applies both to top-tier firms that already have access to large amounts of data internally and smaller banks that may be starting virtually from scratch when it comes to sourcing data. The level of awareness and understanding of the requirements also varies significantly from bank to bank, which made interpretation more difficult.

"Some banks have been working on this for some time and have already partially built technology solutions, while others are tackling it for the first time, so there was a need to bring everyone to the same level, from which consensus could then be sought. That first part of the process went very well, but we now need to make progress on the operational challenges," says Chris Hayward, FRTB programme head at Citi.

A draft interpretation document has been developed as the basis for further discussion among banks, setting a common understanding of what is required. For example, the document interprets the year in which 24 real prices must be observed as the trailing 12-month period prior to the date on which the modellability test is conducted, while the month or less that must exist between two consecutive observations is taken to mean a calendar month.

Next phase

The next phase of the process has been to determine the best way of sourcing the relevant data, with widespread recognition that pooling information will be the only way to ensure a workable number of risk factors can be modelled. Given the final version of the FRTB added explicit reference to prices obtained from third-party technology vendors, it is clear that regulators recognise the potential role of independent technology in any data pooling solution.

A draft interpretation document has been developed as the basis for further discussion among banks, setting a common understanding of what is required

But while the FRTB may represent a valuable business opportunity for vendors, they also need guidance on the kind of solution the industry requires, and it is on this that ISDA's recent work with the industry has focused. A preliminary set of business requirements for observation data has been drawn up by the working group, which can frame data pooling discussions with regulators and vendors.

"The relevant data exists within the banks in many different formats. In order to effectively pool the data, we need to agree on a common set of attributes across instruments and asset classes. The business requirements we have drafted are a step towards functional requirements that will allow the industry to start building a solution," says ISDA's Dionysopoulos.

In setting specifications for the data required to support the modellability test, the challenge for ISDA and the industry has been to come up with meaningful and comprehensive data attributes without compromising the strict confidentiality requirements that must apply when transacting on behalf of customers.

The business requirements that were drafted last year sought to keep data on price, counterparty and notional value confidential. Subsequent dialogue with vendors indicated that banks may be willing to share data on price and notional with certain restrictions, but counterparty identification remains off-limits. Given the FRTB modellability requirements centre on price information, it seems inevitable that some level of disclosure will be necessary.

"We originally designed the business requirements on the basis that price information is not needed to prove risk-factor modellability. One proposal is that banks might share price information with vendors or utilities. That information would then be ring-fenced and not available to other participants, but would be available to regulators on request," Dionysopoulos explains.

If regulators require price information to be made available to other participants in a data pooling solution, it could be problematic, especially for illiquid instruments for which a dealer's price represents its competitive edge. In that situation, banks may either elect not to trade that particular product or to accept the additional capital charge derived from risk factors being classified as non-modellable.

Regulatory endorsement?

Meanwhile, discussion continues among regulators on the extent to which they are willing to endorse data pooling as part of FRTB compliance.

"There seems to be some division in the regulatory community about whether data pooling should be endorsed, but it's very unlikely that internal models will work without it. Banks will need to have as complete a set of data as possible, which means logically there has to be an industry solution that brings that data together," says Citi's Hayward.

But for data pooling to work, market participants will need a signal from regulators that they are happy with the business requirements that have been drafted – and if they're not, where changes need to be made. This will also be critical for technology vendors, as it will dictate the parameters of the data pooling solutions they build.

"A lot of progress has been made to get to a single interpretation of the rules and put together the outline of a credible solution to this issue. Much now depends on whether the regulators can get comfortable with our interpretation and suggested approach to data pooling so we can move forward in the coming months," says Credit Suisse's Mitchell.

"There seems to be some division in the regulatory community about whether data pooling should be endorsed, but it's very unlikely that internal models will work without it"

Chris Hayward, Citi

September Pain?

With the second phase of counterparties due to begin posting initial margin for non-centrally cleared derivatives in September, participants are keen to learn the lessons from the first phase and avoid further bottlenecks

Being second in line to do something challenging or dangerous has its advantages: one can carefully observe the performance of the person in front and then try to avoid making similar mistakes. This might apply more often to cliff jumping or abseiling than it does to derivatives trading, but in the case of initial margin exchange, a group of dealers required to begin posting collateral in September 2017 is closely analysing how their larger peers performed at the same task last year.

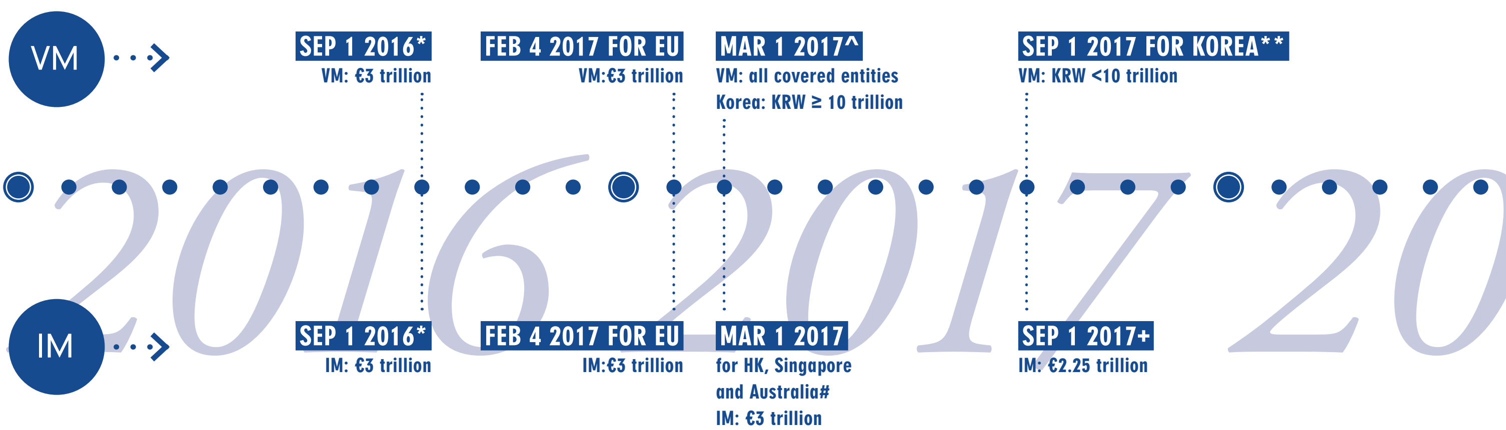
"We made sure that we have sufficient momentum in our preparations for the initial margin deadline, because there is a limited period of time to implement a technically challenging end-to-end change. As part of our preparation, we have talked extensively to a range of phase-one banks, which has been helpful as some consistent themes have emerged," says Kate Birchall, head of capital, clearing and collateral within the fixed income division at National Australia Bank.

The phased implementation of margin requirements for non-centrally cleared derivatives has been an industry priority for several years, and is likely to remain so until well after the last group of participants has started posting in 2020. Such is the technical complexity of exchanging collateral in compliance with the new rules that the project has consumed significant technological and human resources.

The internationally agreed margin framework required that the first phase of covered entities, whose average month-end notional value of non-centrally cleared derivatives in March, April and May 2016 exceeded €3.0 trillion, should begin posting initial margin on September 1, 2016. The second phase of counterparties must begin posting on September 1, 2017, and inclusion is based on the same criteria but with a lower threshold set at €2.25 trillion (see Chart 1).

This means that the exact list of phase-two counterparties cannot be known for sure until June, when entities can calculate the average of their notional values for March, April and May to determine whether or not they have cleared the threshold. Given the threshold remains fairly high, it is expected to be a

CHART1: PHASE-IN IMPLEMENTATION



* Rules of US, Canada and Japan were implemented in accordance with the BCBS-IOSCO timeline. Implementation of rules in the EU, Hong Kong, Singapore and Australia was delayed. Implementation of Swiss rules was delayed in practice, but not through a formal delay or a change in the law

^ VM requirements are implemented in all jurisdictions to all covered entities (referred to as the VM 'Big Bang'). VM requirements in HK, Singapore, Australia and Korea are subject to an initial six-month transition period (March 1 to August 31, 2017). On February 13, 2017, the CFTC issued a time-limited no-action letter, stating that enforcement action would not be recommended for non-compliance with VM exchange during the period from March 1 to September 1, 2017. On February 23 and February 24, 2017, respectively: (i) the FRB and OCC; and (ii) OSFI issued bulletins that allow up to September 1, 2017 for compliance for counterparties without "significant exposures". On February 23, 2017, the ESAs issued a statement saying they expect competent authorities to apply their risk-based supervisory powers in enforcement of the legislation; some competent authorities put out statements to confirm that intention

> "We made sure that we have sufficient momentum in our preparations for the initial margin deadline, because there is a limited period of time to implement a technically challenging end-to-end change"
>
> **Kate Birchall, National Australia Bank**

relatively small number of firms that will fall into the second phase, and those like National Australia Bank that expect to be in-scope are already well advanced in their preparations.

Challenges

One of the greatest challenges for phase-two entities is that this year will see them start to post not only initial margin, but also variation margin. The mandatory posting of variation margin was originally due to begin for all covered entities on March 1, but a series of forbearance measures issued by regulators in February has meant most participants have some flexibility in their implementation (see box). Despite that relief, initial margin requires a completely separate stream of preparation and is generally agreed to be more challenging.

"As a regional bank, most of our collateral has previously been posted in cash, but by September 1, we will have a sizeable initial margin requirement that will need to be posted on a daily basis and will be almost entirely in securities. That is a very different process and requires us to introduce new calculations into our pricing and end-of-day valuation processes," Birchall explains.

While phase-two entities might run smaller derivatives portfolios than those banks that were caught in phase one, the challenges they face in meeting the initial margin requirements are likely to be very similar. Central to the effort is ISDA's Standard Initial Margin Model (SIMM) for non-cleared →

** The second phase of Korea VM requirements is also subject to a six-month transition period (September 1, 2017 to March 1, 2018)

IM requirements of HK and Singapore are subject to an initial six-month transition period (March 1 to August 31, 2017)

+ IM requirements in Korea commence, starting with for groups which have =/>KRW 3 quadrillion

"US regulators are required to pre-approve the SIMM for those firms under their jurisdiction, so phase-two entities need to allow the necessary time to get that approval prior to September"

Tara Kruse, ISDA

→ derivatives, which was developed ahead of the phase-one deadline in collaboration with practitioners, and provides a single common methodology for the calculation of initial margin.

The ISDA SIMM has been a major development for the derivatives industry, but the work on the model did not finish with its adoption by phase-one entities in September 2016. Regulation requires that initial margin models must be re-calibrated on an annual basis, while back-testing is also required to validate the SIMM and ensure the new calibrations lead to margin amounts that adequately reflect risk.

SIMM updates

In addition to these standard calibration and back-testing processes, the model has been updated this year to include additional product coverage that was requested by US regulators. The latest version of the ISDA SIMM covers collateralised debt obligation tranches, inflation swaps and cross-currency swaps, and new risk factors have been added to support those products.

Phase-two firms not only need to adopt and test the latest version of the SIMM but, if required by their regulators, they must also secure approval to use it. The approval process will add to the implementation schedule, so firms will need to apply to regulators in good time.

"US regulators are required to pre-approve the SIMM for those firms under their jurisdiction, so phase-two entities need to allow the necessary time to get that approval prior to September. Regulators are now familiar with the SIMM and have been actively reviewing the changes we're making, so they should be able to focus on how firms are implementing the model rather than the workings of the model itself," says Tara Kruse, head of the non-cleared margin initiative at ISDA.

Securing regulatory approval for the ISDA SIMM is only part of the challenge, however. Firms also need to embed the model within their own infrastructure and make sure it is working properly.

"We recognise the importance of getting the internal calculations bedded down as early as possible. This is a complex model implementation, not from a mathematical perspective, but in terms of the time it takes to embed and the number of systems it relies on for information inputs," says Birchall.

Using the ISDA SIMM to run margin calculations is not mandatory, but it is expected that most firms with large derivatives exposures will opt to use it. The alternative to using an approved calculation model is to post margin according to a standardised schedule, which is set at a specific percentage of notional exposure, depending on the asset class. The requirement for short-dated credit, for example, is 2%, while both commodity and equity derivatives would attract a 15% margin call.

While the standardised schedule is likely to be more punitive than the ISDA SIMM in most cases, there is a cost associated with SIMM implementation that some participants say may not make economic sense for small portfolios. In response, a number of technology vendors have licensed the ISDA SIMM in order to offer margin calculations services. As the requirements are extended to smaller derivatives users in the years to come, it is likely that more firms will select this option.

"We do very few equity derivatives – perhaps one or two per quarter – so we won't want to build a whole model and undertake all of the necessary governance and back-testing for such a small portfolio, but will probably just use the standardised schedule. It is not yet clear how margin would then be agreed for a trade with a counterparty using the SIMM, but that's an issue we will need to tackle in the future," says the head of regulatory change at a European bank that expects to fall into phase three, and will therefore start posting margin in September 2018.

Custody bottleneck

Selecting and implementing proper calculation processes is clearly central to the process of posting initial margin, but there are other important steps that must be taken ahead of the September deadline. One of the most significant challenges encountered by phase-one entities last year was in opening up segregated custody accounts and signing agreements with custodians that would hold collateral on their behalf.

With a small number of custodians and an entirely new custody agreement to be drawn up and agreed between parties, a number of dealers found themselves racing to get everything in place in the days prior to September 1. A bottleneck with custodians was the most widely cited reason for difficulties on and immediately after the deadline, so participants are planning carefully to avoid such disruptions this year.

"There are only four major international custodians offering a service in this segment, which means there is a bandwidth constraint, and this was one of the pain points we encountered in the first phase as a number of custody accounts were not fully operational in time," says Eric Litvack, chairman of ISDA.

In Europe, phase-one counterparties were not required to post initial margin until February 4, 2017, due to a delay in finalising the region's rules last year, and this allowed custodians the chance to request a longer lead time between receiving signed-off documentation and going live in Europe. The same request is likely to be made ahead of the next deadline.

"It is clearly important to engage with a custodian sooner rather than later, because everyone is keen to avoid any bottlenecks or delays this time. The custodians have been extremely proactive and we are very well advanced in our discussions with them so as to be on the front foot ahead of the deadline," says Birchall.

Early engagement – with the ISDA SIMM, with custodians and with other relevant internal functions and third parties – encapsulates much of what is required to implement the initial margin rules effectively. This will be just as relevant when it comes to subsequent phases, because if preparation is left until there is insufficient time to do it properly, firms may well find themselves shut out of the market as larger counterparties refuse to trade with them.

"We know the implementation schedules, so the sooner firms can start familiarising themselves with what is required and the more they prepare in advance, the easier the process will be in the end. There will always be some last-minute stress in the weeks before a deadline, but generally speaking, we can be satisfied with the first phase of implementation and now need to keep up the momentum," says Litvack.

BIG BANG SCORES WELCOME RELIEF

The simultaneous implementation of variation margin requirements for the vast majority of market participants on the same date was always going to be a major struggle for the industry, so a series of forbearance measures from multiple regulators in February 2017 was widely welcomed.

Variation margin requirements were due to apply to all in-scope entities in a 'big bang' implementation from March 1, 2017. In the weeks leading up to March 1, it became increasingly clear that the deadline could not reasonably be met – by early February, less then 5% of credit support annexes (CSAs) had been amended to meet the new requirements. This led ISDA and a group of trade associations to write a joint letter to regulators on February 7 to request a transition period.

"The legal and operational challenge of amending, replacing or executing roughly 160,000 CSAs is huge. The terms of those CSAs already in place tend to be highly variable, which has required lengthy bilateral negotiations to agree necessary changes. Progress was being made, but the March 1 deadline looked extremely optimistic," says Scott O'Malia, chief executive of ISDA.

Prior to the industry's concerted appeal, regulators in Hong Kong, Singapore and Australia had already provided for a six-month transition period between March and September, during which enforcement action would not be taken against those firms still implementing variation margin arrangements. Market participants were keen to see similar transitional measures adopted in other jurisdictions.

Following the February 7 letter, the US Commodity Futures Trading Commission issued no-action relief on February 13, putting into effect the same six-month grace period. After that, forbearance measures followed thick and fast, with a string of similar announcements issued on February 23 by the European Supervisory Authorities (ESAs), the US Federal Reserve and the International Organization of Securities Commissions.

"The flexibility that was granted on variation margin is critical. Despite extensive efforts by the industry, and despite the fact that many counterparties already post variation margin on their non-cleared derivatives, the requirement to amend all outstanding collateral documents in a relatively short period of time has been hugely challenging. The industry remains committed to completing the necessary work as quickly as possible," says O'Malia. By week ending March 3, roughly 40% of CSAs had been amended to comply with the regulations.

The relief was not without its complications, however. The Federal Reserve guidance, for example, stipulates that compliance with variation margin requirements would be expected for swap entities and financial end users "that present significant exposures as of March 1, 2017", while for other counterparties examiners should focus on "good faith efforts". The vagueness of the language left some doubt as to the precise scope of the transition period.

Meanwhile, regulators in several European countries issued statements to endorse the position of the ESAs, while other countries initially remained silent. This created further uncertainty as to whether variation margin would remain mandatory as of March 1 in those countries, prompting some participants to adopt a more conservative approach.

"The scope of the relief clearly varies in each jurisdiction and the lack of clarity has created some reluctance to trade in certain countries, but the outcome globally has been better than we had expected. The industry is continuing to push forward and more parties are exchanging variation margin under regulatory compliant CSAs as the transition period progresses," says Tara Kruse, head of the non-cleared margin initiative at ISDA.

10 Questions with...

Axel van Nederveen

Axel van Nederveen, managing director and treasurer at the European Bank for Reconstruction and Development (EBRD), offers his views on the challenges facing derivatives end users and the push to standardisation

IQ: What are the main areas of focus for you in your role at EBRD in 2017?

Axel van Nederveen (AvN): Well, there's the normal day-to-day business, which is to make sure we're funded and manage the risks well. Then there's the continued drive the bank has to support local currency lending and local markets in our countries of operation.

The other big focus is documentation. We have lots of credit support annexes (CSAs) in place, but with varying underlying clauses in them. As an AAA institution, we have non-standard clauses and one-way collateral posting, which is something I don't wish to give up. I personally think the rules the regulators put in place might make sense for banks, but don't necessarily make sense for customers. The liquidity issues associated with managing derivatives credit risk is, to me, something that is best borne by the banking system and not by the client base. That is part of the reason why I steadfastly refuse to give up all the optionality within our CSAs. At the same time, we need to adapt the way we do business, because I understand the banks are also caught in a trap. So, we probably need to renegotiate and standardise all our CSAs in 2017, but standardise them to the terms that we think are doable. At the same time, standardise in a way that is also economically neutral for the banks.

IQ: For what reasons does EBRD use derivatives, and how import are they for your activities?

AvN: We use derivatives for overall risk management. We run a floating-rate balance

sheet, and therefore, all liabilities – no matter what shape or form they're issued – are transformed into floating liabilities. Similarly, on the asset side, whatever assets we generate get swapped backed to floating. So derivatives are really part and parcel of the way we risk-manage and run the bank as a business.

IQ: What are the biggest challenges for derivatives users at the moment?

AvN: The speed of change. I'm not certain how many derivatives users are actually aware or capable of easily managing the liquidity needs that are arising from the way the banks are being asked to run their businesses. That to me is the biggest challenge. There is often a lot of focus on the big guys, and they have the machinery to manage that. But that leaves out a large pool of users. It might become more difficult for them to reach the market, and I think that is a real problem. Derivatives are a fantastic risk management tool and an essential tool for macro risk management of economies. Therefore, you need to have a banking system that is capable of managing its financial risks, and you need to have a client base that has access to certain hedging mechanisms.

IQ: How do you expect the derivatives market to change over the next five years?

AvN: My sense is that there will be a much greater bifurcation between the standard liquid product and the customised illiquid product. So, you'd use standardised products to get rid of 70% of your risk, then work out what to do with the remaining 30%. Therefore, the concentration in specific liquidity points of standardised products is on the cards. But we need to maintain the capacity of the industry to be able to offer customised products to clients. Therefore, the whole debate on non-modellable risk factors and internal models is actually incredibly important, not just for the banks but also for the ultimate end users. Because otherwise, the cost of the product goes up and people stop hedging risks.

IQ: You were voted to the ISDA Board in September 2016. What are your first impressions?

AvN: I always thought I knew quite a bit, but when I joined the Board, I realised how little I know about the enormous body of work ISDA is involved in. The concepts are very simple, but what goes on in the detailed implementation is enormous. In one word, I would say I'm a little bit in awe.

IQ: How important is it to have broad representation from different derivatives users on the ISDA Board – and has that been achieved?

AvN: It is important for two reasons. One, ISDA has done a good job of being listened to, but if you are just a club that represents banks, which is certainly what ISDA was and what the impression was, then the willingness of the regulators to listen to you is actually quite limited. That may have been one of the big hindrances in being able to intervene in the early years. I think it is now much better.

The other thing I noticed was that because the pressure on the banks has been so high, it's natural they focused on their own problems first. Given the problem for banks was to implement and stop questioning, sometimes the consequences on actual end users weren't necessarily properly represented. I think there have been great steps in the right direction, but there are probably still some gaps in terms of smaller players and emerging markets.

IQ: How would you describe ISDA's role in the market?

AvN: Two things probably. One, it is a great standardiser. In the early days, ISDA was focused on the standardisation of legal issues. That was its first value, and it still has an enormous role to play in helping to get legal regimes up to scratch. With that, I'm talking about our countries of operation (ex Eastern Europe and Northern Africa). These countries often require wholesale help in how they should reform business, their bankruptcy law, and the acceptance of collateral and netting. Having the advocacy and knowledge of how to do it and how to get to that step is important. The other thing is that ISDA is a driver for standardisation of product and knowledge. That includes the work with the ISDA SIMM, and at some point we will need a standard market database. These are areas where ISDA can play a massively important role.

IQ: What ISDA initiative/initiatives are most important from your perspective?

AvN: I think the advocacy work will be extremely important. You could say the current political change could be an opportunity, but it could also lead to enormous fragmentation. How to work through that quagmire will be incredibly complicated.

IQ: What's your favourite movie about derivatives, trading or financial markets?

AvN: The Big Short, because it had some beautiful characterisations of what was wrong with the industry. But also, the central tenet of the story to me is how difficult it is to be right at the wrong time.

IQ: What would you choose to sing at karaoke?

AvN: Pass. I know my limitations and how to save people from earache.

"Derivatives are really part and parcel of the way we risk-manage and run the bank as a business"

On the Up

Interest rate derivatives and credit default swap index volumes grew in 2016 compared to the year before, while the proportion of activity sent to a clearing house also climbed. **IQ** *reviews the trends in swaps activity over the year*

Derivatives trading volumes grew strongly last year, during a period characterised by unexpected events and blustery markets. Based on data submitted to US swap data repositories and compiled by ISDA[1], interest rate derivatives (IRD) notional volume rose by 16.9% between 2015 and 2016, from $142.3 trillion to $166.2 trillion.

The vast majority of IRD trades are now cleared, with clearing volumes increasing significantly compared to 2015. The amount of activity conducted on a swap execution facility (SEF) also grew, albeit more slowly.

This progress is echoed in the credit default swap (CDS) index market – notional volumes, clearing levels and SEF trading rates are all up compared to 2015.

Interest rate derivatives notional volume rose by

16.9%

between 2015 and 2016

Interest rate derivatives

Below the headline rise in IRD notional volume, there is much more going on. The notional volume increase was accompanied by a smaller growth in IRD trade count, which rose by 4.5%, from 1.06 million transactions in 2015 to 1.1 million in 2016. This suggests that participants, on average, opted for larger-sized trades in 2016 than in 2015.

In currency terms, US dollar-denominated trades dominate the market, clocking in at 68% of total notional volume in 2016, and increasing from $84.9 trillion to $109.9 trillion over the year. Meanwhile, non-dollar swap volume declined slightly. By the end of 2016, euro IRD trades accounted for 12.9% of the market, and sterling for 6.1%[2].

Single-currency fixed-to-floating interest rate swaps commanded 33.3% of total IRD volume during the fourth quarter of 2016, but accounted for 66.7% of the trade count, with the remainder taken up by a variety of other taxonomies.

Perhaps most crucially, 2016 saw an increase in the ratio of cleared to non-cleared IRD transactions. Since the first US clearing mandate was implemented by the Commodity Futures Trading Commission (CFTC) in March 2013, clearing volumes have continued to climb. Clearing accounted for 77.3% of IRD notional volume over the course of 2014, 78.4% in 2015, and stood at 84% in 2016.

This rise in clearing percentages is matched by a sizeable rise in cleared notional volume over the past couple of years (see Chart 1). Between 2015 and 2016, cleared volumes increased by 25.2%, from $111.6 trillion to $139.7 trillion. Cleared trade count also increased markedly, from 720,874 transactions in 2015 to 822,765 in 2016. Cleared trades comprised 74.6% of total trade count last year.

As clearing becomes more prevalent, so the non-cleared world steadily diminishes. Notional volume in the non-cleared IRD market fell from $30.7 trillion in 2015 to $26.6 trillion in 2016. Non-cleared trade counts also fell at a similar rate, although average non-cleared trade size was slightly larger than in 2015.

Last year saw a step change in how non-cleared derivatives are traded. As part of the Group of 20 (G-20) reform package, the largest derivatives dealers in the US, Japan and Canada had to post initial and variation margin on their non-cleared trades from September 1, 2016. All in-scope entities had

Derivatives trading volumes grew strongly last year, during a period characterised by unexpected events and blustery markets to start posting variation margin from March 1 this year – although global regulators have provided some flexibility in implementation to give firms more time to make changes to their documentation (see pages 36-39). The next implementation date is September 1, 2017, when the second phase of initial margin requirements will be introduced.

The migration of swap market activity to electronic trading venues where appropriate is another important aspect of the G-20 reform agenda. The US was the first mover, with the initial electronic trading mandates coming into force in February 2014, following the rollout of the CFTC's SEF regime in October 2013.

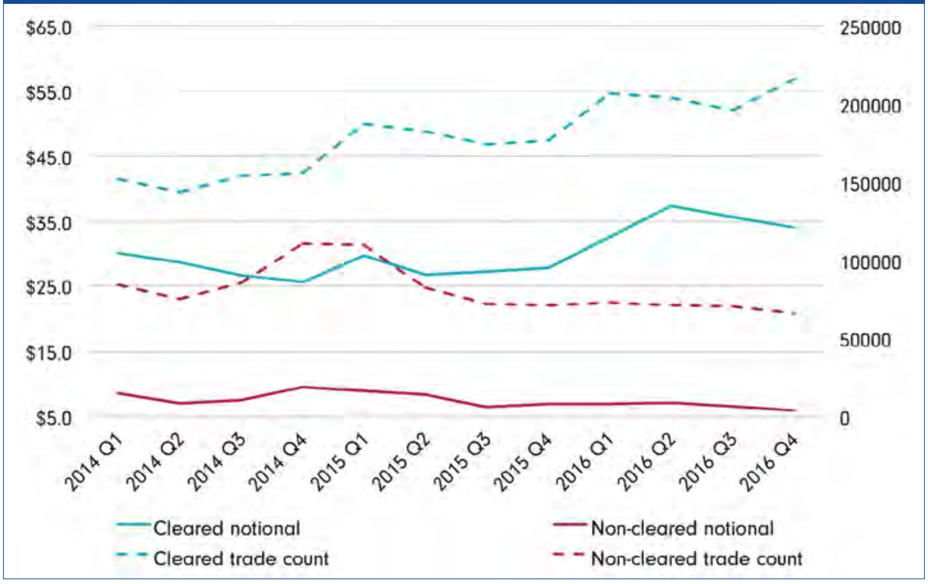
In 2016, SEF IRD notional volume grew by 11.8 % to $91 trillion, but was outstripped by the 23.7% growth in non-SEF volume. On an overall basis, SEF activity has generally hovered at 50-55% of the overall market for the past couple of years, and accounted for 54.8% of volume in 2016.

It may seem that SEF trading is stuck in a rut when compared with the ongoing increase in clearing volumes, but there are good reasons why the proportion of business traded on a SEF is smaller than the proportion of activity that is cleared.

Products that must be executed on a SEF are designated as 'made available to trade' (MAT) by the CFTC, but the list of such products is very small, especially when compared to the list of instruments that must be cleared. In fact, only 5% of IRD market volume in the US has to be traded on a SEF. The vast majority of trades are denominated in a non-MAT currency, have a non-MAT start type, or have a non-MAT maturity.

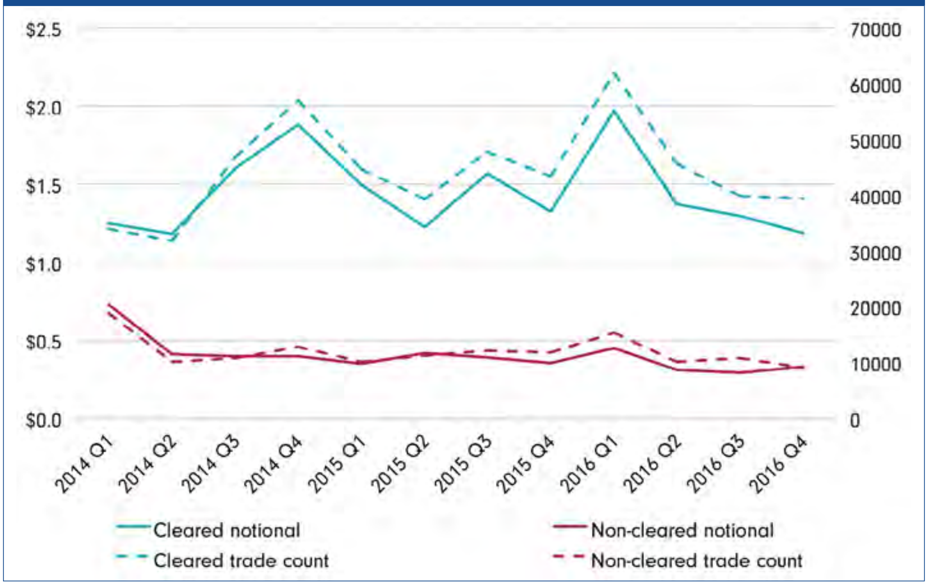
Much of the on-SEF volume is there because of Footnote 88, a clause in the SEF rules that requires multiple-to-multiple trading venues used by US persons to register as SEFs, even if the products they offer aren't MAT. →

CHART 1: IRD NOTIONAL VOLUME (US$ TRILLION) AND TRADE COUNT (THOUSANDS) Q1 2014 – Q4 2016



Source: DTCC and Bloomberg SDRs

CHART 2: CDS INDEX NOTIONAL VOLUME (US$ TRILLION) AND TRADE COUNT (THOUSANDS) Q1 2014 – Q4 2016



Source: DTCC and Bloomberg SDRs

[1] Interest rate derivatives and CDS index notional volume and trade count data is taken from the ISDA SwapsInfo website (swapsinfo.org), using information from the Depository Trust & Clearing Corporation and Bloomberg swap data repositories (SDRs).

[2] The dominance of US dollar is unsurprising, as the data is sourced from US SDRs

Last year saw a step change in how non-cleared derivatives are traded

CDS indices

CDS index notional volume also increased in 2016, although at a gentler pace than IRD, rising by 1.2%, from $7.1 trillion to $7.2 trillion compared to 2015. Trade count totalled 232,410 over the year, marking an increase of 5.3% from the 220,653 trades executed in 2015. Both metrics experienced a slight dip on a quarterly basis, with notional volume falling by 9.7% in the fourth quarter of 2016, from $1.7 trillion to $1.5 trillion, versus the final three months of 2015.

When it comes to clearing, the CDS index market has reached a similar level to IRD. More than fourth fifths of notional volume was cleared in 2016, compared with 78.9% in 2015. A similar proportion of the trade count was cleared: 80.4% in 2016 versus 79.4% in 2015. In terms of raw volume, $5.8 trillion of CDS index notional volume was cleared in 2016, compared to $5.6 trillion in 2015. Taken over a longer period (see Chart 2), cleared notional volume and trade count percentages are at similar levels to the start of 2014, with intermittent peaks in activity in between.

As with IRD, non-cleared CDS index notional volume has continued to fall, dropping by 8.1% in 2016 compared to 2015. Trade count stayed steady for the year as a whole, but dropped by 21.3% in the final quarter of 2016 when set against the same period the year before.

While the trends in clearing were similar in both IRD and CDS index markets, a greater percentage of CDS index trades were executed on a SEF. Over the course of 2016, 76.4% of CDS index volume was SEF-traded, compared to 73.2% in 2015. All in all, SEF-traded notional volume increased by 6%, from $5.2 trillion in 2015 to $5.5 trillion in 2015.

Increases were also recorded in trade count: 180,309 CDS index trades were executed on a SEF in 2016, versus 166,880 in 2015 – a rise of 8%. SEF trading accounted for 77.6% of total CDS index trade count last year.

As with IRD, US dollar trades dominate the CDS index market, accounting for 62.5% of notional volume and 65.6% of the trade count in 2016. Euro-denominated trades take up the bulk of remaining activity, with sterling and yen registering less than 1% of total activity combined.

Within the broad CDS index category, CDX indices dominate, clocking up 50% of notional volume in 2016, and 52.9% of the trade count. iTraxx indices came second, with the remainder shared between other CDS indices and CDS swaptions on indices.

Conclusion

IRD and CDS index trading volumes both increased last year compared to 2015, and the majority of that activity was cleared – in line with the G-20 objective to clear standardised derivatives. The notional volume of IRD and CDS index trades executed on a SEF also increased over 2016 – although the proportion of IRD SEF-traded volume has remained relatively stable since the first trading requirements came into effect in February 2014. This can be explained by the small number of contracts that have been mandated to trade on these venues.

With clearing volumes increasing, the non-cleared market continues to shrink in both the IRD and CDS index space. The latest figures follow the start of new margining requirements for non-cleared derivatives, which came into effect for the largest derivatives dealers on September 1, 2016.

Read the full research report at: http://isda.link/swapsinfoq42016

RUNNING THE NUMBERS

The 16.9% increase in interest rate derivatives (IRD) trading volume between 2015 and 2016 is in line with the pattern revealed by the latest semiannual derivatives data from the Bank for International Settlements (BIS).

According to the BIS, total IRD notional outstanding stood at $437.7 trillion at the end of June 2016, a 14% increase on the $384 trillion reported at the end of 2015. That increase came on the back of a succession of declines in IRD notional outstanding, having stood at $580.6 trillion in June 2013. The BIS reports that 75% of IRD notional outstanding was cleared as of June 30, 2016.

Increases were also apparent in credit default swap (CDS) index notional outstanding, with the BIS reporting a 2.1% increase from $4.7 trillion at the end of 2015 to $4.8 trillion at end-June 2016. Including single-name CDS, however, total notional outstanding declined from $12.3 trillion to $12 trillion over the same period.

The BIS figures differ from the data compiled by ISDA SwapsInfo.org in several ways. The SwapsInfo figures reflect trading activity measured in notional, reported to US swap data repositories. The BIS semiannual data shows gross nominal or notional value of all derivatives contracts concluded and not yet settled on the reporting data. The BIS figures are also reported after compression takes place, which results in a reduction in overall notional outstanding by tearing up offsetting trades.

In addition to notional outstanding, the BIS reports gross market exposure – defined as the maximum loss that counterparties would incur if they all fail to meet their contractual payments and the contracts are replaced at current market values. IRD gross market value rose from $10.1 trillion at the end of 2015 to $15.1 trillion as of end of June 2016. Total CDS gross market value fell from $421 billion to $342 billion over the same period.

A detailed analysis of the June 2016 BIS figures is available here: http://isda.link/marketanalysisdec2016

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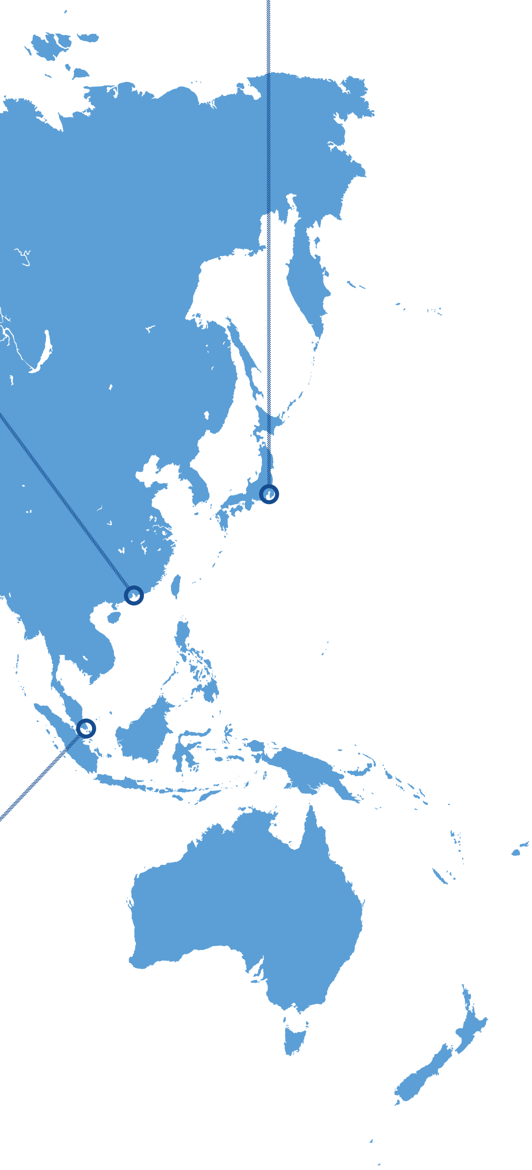
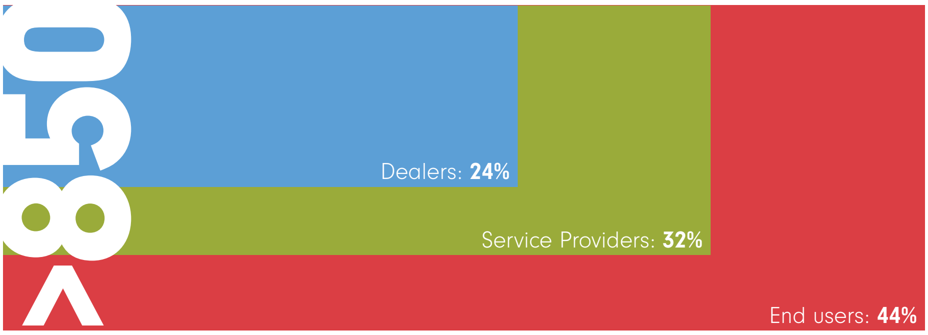


ISDA has over 850 member institutions from 68 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, clearing houses and repositories, as well as law firms, accounting firms and other service providers.

MEMBERSHIP BREAKDOWN



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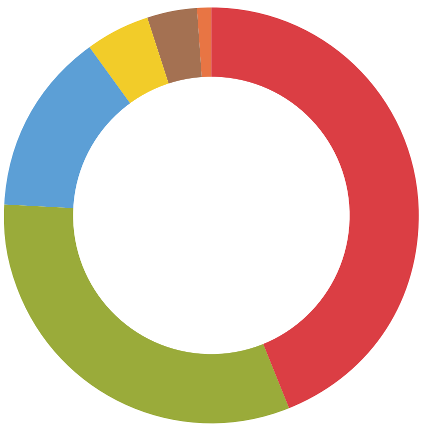
Government Entities	11%
Energy/Commodities Firms	7%
Diversified Financials	6%
Other	11%

GEOGRAPHIC COLLATERALISATION

Europe	44%
North America	32%
Asia-Pacific	14%
Japan	5%
Africa/Middle East	4%
Latin America	1%



Additional information regarding ISDA's member types and benefits, as well as a complete ISDA membership list, is available on the Association's website: http://www2.isda.org/membership/

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Education has been part of ISDA's mission since the Association's inception. ISDA's highly qualified instructors continue to educate members and non-members globally on topics including legal and documentation, clearing, trading, margin, reporting, risk and capital management, regulation and other related issues.

FINAL BASEL CAPITAL RULES & THE FUNDAMENTAL REVIEW OF THE TRADING BOOK

June: New York | September: London

Full-day conferences exploring the implications of the final Basel capital rules. They will cover the new standardised approach, changes to internal models, counterparty credit risk capital requirements, CVA/XVA and the net stable funding ratio. This includes an overview of the rules themselves and examines their implications on the market.

SYMBOLOGY, ISIN AND TOTV: A STATE OF PLAY

May 23: New York

This half-day conference focuses on the extensive work surrounding the definition of product identifiers for derivatives. Panel discussion will provide an overview of the work from the ISIN Product Committee, the role of product identifiers for MIFID II and CPMI-IOSCO developments on unique product identifiers (UPIs).

CLIENT CLEARING LEGAL OPINIONS: NEW FCM OPINIONS

May 25: London | October 2017: New York

These half-day symposiums will provide an overview of the coverage of clearing relationships in ISDA netting and collateral opinions with a focus on the client clearing opinions that have been published in relation to the principal-to-principal clearing model and the ISDA/FOA Addendum.

ISDA 33RD ANNUAL GENERAL MEETING MIAMI

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- Markets in Financial Instruments Directive II/Regulation
- Symbology + CMPI-IOSCO Recommendations for UTIs
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"Fine-tuning of the rules could help simplify and increase the efficiency of specific requirements, such as reporting"

Olivier Guersent, European Commission