Round Table: Dodd Frank Act effect on FX in non-US banks

The FMR Advisory Round Table sponsored by SEB

FMR Advisory was established to help with the complexities of preparing for compliance with the new raft of Regulations that are hitting financial institutions. One aspect of this is providing a forum where industry practitioners can meet and discuss topics in a frank and open way. SEB, registered as a Swap Dealer, requested FMR Advisory to set up a Round Table to discuss how non-US Swap Dealers are managing compliance with the many rules, some being subject to no-action relief letters. The above FMR Advisory Round Table was held on Monday 16th March under the Chatham House rule at the London offices of SEB, with invited representation from the banking and legal communities. This was to be a highly topical discussion that drilled down into a number of detailed challenges around how the non-US banking industry has been working under the Dodd Frank Act's implementation; specifically looking at FX under the CFTC and their many provisional/final Rules, Guidance and no-action relief letters.

Background

As at end of 2014, of some 395 wider Rules relating to the Dodd Frank Act, 231 were finalised. For the CFTC's 60 Rules, 50 have been finalised with 7 proposed and missing their deadline. This compares to the SEC having finalised 56 out of 95 Rules. Is this difference in the number of finalised rules a reflection of successful implementation by the CFTC, or of a mad rush simply to hit targets, driven through by Chairman Gensler?

Commissioner Giancarlo has made a number of speeches recently that talk to rushed implementation and the need to revisit some Rules – notably the trading rules *"I believe they are fundamentally flawed for a number of reasons"* and he has published a white paper on *"the mismatch between the CFTC's swaps regulatory framework and the inherent dynamics of global swaps markets and the adverse consequences that have resulted."*

Chairman Massad is also focusing a deal of effort on international harmonisation of regulations, particularly rebuilding the cross-Atlantic relationship.

Whilst the Dodd Frank legislation remains passed and there is no expectation of a major reversal of the core Act, this all suggests that there may be hope for some re-scoping of the CFTC Rules. For some details this is highly important – for instance NDFs becoming required to clear and therefore trade solely within a SEF, could be deferred to align with the EU decision not to mandate clearing of NDFs in the foreseeable future, announced by ESMA on 4th February; the narrow definition of possible trading paradigms within SEFs could become more client and business friendly.

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However, the reality of current implementation exists and was the focus of conversation at the Round Table. The devil is in the detail and the details of implementing Dodd Frank has created a mountain of work that is taking place in a less than clear definition of exactly what is required of the Swap Dealers.

Attendees

FMR Advisory	Robin Poynder	Director
FMR Advisory	Anna Aleka	Business Manager
Unicredit	Robert Entenman	Global Head of eCommerce
Commerzbank	Tony Russell	Director
Credit Suisse	James Keenan	Global Head of Pre-Trade Regulatory Change
	Frederic Simon	Independent Consultant
Lloyds Bank	James Emanuel	FM COO
Denton	Rosali Pretorius	Partner
SEB	Sara Molnar	Advisor to Global Head of Markets
SEB	Belina Bjork	COO FX and Commodities
SEB	Gabriella Caracciolo	Head of FICC Strategic Development
SEB	Shaun Barham	Head of FX&C London
SEB	Toby Profit	Head of Swap Dealer compliance
Danskebank	Jon Kristian Hjalager	Swap Dealer Chief Compliance Officer
Danskebank	Helle Lauritsen	Head of Strategic and US Related Projects

Following a short introduction around the table, Shaun Barham thanked FMR Advisory for setting up the Round Table and acknowledged the solid experience and knowledge that had brought this to life. The following discussion was highly open and pertinent to the topic and given the wide-ranging nature of conversations, is organised into areas of focus rather than simply time order of discussion. Also, given the open nature of the conversation, many of the quotes are made anonymously.

Pre-trade mid-price requirement

One of the requirements of swap dealers is that they should provide customers with a mid-price alongside any quote they provide, with the policy goal that customers should understand where the underlying market is at the time of trade. Whilst noble in intent, the lack of understanding of the nature of OTC markets is apparent in how the rule has been defined. There are as many as eleven versions of this mid-price in use across asset classes, as Swap Dealers try to implement a compliant solution to the rules, at the same time as wholesale customers are largely disinterested in receiving this price. As Shaun Barham put it "It is clear that there are very different approaches across different banks on how to define, and how to deliver, the pre-trade mid-price obligation." Sara Molner explained how in SEB "we have chosen the simple mid-price that is the average value between the bid and offer, which is a common approach and market practice." Frederic Simon confirmed that this method of calculation is consistent. "This is a globalised approach. I have checked other banks' websites and the industry is taking the same approach. One could argue that this is in some way the risk-adjusted price, or 'fair value' in IFRS rules. Each institution makes the price that is appropriate to their risk position and the mid-prices reflect that."

However whilst the banks have the obligation to provide a mid-price, the client push-back can be intense. Shaun Barham went on to say, "There are different practices across different banks regarding pre-trade practices. Some more aggressive clients are even saying that if the bank shows that methodology mid-price again they won't trade anymore. Some banks appear to be showing the mid-price only in the post-trade confirmation." The Swap Dealers are caught in the middle. The regulations demand that they provide a mid-price, whilst any client that is vaguely active is already completely aware of the market level and is more concerned with speed of quote than what is to them a spurious trade detail. There is a limited no-action relief letter from the CFTC that allows relief from the mid-price requirement for a restricted set of swaps. In the automated world this is relatively straight-forward to implement, however in the voice world there is always a risk that the salesperson could inadvertently break the rule. As Toby Profit put it, "when discussing FX trading via voice with non-SD counterparts, the challenge is that some clients are complaining that they do not want to receive the pre-trade mid, yet the client must be facing similar issues with all other Swap Dealers that it trades with. In order to take advantage of the limited no-action relief that is out there, you can only trade a restricted range of physically settled "swaps"; out to 6m for Options or 1 year for swaps and forwards in the standard set of currencies. In order to reduce the requirement to provide OTM, the sales team would need to filter the trades into this exempted group or otherwise, on a live basis and within the voice client-trading environment, which appears somewhat unrealistic."

The group then agreed that the exact way the mid-price is communicated to the client is also under discussion. One participant said, "The client ability to opt for a verbal mid-price does speed things up a little, however the issue remains that there is this requirement." The client issue is simply speed of price. Whilst Shaun Barham reiterated that "This is not a question of price level for the more active clients – they simply don't want to see the mid-price at all as it slows down the process. They don't want it and some banks have apparently been able to avoid this." Another participant suggested that a number of banks are apparently saying to their clients 'mid is mid' and not specifying the actual level, as a way of speeding things up for those clients. The quandary for a Swap Dealer is to remain compliant, while still satisfying the strong client demand in some quarters to remove the mid-price speed-bump. Of course sometimes a client will not ask for a two-way price. Whilst this may appear to be a natural place for the mid-price to play a part, this remains a contentious issue. As Shaun Barham put it, "With todays markets as they are, clients often don't ask for a two-way price and simply ask us to go and buy €Xmio for them. When we try to suggest a mid-price they say they just want to know where the offer is and for us to just go away and execute the trade!"

It is clear that despite the intention of client protection being at the heart of the rule-making, there is a distinct set of clients who find this an active barrier to smooth trading. Whilst there is some concern in the group that a number of Swap Dealers may in some way be getting around the requirement to provide a mid-price, there was no evidence of this and the discussion focused on how best to provide the mid-price in the least disruptive way for the clients.

The question was asked if anyone round the table was employing the exemption letter for certain options and segregating their trading along the sub-asset groups as defined by the CFTC in the exemption letter. Fred Simon confirmed that "At my organisation we did that M20/13 – and there was a tag within our systems in the pre-trade credit check that allowed sales people to see immediately that the client was part of the exemption". Following some further discussion it was clear that whilst the live manual segregation of potential client trades into those subject to relief may cause some risk, it is an approach being implemented in a number of banks – if only to reduce client irritation at the mid-price approach.

The conversation then moved on to how records were kept, which might demonstrate that the mid-price obligation is being satisfied. When considering how clients might approach this, one participant put it this way, "Clients don't care about the mid-price at all. Before we were a Swap Dealer we were a client and used to send the mid-price emails into a certain mail box – which we never opened – but I suppose they are there if we should ever need them." From a Swap Dealer perspective Toby Profit confirmed that, "We review record kept material as a method of ensuring that the clients are receiving the mid-prices." Given the wider requirement for recording of telephone conversations with clients, the core material is naturally available. The process involved is in analysing the recordings on a periodic, if random, basis and ensuring that the mid-price is being delivered to the clients as required.

Data protection

The discussion around record-keeping naturally moved to the issue of data protection and particularly in terms of the extraterritorial implications of this thorny issue.

It was clear that the strong EU approach to data protection did pose some organisational challenges around how telephone recordings were examined. As one participant put it, "In my country we are limited to distributing only certain data outside of Europe. Customer data is split into sensitive and non-sensitive data, where the sensitive data is relevant to credit scoring for instance." Participants expanded that when looking into a conversation they would have to be sensitive to what they were hearing. If the individuals were discussing something of a private matter, the recording is fast forwarded until the relevant trading conversation is found. One participant elaborated, "in the EU, data protection issues are very strict and we have to establish certain procedures that ensure compliance to this. We monitor forms of communications and have to discard any private conversational elements. Staff have to consent to being monitored."

It was also agreed that whilst the Round Table had a particular focus on the US, other jurisdictions impose similar issues. As Sara Molnar reminded the attendees, "this is under Dodd Frank of course, but MiFID will be bringing in something very similar." One of the participants put forward the idea that "Privacy laws in certain jurisdictions may impede an effective monitoring of pre-trade communications." And indeed one

participant was reminded of how a similar issue had arisen in Singapore where the MAS requires that no personal data leave Singapore, with the data store remaining onshore. There appear to be a number of approaches to this challenge including having two teams, one focused onshore and one off-shore, although the discussion didn't linger on this topic. In conclusion the feeling was that while data protection issues involve a measure of additional process, it was manageable and not a focus for too much discussion.

Post trade documentation

Given the wide ranging obligations and being in a position to demonstrate that they are being met effectively, the topic of post-trade documentation inevitably came up. One participant raised the topic in this way: "Document retention rules appear very broad and onerous – only 72 hours to produce full documents on any CFTC request. Trades are being executed in Bloomberg, email, Voice – without one single trail. How does the industry manage this?" There was an exchange of views and how different banks were approaching this area, with one participant making the distinction between exactly what had to be produced within 72 hours and what might follow subsequently. "There is a nuance here where the rules say that the documentation production must be on a timely basis. So we would reply within 72 hours that we are responding, with good details, but the actual documents can be retrieved over time. Of course there is always a level of risk as to what will be acceptable as timely." A related anecdote may provide a level of comfort in that one participant described how their legal advisors had told them of another client of theirs who had received a production request and the client said it would be delivered within 3 weeks - this was deemed acceptable". As further comfort Sara Molnar reminded the group, "Remember that as a non-US Swap Dealer we do not have to live up to the exact same standards and rules as a US Swap Dealer, due to substituted compliance."

The conclusion was that the 72 hour rule is being interpreted pragmatically and while undefined legally, the ability to manage the timeframe through a swift reply that involves a longer period to produce the full documentation, appears acceptable. This was an important outcome for the group to share.

Swap Data Repositories

Keeping the post-trade focus, there followed a range of points around the post-trade reporting of executed trades and how that is technically managed. Tony Russell discussed the process of reporting itself and in particular highlighted that "Verification of reporting can be a challenge." Several years into the process, expectations of a process operating as a smoothly oiled machine would appear to be misplaced. As one participant put it, "DTCC is the default repository and this is a problem. They are incredibly slow to get back with any response and we are weighing up our options going forward. Bloomberg have a repository now and of course there is Ice and Regis TR. Perhaps we end up using DTCC only for Dodd Frank trades, with a different one for non-US trades." The pace of development and continual change has apparently overwhelmed some of the DTCC processes. Fred Simon maintained that "It seems like there is no voice of the

customer into DTCC – unlike say CLS – like they are acting without referring to the customers."

Initially DTCC was the only Swap Data Repository for these trades and was taken as a global SDR, with the concept of a three-way structure, with each structure covering one of the three major time-zones. Importantly the concept is that each of the three structures is in some way a separate legal entity which cannot be examined by different jurisdictions – i.e. the CFTC is unable to examine full records of EU or Singapore reported trades via some kind of subpoena. As several parties agreed and Tony Russell explained, "We are working under the assumption that DTCC does indeed have a three Repository structure and that EU/Asia data cannot be investigated directly by the US authorities."

In summary the use of DTCC with their first-mover status was assumed to be a done-deal globally. Current thinking is looking strongly at the use of additional Trade Repositories outside of the US, where the hope is for a smoother process of development and implementation.

Time Stamp – when is a deal actually done?

One area of detail that took up a fair amount of time was trying to be precise about exactly when a trade is 'done'. The point at which a trade is time-stamped is critical to the reporting process as the clock starts ticking at that point for several elements of reporting. The core question was this: "when do you time stamp the ticket? Is it when terms are agreed or when entered into systems?"

Whilst two members agreed that this should be the point at which the trade becomes legally binding, Robert Entenman reminded the group that the trade is executed prior to the point of being strictly legally binding. "We have to be careful around when the trade is confirmed and legally binding. This is not within the front office as they only 'affirm' – which became highlighted recently."

One participant raised an unresolved issue where a structured deal can take some considerable time to finalise after initial 'execution' – and it may not be physically possible to enter the deal within the required fifteen minutes, if the trade is time-stamped on initial execution.

This created a lively discussion across some fairly opposed viewpoints, which were illustrated and brought to life through real examples. One great example of opposing views was the situation when a client order is passed to another time-zone and out of the bank group to a trusted counterparty. In that instance the order would not have a client name attached and the third party bank is watching the order in the name of the first bank only. Should the order be executed during the night, the third party bank will report the trade as appropriate and that trade clearly has a time-stamp relating to that point of execution. The challenge comes in defining the time-stamp for the client trade. Clearly the risk attached to the client trade was covered that previous night. When the

client trade is input the following morning, the market level could be totally different to the level where the counter-trade was executed. The question raised for reporting purposes was, 'Does the client trade count as executed when the risk was covered during the night or when it is input the following morning?' Pragmatically the client leg can only be input the following morning, several hours after the risk was covered in the market as the third party bank cannot know the end-client name, not least for purposes of confidentiality. The client order is 'executed' once the client is informed of the trade and this is affirmed by the bank. The challenge is that there is a new trade being reported which is at a price level away from the current price action and this needs to be recognised as an allowable exception. In summing up this example, the participants appeared to be in agreement that the timestamp for execution is when the trade is agreed, not when it is entered into the system.

Another area of concern can be where the bank has dealt through a broker and the trade is to be confirmed by the broker. The group related some shared experiences where brokers have entered trades through MarketWire later than the 15 minutes required for reporting, although Shaun Barham mentioned that SEB were a positive exception. "SEB hasn't encountered this issue as we only allow FX Spot to be entered by brokers."

For the vast majority of trades however, the banks are confident in the reporting processes and the compliance function includes resource to audit the procedures. All the banks present confirmed some kind of manual process to record time stamps at the point of manual trade, with frequent random checks to ensure timestamps are correctly being recorded on dealers' pads.

Potential impact of non-compliant/late reporting

Despite all the best efforts and controls there is always the potential for an occasional trade to be reported late - and the group discussed the area of how to manage the process of late reporting. This was recognised as an important issue not least because, "The CFTC are highly likely to check on reporting both for accuracy and timing of the reporting." As another participant put it, "Unfortunately this is based on futures pit logic, where the trades had to be entered from the runners and 15 minutes was their limit – which is completely irrelevant to our OTC market, but has been ported across!" Whilst there was a good deal of sympathy for this view the reality was summed up by another participant. "We are past the point of being able to change this methodology and timing unless there is some kind of significant industry push-back."

One attendee raised an interesting point in saying, "It may well be that no-one in the market cares about the reports and if they are 4 minutes late." The group agreed that to their knowledge there was no-one looking at the reports at this time, not least given the good transparency that already exists in FX, however the regulators may choose to care. Certainly if we consider the Senior Managers Regime in the UK from middle of next year; if the regulators choose to pursue this or any other 'minor' lapses, it is more and more on the market professional to demonstrate why they should not go to prison." Within

the UK in particular, senior managers will do everything they can to ensure any potential breaches are controlled.

Definition of material breaches and reporting those

Looking next at what kinds of breaches might be pertinent and be defined as material, the group discussed several experiences where it became apparent that there is no empirical definition of 'material' in this context. As one participant opined, "We might have a given small percentage of late reports – the dilemma we face is that 'materiality' is not actually defined. Should we deluge the NFA with every tiny breach to swamp them or do we hold back and only report larger breaches. It is apparent that they don't want to define what is material. We asked the NFA directly and received a very subjective response." (All agreed that material breaches in this context were only any breaches for trades that fall within the scope of Dodd Frank Act related trades.)

One of the participants had tried to gain clarity on the size of trade in which the NFA would be interested. "We asked NFA about some small breaches to try and get some definition of thresholds and they said that they only wanted material breaches – there was no hard definition." As one participant put it, "it is easier in our local jurisdiction where we have a strong, regular and open relationship with the regulator and where we can openly ask about any potential breaches to gauge what might be considered reportable. Given the infancy of our relationships with the US regulators, we don't have that same opportunity with them." Because of this, Swap Dealers are trying to find the answers amongst themselves, not least as there now appears to be a slight cult of fear amongst banking staff in both first and second lines, where they don't want to approach the regulator too often to ask questions, where perhaps they would have previously.

The less than defined rules bring challenges when it comes to the detailed management that is required in organising what to report. One of the group told how, "we encountered an interesting case recently where a given portfolio had possibly breached the limits, although no single element in the portfolio had. In the end the other counterparty wanted to report the portfolio as a breach and so we agreed to do so also - partly as a belt and braces approach."

One thing that came through loud and clear is that the Swap Dealers in the room are all proactively focused on doing the right thing and the challenge is understanding the detail of exactly what that means. For instance there was some discussion around whether or not to include the Corporate Culture Index (CCI) on your reporting as an indicator of good intent, and to sweep up any incidents hitherto unreported. One participant was particularly clear, "As a non-US swap dealer I feel comfortable with our approach with putting the CCI on reports." The risk being that the report is meant to include only items already advised. Once again the definition of materiality is the key issue.

NDF Clearing

Given the recent move by the EU to declare that NDFs wont be mandatorily cleared for the foreseeable future, the notion of NDFs becoming mandated to clear under Dodd Frank was briefly discussed. Robert Entenman summed the topic up by saying, "In one sense we have been ready for ages. However development will still be required once it is definite and this typically happens once budgets are already set - and finding the budget is always a challenge." It was clear from the group that there was a certain amount of fatigue in preparing for NDF clearing under Dodd Frank. As one participant put it, "We are adopting a wait and see approach towards clearing of NDFs – there have been so many false starts." Underlined by Robert Entenman in saying, "We have seen NDFs come onto the 2015 agenda then come off, then on, then off again… This to and fro is really unhelpful." The Swap Dealers have prepared as far as they can to this point, and the next stage of development will be required once any final rules are put in place and timings are defined. In the meantime there is acknowledgement that as and when the mandated clearing comes back into focus, there will be the usual mad rush as the Swap Dealers once again attempt to find the required budget outside of their normal budgetary cycle.

One interesting observation was that this current delay may simply be that – a temporary politically motivated pause – "This delay in NDF clearing in Europe could simply be part of the bigger political picture pending CCP recognition and once that is all finalised, I feel we could well see the NDF clearing back on the agenda"

Definition of Spot FX and use of ON / TN trades

The exact definition of Spot FX did come up once again, not least given the different approaches being taken by regulators across jurisdictions. The issues are broader than simply trying to align reporting requirements to the different regimes. "We have this issue a lot through Eastern Europe, as locally the firms can trade same day, which is different to the wider market. We can capture it all ok within our systems, but what happens if the regulatory situation enforces clearing on them should those trades be defined as swaps? These local corporates will have a huge new cost of transaction." Or as another participant said, "We handle all these trades under the Spot limit, but are wondering about the future of reporting them."

One of the issues facing the Swap Dealers is that back in mid-2013 the CFTC was highlighting how many retail FX houses were using Spot FX with rollovers as a way of avoiding executing forward swaps and as such that these trades should be classified as a futures contract under Dodd Frank, despite federal case law finding that rollovers do NOT transform these trades into a future contract. Whilst core Spot FX is understood globally not to be an investment product and to remain a reflection of one country's worth against another, once again the details surrounding the instrument are unaligned across jurisdictions. For now Swap Dealers are managing the mis-matched approaches within the various jurisdictions and keeping a weather eye out on any developments,

very aware that any changes could have profound effects on their customers and how they are able to hedge their risk.

Special entities

An area of interest for some of the participants was that of 'special entities' under the Dodd Frank Act and how they might trade with them. As Shaun Barham said, "Special Entities raise a separate level of complexity in trading under Dodd Frank." One way of navigating the troubled waters in this area is through use of safe harbor, as one participant explained, "To avoid additional compliance burdens Special Entities are only in scope subject to available safe harbor provisions and internal controls."

There are additional requirements if dealing with a special entity and a Swap Dealer must be prepared for that additional complication. As one of the group put it, "Special entities involve additional compliance requirements. We didn't originally include special entities within our application to be a Swap Dealer, but we then expanded our participation to include special entities due to the business drivers." Systems and controls are required to ensure the additional restrictions are followed. For instance one participant said, "On a pre-trade basis special entities are flagged on the blotter so that sales people know straight away of the status and can trade accordingly. We actively monitor trading with special entities and raise a weekly internal report to highlight any trades with a special entity."

Discussion around the table came to the conclusion that while there was certainly a deal of additional work required in preparing for and allowing compliant trading with special entities, the resulting trades were an important part of being a registered Swap Dealer.

Investment and Asset managers

The discussion around special entities moved into the related area of Investment Managers and how to process block trades. Specifically there was discussion around how to handle PUSIs against USIs to ensure they match off. This has certainly been an operationally heavy area in the past.

Fred Simon explained that, "On FX CONNECT six months ago or so I saw issues with the sub-allocation to correct USIs, especially with Japanese accounts, but that is largely sorted out now." And another participant explained that whilst things have improved it is not yet all plain sailing, "There are still teething problems handling PUSIs and USIs. Pre-trade has worked out fine, but post-trade allocation wasn't always smooth as the sub-funds weren't always properly defined and set up. Obviously things have improved over time". The use of modifiers to accomplish sub-allocation is still necessary – "The issue has been that whilst we could allocate up front to an institutional LEI, many sub-funds didn't have one."

The discussion came to the conclusion that while the area of sub-allocation requires a degree of ongoing attention, the solutions are understood and being worked through over time.

Extra-territorial issues

The final topic of conversation was the thorny issue of extraterritoriality. Registration as a non-US Swap Dealer requires an enormous amount of work and resource to ensure compliance, with the other jurisdictions in which these firms operate also requiring that their different regulatory obligations be met. One participant at least believed that there was some benefit in having registered as a non-US Swap Dealer, as much of the work required to be compliant under Dodd Frank would be transportable into compliance under MiFID; as they expounded, "Clearly there are many challenges in meeting the obligations globally across different jurisdictions. I do feel that being registered as a non-US Swap Dealer may provide some advantages when looking to work under MiFID II and the new reporting, record keeping, governance requirements – for everything except spot bonds." This approach found some traction and another of the group explained that, "We certainly expect to re-use as much as we can, simply to be efficient. We are currently undertaking a gap analysis to ensure we capture the nuances of difference."

MiFID readiness is in itself a monumental task, however it is not only the EU about which these banks have to worry. As Shaun Barham reminded the group, "If we look at Dodd Frank implementation and then Canadian and Australian regulations coming shortly… how do we keep up with global arena? Margins are being squeezed across the board – do only the top 5 banks succeed in satisfying all jurisdictions? Are the regulators aiming for a far more regional set-up?" This sparked a lively debate and another of the group shared that, "Regarding preparing for Canada's regulation – we started analysis once we knew they were coming, although only three provinces are enacting something. It looks like things will become clearer in June although for now it looks like reporting requirements rather than registration of institutions like we see under Dodd Frank? The capital hit on balance sheets is being passed down through business equity into desks and real costs recognised."

That last point is well made and looking across the wider industry, it is evident that the explicit recognition of costs into the front desk business is having a significant effect. Clearing business is being turned away even for existing and long-standing customers, as the true cost of managing this business is becoming apparent under the new balance sheet allocations. But of course it is not only cleared business that is under threat. As one participant advised, "There is also the IOSCO driven move for collateralisation of non-cleared trades. Cross border recognition is crucial in this – what if a Swedish client asks for a trade in Stockholm – what if they ask into NY? There will naturally be different prices depending on costs of execution and clearing within different jurisdictions."

Whether or not this is an intentional outcome for the global regulatory community, this new regulatory world is significantly different for both banks and customers. Cost comparisons and differing regulatory requirements are driving business into silos of regional/national business. Robert Entenman warned, "We are heading towards a world where we might end up with different trading, pricing and methodologies depending on the regulatory topology – a real challenge for global markets."

Summary

The Round Table was an active discussion and covered a wide range of topics. The conversation became detailed on several occasions and was therefore highly useful to those attending. The group was able to share real life examples and solutions to the regulatory issues being faced by non-US Swap Dealers.

Swap Dealers do not wish to be unwitting outliers in their interpretation of elements of the CFTC implementation and the group was able to take comfort from knowledge around some areas of shared approach; such as in reporting thresholds of materiality or mid-price communication to clients who push back on receiving it.

There were topics where the open sharing of experience was of benefit in altering some details of approach towards best or more efficient practice, such as post-trade documentation or time-stamping of trades.

It is clear that the current implementation of Dodd Frank into the OTC space is causing a significant amount of cost and resource allocation, much of it simply being expended to comply with the rules, rather than to bring material benefit to the end clients. What is also clear is that Swap Dealers are actively doing all that they can to ensure correct processes are in place to cover the new regulations on how business is transacted.

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Appendix

Provisionally Registered Swap Dealers

ABBEY NATIONAL TREASURY SERVICES PLC
AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD
BANCO BILBAO VIZCAYA ARGENTARIA SA
BANCO SANTANDER SA
BANK OF AMERICA NA
BANK OF MONTREAL
BANK OF NEW YORK MELLON THE
BANK OF NOVA SCOTIA THE
BANK OF TOKYO MITSUBISHI UFJ LTD THE
BARCLAYS BANK PLC
BNP PARIBAS
BP ENERGY COMPANY
BTIG LLC
CANADIAN IMPERIAL BANK OF COMMERCE
CARGILL INCORPORATED
CITIBANK N A
CITIGROUP ENERGY INC
CITIGROUP GLOBAL MARKETS INC
CITIGROUP GLOBAL MARKETS LIMITED
COMMERZBANK AG
COMMONWEALTH BANK OF AUSTRALIA
CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK
CREDIT SUISSE INTERNATIONAL
CREDIT SUISSE SECURITIES EUROPE LIMITED
DANSKE BANK AS
DEUTSCHE BANK AG
ED&F MAN CAPITAL MARKETS LIMITED
FIFTH THIRD BANK
FOREX CAPITAL MARKETS LLC
GAIN GTX LLC
GOLDMAN SACHS & CO
GOLDMAN SACHS BANK USA
GOLDMAN SACHS DO BRASIL BANCO MULTIPLO SA
GOLDMAN SACHS FINANCIAL MARKETS LP
GOLDMAN SACHS FINANCIAL MARKETS PTY LTD
GOLDMAN SACHS INTERNATIONAL
GOLDMAN SACHS JAPAN CO LTD
GOLDMAN SACHS MITSUI MARINE DERIVATIVE PRODUCTS LP
GOLDMAN SACHS PARIS INC ET CIE
HSBC BANK PLC
HSBC BANK USA NA
IBFX INC
ING CAPITAL MARKETS LLC
INTL FCSTONE MARKETS LLC
J ARON & COMPANY
J ARON & COMPANY SINGAPORE PTE
JB DRAX HONORE UK LTD
JEFFERIES BACHE FINANCIAL SERVICES INC
JEFFERIES DERIVATIVE PRODUCTS LLC
JEFFERIES FINANCIAL PRODUCTS LLC
JP MORGAN SECURITIES LLC

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JP MORGAN SECURITIES PLC
JP MORGAN VENTURES ENERGY CORPORATION
JPMORGAN CHASE BANK NATIONAL ASSOCIATION
KEYBANK NATIONAL ASSOCIATION
LLOYDS BANK PLC
MACQUARIE BANK LIMITED
MACQUARIE ENERGY LLC
MERRILL LYNCH CAPITAL SERVICES INC
MERRILL LYNCH COMMODITIES EUROPE LIMITED
MERRILL LYNCH COMMODITIES INC
MERRILL LYNCH FINANCIAL MARKETS INC
MERRILL LYNCH INTERNATIONAL
MERRILL LYNCH INTERNATIONAL BANK LIMITED
MERRILL LYNCH JAPAN SECURITIES CO LTD
MITSUBISHI UFJ SECURITIES INTERNATIONAL PLC
MIZUHO CAPITAL MARKETS CORPORATION
MIZUHO SECURITIES USA INC
MORGAN STANLEY & CO INTERNATIONAL PLC
MORGAN STANLEY & CO LLC
MORGAN STANLEY BANK INTERNATIONAL LIMITED
MORGAN STANLEY BANK NA
MORGAN STANLEY CAPITAL GROUP INC
MORGAN STANLEY CAPITAL PRODUCTS LLC
MORGAN STANLEY CAPITAL SERVICES LLC
MORGAN STANLEY DERIVATIVE PRODUCTS INC
MORGAN STANLEY MEXICO CASA DE BOLSA SA DE CV
MORGAN STANLEY MUFG SECURITIES CO LTD
NATIONAL AUSTRALIA BANK LIMITED
NATIXIS
NOMURA DERIVATIVE PRODUCTS INC
NOMURA GLOBAL FINANCIAL PRODUCTS INC
NOMURA INTERNATIONAL PLC
NORTHERN TRUST COMPANY THE
PNC BANK NATIONAL ASSOCIATION
RJ OBRIEN ASSOCIATES LLC
ROYAL BANK OF CANADA
ROYAL BANK OF SCOTLAND PLC THE
SG AMERICAS SECURITIES LLC
SHELL TRADING RISK MANAGEMENT LLC
SKANDINAVISKA ENSKILDA BANKEN AB PUBL
SMBC CAPITAL MARKETS INC
SOCIETE GENERALE NEWEDGE UK LIMITED
SOCIETE GENERALE S A
STANDARD CHARTERED BANK
STATE STREET BANK AND TRUST COMPANY
SUNTRUST BANK
TORONTO DOMINION BANK THE
UBS AG
UNICREDIT BANK AG
US BANK NA
WELLS FARGO BANK NA
WESTPAC BANKING CORPORATION

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