EMIR Refit:
A technical briefing note

As the deadline for the implementation of EMIR Refit gets ever closer, we explore the reasons behind the new regulations and what these will mean in practical terms for regulated firms.

EMIR: A background

In the wake of the 2008 financial crisis, a pivotal moment reshaped the landscape of financial regulation. At the G20 Leaders' Summit of 2009, world leaders collectively mandated a significant overhaul in the oversight of over-the-counter (OTC) derivatives contracts. Their directive was clear – all OTC derivatives contracts must be reported to trade repositories (TRs). This bold move aimed to bring about three crucial changes in the financial world: enhanced market transparency, mitigation of systemic risk, and the prevention of market abuse.

By 2012, the European Market Infrastructure Regulation (EMIR) was born out of this mandate. Enforceable from August 16 2012, EMIR represented a comprehensive framework for the regulation of OTC derivatives markets in the European Union. However, the regulatory landscape is never static. In 2016, EMIR was included in the European Commission's Regulatory Fitness and Performance (Refit) program. By May 2017, the Commission proposed amendments to EMIR, pinpointing and addressing specific areas of concern. One of the most critical aspects of these reforms was the emphasis on rectifying persistent data quality issues. These challenges were largely attributed to the ambiguities in the existing rules and the dual-sided nature of reporting obligations.

Moving forward to 2022 and 2023, significant updates under EMIR Refit were published. In June 2022, the European Union released new Implementing Technical Standards (ITS) and Regulatory Technical Standards (RTS) pursuant to EMIR Refit. Following in the UK, the Financial Conduct Authority (FCA) published its policy statement PS23/2 in February 2023. These updates were strategically designed to harmonise with the Committee on Payments and Market Infrastructures (CPMI) and the International Organisation of Securities Commissions (IOSCO) Technical Guidance on OTC Derivatives Data Elements - a significant step towards global regulatory coherence.

This technical briefing note delves into a comprehensive analysis of EMIR Refit's regulatory changes, explores the challenges confronting firms, and examines the spectrum of solutions – ranging from data management and technology to expertise and operational strategies – that can facilitate compliance and operational excellence.

The primary objectives of EMIR Refit

Regulatory relief: Aimed at easing compliance demands for smaller and non-financial firms, ensuring they are not overwhelmed by regulatory complexities while maintaining market transparency.

Data quality and accuracy: Focus on standardising reporting protocols to bolster the accuracy and integrity of data provided to regulators.

Efficiency in clearing processes: Dedicated to refining clearing procedures for enhanced efficiency and cost reduction.

Global standard alignment: Efforts to synchronise EMIR Refit with global regulatory standards, providing clear and actionable rules for easier compliance.

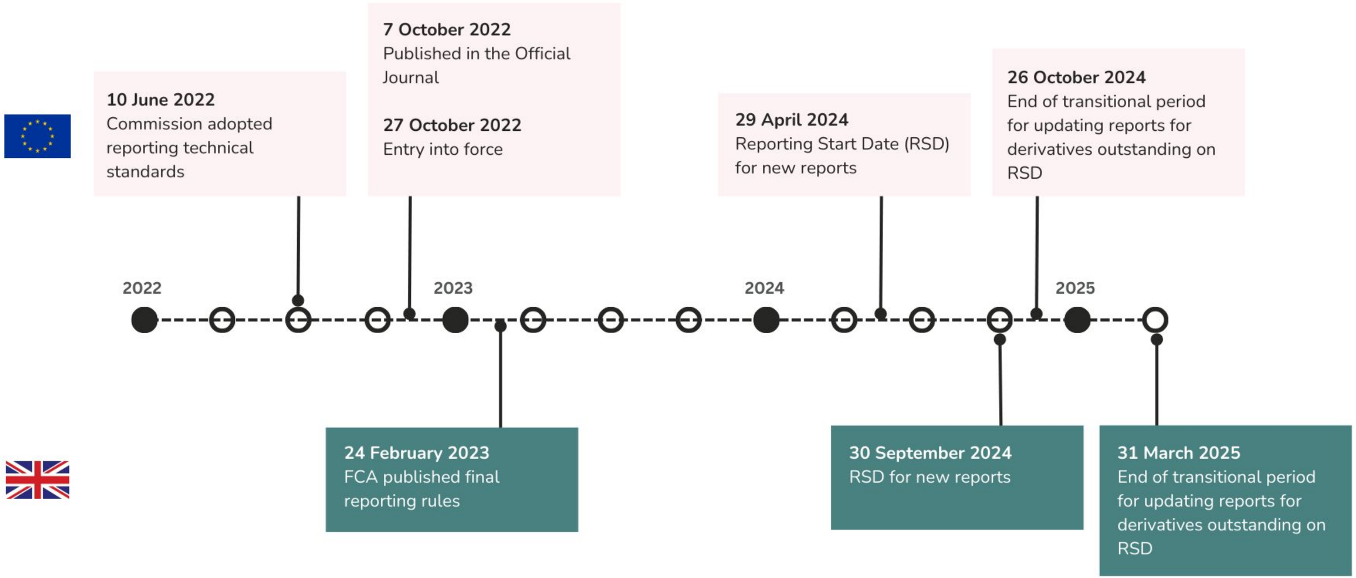
Robust oversight: Strengthening the regulatory framework to adeptly manage and mitigate systemic risks in financial markets.

EMIR Refit: The imminent changes ahead

Overview

The key changes introduced by EMIR Refit reform are multifaceted, encompassing a range of aspects from expanded and modified reporting fields, shifts in data formatting requirements, to increased granularity in trade lifecycle reporting. Accompanying these changes are distinct timelines for implementation across the European Union and the United Kingdom, reflecting the need for a coordinated yet adaptable approach to ensure ongoing compliance.

Figure 1: Timelines for EMIR Refit Implementation in the UK and EU



EMIR Refit: The imminent changes ahead

The impact on data fields

EMIR Refit brings a notable overhaul in reporting requirements, significantly expanding the scope and depth of data that firms must manage. This revision has led to an increase in the number of reportable fields from 129 to 203, a change that includes the addition of 89 new fields while removing 15 previous ones.

To put this into perspective, the total number of reportable fields under EMIR is now over double that of MIFIR for trade and transaction reporting. While simplifications such as the removal of 'Beneficiary' and 'Trading Capacity' fields are noted, the overall complexity for reporting firms has escalated with the introduction of more intricate fields. These new fields delve deeper into details like clearing thresholds, reporting obligations, and corporate sector information of counterparties.

Added field: Unique Product Identifiers (UPIs)

A pivotal addition in EMIR Refit is the introduction of Unique Product Identifiers (UPIs), which bridge a critical detail gap between CFI and ISIN codes. UPIs offer more specific information than CFI codes, which typically provide broad categorisation. For instance, while CFI codes can categorise products like equity CFDs or FX spread bets, they lack specifics about the underlying products. UPIs address this limitation by providing unique codes for each product, such as differentiating between CFDs based on distinct underlyings like EUR/USD and GBP/USD.

UPIs and ISINs are designed to work in tandem, with UPIs required in situations where a derivative does not trade on a venue with a valid MIC Code or where no ISIN is available. This dual reporting approach enriches the granularity of the data provided to regulators.

Accessing and managing UPIs through ANNA DSB

The responsibility for generating and distributing UPIs lies with the Derivatives Service Bureau (ANNA DSB). This platform, which already facilitates ISIN allocation, will enable firms to create new UPIs for their products and extract codes via an interface or API. Additionally, a web-based search page is being developed to facilitate access to UPIs.

ANNA DSB offers seven different user types for navigating the UPI service, varying in cost and access levels. These range from a free access option, allowing basic UPI searches and downloads of daily UPI lists, to fee-based options that provide more comprehensive services like real-time searches for UPIs, creation of new UPIs, and access to a client onboarding and support platform.

EMIR Refit: The imminent changes ahead

Adjusted field: Counterparty side

A notable example of the modifications in reporting fields is the adjustment made to the 'Counterparty side' field. Previously, this field was used to determine whether the entity reporting the transaction was acting as a 'buyer' or a 'seller' in a derivative contract.

With the introduction of EMIR Refit, this identification will now be captured in a newly established field called 'Direction'. In addition, the reform introduces two supplementary fields, 'Direction of leg 1' and 'Direction of leg 2', to further clarify the roles in the transaction. Figure 2 shows how trade repositories can use these fields to determine whether a transaction corresponds to a buyer or a seller.

Figure 2: Determining buyer or seller status in reporting

Reporting Counterparty is...

Buyer IF { Direction = "BYER" **OR** Direction of leg 1 = "TAKE" And Direction of leg 2 = "MAKE" }

Seller IF { Seller = "SLLR" **OR** Direction of leg 1 = "MAKE" And Direction of leg 2 = "TAKE" }

Significant formatting changes

The shift from CSV to XML format in reporting is another fundamental change. This transition underpins the broader objective of harmonisation across varying regulatory regimes, requiring the details of a derivative contract to be reported using a standardised XML template following the ISO 20022 standard.

EMIR Refit: The imminent changes ahead

Data reconciliation

The expansion of reportable fields under EMIR Refit significantly impacts the reconciliation process, an area where Trade Repositories (TRs) assume a central role. Their responsibility in ensuring data accuracy and the effective pairing of trade information is heightened due to the increased scope and complexity of data. TRs are tasked with the crucial function of cross-verifying and aligning data submitted by counterparties, ensuring consistency and reliability in the information reported.

The number of fields subject to reconciliation has risen dramatically from 53 to 149. This increase not only underscores a heightened focus on data accuracy and completeness but also places additional demands on the capabilities of TRs. They are now required to manage a broader array of data points, necessitating enhanced systems and processes to handle the increased volume and complexity.

The implementation of this expanded reconciliation is set to occur in phases, with certain fields being reconciled immediately upon the start of the reporting obligation, while others will begin two years after the reporting start date.

Increased granularity

EMIR Refit introduces an enhanced level of transparency in the reporting lifecycle. New reporting requirements, such as the inclusion of 'Event Type' alongside 'Action Type', provide a more granular view of lifecycle events. This added detail enables a clearer understanding of trade activities and their implications, thereby enhancing overall trade transparency.

EMIR Refit: The imminent changes ahead

ESMA has provided the matrix below to illustrate when reporting is required and at what level (Transactional, ‘T’, or Positional, ‘P’).

Further emphasising this push for granularity is the focus on position-level reporting and Unique Trade Identifier (UTI) generation. Under the new regulation, counterparties are required to report at the trade level and are only permitted to report at the position level upon mutual agreement. This shift marks a significant move towards more detailed and transparent reporting of trade activities.

		Event type											
		Trade	Step In	PTRR	Early Termination	Clearing	Exercise	Allocation	Credit Event	Included in Position	Corporate Event	Update	No Event Type
Action type	New	**T**	**T, P**	**T**		**T**	**T**	**T**		**P**	**T, P**		
	Modify	**T, P**	**T, P**	**T, P**	**T, P**		**T, P**	**T**	**T, P**	**P**	**T, P**	**T, P**	**P**
	Correct												**T, P**
	Terminate		**T, P**	**T, P**	**T, P**	**T**	**T, P**	**T**	**T, P**	**T, P**	**T, P**		
	Error												**T, P**
	Revive												**T, P**
	Valuation												**T, P**
	Margin Update												**T, P**
	Position Component												**T**

Challenges facing financial institutions

With EMIR Refit reporting dates fast approaching, institutions are confronted with a plethora of operational and technological challenges which, if not managed correctly, may hinder their ability to comply. The transition demands sophisticated data management in order to cope with the inflated reporting requirements and the associated complexities of re-reporting and reconciliation. It's precisely these kinds of considerations which underscore the need for proactive and strategic process augmentation ahead of the go-live dates.

Operational challenges

The most glaring challenge facing institutions in the lead up to the implementation deadline is the near doubling of reportable data fields. Such a fundamental escalation in reporting complexity represents a significant increase in workload.

For those firms reliant on manual workflows, the process of data mapping and data lineage is a daunting task. Regulators have high expectations regarding the maintenance of data quality during the transition to the new standards and we have seen supervisors invest heavily in AI and SupTech to better monitor trade reporting. For firms, the capacity to efficiently handle this increased data requirement without compromising accuracy is critical, and for many this may push them beyond their operational limits.

In the absence of a robust and automated solution to facilitate this transition, firms may be left with no choice other than to seek external consultancy support to bolster existing resources. Not only does this incur additional cost, but it may necessitate diverting the focus of internal compliance personnel away from day-to-day responsibilities.

The multifaceted nature of this transition demands not only a financial investment but also a strategic reallocation of time and attention, which could have broader implications on the firm's operational efficiency and focus.

Data collection and reporting challenges

As previously highlighted, EMIR Refit introduces a level of granularity over and above that which was required by its predecessor. Fields like 'Clearing Threshold of Counterparty 2', 'Reporting Obligation of Counterparty 2', and 'Corporate Sector of Counterparty 2' require firms to access more data on their counterparties and demands more sophisticated tooling to enable firms to enhance their counterparty due diligence data aggregation capabilities.

Challenges facing financial institutions

Field dependency validation checks

EMIR Refit introduces the nuanced component of field dependency validation. The complexity here arises from the need to ensure not just the accuracy of data in each field, but also their logical coherence with surrounding data points. Such requirements demand a clear understanding of the interplay and interconnectivity between various data elements. If firms are to perform such validation accurately and at scale, it is critical that they leverage advanced validation mechanisms to augment basic data entry verifications.

The complexities of XML file structure

The transition to XML as mandated by EMIR Refit marks a pivotal shift from the CSV format. Whilst larger incumbents may already have pre-existing XML reporting frameworks, smaller firms may face unexpected operational and technical challenges associated with the new data format.

The more intricate structure and data hierarchy of XML files requires more advanced parsing techniques and tools to transform the input data in the required format that a program can analyse and manipulate. This is crucial, of course, in ensuring the accurate processing of trade data. This complexity is compounded by the larger size of XML files, attributable to their extensive metadata and descriptive tags, making their processing both resource-intensive and time-consuming.

The practicalities of handling XML files further add to the challenge. Manual interaction with these files is often laborious and prone to errors. Such complexities may push firms to seek more specialised expertise in XML file management, achieved through significant investments in training and development, the acquisition of external expertise, or sophisticated tooling.

Challenges facing financial institutions

Reconciliation pressures

Under EMIR Refit, the dual reporting obligation significantly heightens reconciliation demands for financial institutions. Firms must ensure their data reporting aligns with counterparties' submissions, a task complicated by the requirement to rectify any discrepancies within a strict seven-day window. This new mandate places a premium on accurate, efficient reconciliation processes to swiftly identify and resolve mismatches. As a result, firms must develop processes to facilitate closer collaboration between counterparties to limit the frequency of reconciliation breaks, and address any discrepancies if and when they arise.

Staggered implementation deadlines

Those institutions with an operational footprint extending across the UK and Europe face the unique challenge of navigating the staggered go-live dates set by ESMA and the FCA. The discrepancy presents a short, but critical, fourth month period in which firms must manage different reporting fields and schemas. For institutions with obligations under both ESMA and FCA, this translates into maintaining two distinct sets of data standards, and there may be instances where the same trade is reported to two different versions of the EMIR regime, further complicating the reporting process.

Three key steps to get EMIR Refit ready

Step 1: Gap analysis - understanding EMIR Refit requirements

A logical first step for any firm, irrespective of technological maturity, is to conduct a gap analysis to evaluate existing data against the expanded field requirements. This exercise sets the stage for subsequent steps by highlighting any areas requiring correction or enhancement.

Not all firms will have sufficient operational expertise to map data from internal systems in order to populate these new fields. If this is the case, it may be wise to involve potential implementation partners at this, the earliest stage. Suitably experienced partners will not only provide the technology needed to ease the regulatory burden, but will help to map out your own path to compliance.

Step 2: Data architecture - preparing for EMIR Refit reporting

The importance of adopting a strategic approach to data management cannot be overstated, and firms must proactively remedy any deficiencies unearthed during their gap analysis. This may involve upgrading data architecture to accommodate the increased volume and complexity of reports, or implementing processes for ongoing data quality and validation to ensure accuracy and consistency.

One of the primary objectives throughout this process is to ensure that internal data is standardised in line with the ISO 20022 standards, which is vital for efficient data exchange and reconciliation. Investing in systems and technologies that support these standards will be pivotal. Additionally, firms need to establish reliable processes for sourcing Unique Product Identifiers (UPI) from ANNA-DSB, ensuring that the accuracy of underlying instrument reference data parameters is maintained.

Three key steps to get EMIR Refit ready

Step 3: Technology - automating, streamlining and strengthening

The focus now shifts to selecting the right technology partner, a crucial decision to effectively manage your transition to the updated reporting requirements. A platform like eflow's TZTR has the capability to automate and optimise operational efficiency at scale:

- Automate your EMIR Refit reporting: TZTR adeptly manages the increased number of reportable fields, automates submissions, and efficiently handles feedback, alleviating the operational burden faced by your compliance team.
- Connectivity and data integration: eflow offers its users a direct connection with the ANNA database, enabling automatic population of UPI information for each and every trade. Moreover, by utilising a single trade repository, it simplifies integration for clients, eliminating the need to establish individual contracts with trade repositories, enabling users to avoid hidden fees whilst managing multiple relationships.
- Comprehensive support: Beyond its technology, eflow offers personalised support and expertise to institutions throughout the transition process and on an ongoing basis. This is delivered through three key pillars:
    - A responsive help desk to respond to queries quickly, efficiently and effectively.
    - A designated customer success manager to facilitate training and act as a conduit for client feedback.
    - Active real-time monitoring of reporting outputs, offering an additional layer of oversight and confidence in trade reporting.
- Advanced exception handling: eflow's system excels in field-by-field alert handling. It leverages reference data directly from regulators, identifying discrepancies in reporting data with precision. This granularity minimises the need for manual interventions which increase the risk of human error.
- Counterparty management: eflow's comprehensive service includes an initial interview and analysis by the onboarding team, to understand the client's trading patterns and counterparties. This process results in a detailed trade lifecycle diagram, clarifying responsibilities in each report segment, thus reducing ambiguity.
- XML - charting a PATH forward: eflow's proprietary PATH technology was designed to enable users to process vast data stores in varying formats. This primary focus aligns seamlessly with the demands of EMIR Refit transaction reporting, allowing users to process diverse data formats for different sources with confidence and at scale.

Gap analysis → **Data architecture** → **Technology**

Conclusion: Balance efficiency and compliance in the era of change

As firms commence preparations for EMIR Refit implementation, it presents a unique opportunity for institutions to balance the need to comply with broader ambitions to operate more efficiently in an ever-more competitive economic environment. Leveraging a technology-enabled model will likely prove pivotal in enabling firms to achieve these dual objectives.

Getting "Refit ready" cannot be accomplished without strategic forethought and being proactive in understanding and adapting to the new requirements is essential. As we move forward, there's a clear sense of urgency, but with the right technology partner, the journey becomes less of a resource burden and more of an opportunity for firms to excel amongst their peers. The time to act is now.

There is no better time than the present

The complexities associated with EMIR Refit can result in a sense of inertia, with many compliance professionals reluctant to implement a new technology solution amidst the regulatory transition period. However, with eflow's expertise, the process of transitioning to a new provider is not only feasible but can be made seamlessly efficient.

Engaging eflow at this crucial juncture allows our team of experts to shoulder the responsibility, significantly reducing the load on your internal resources. By strategically flipping the switch at the right time with eflow's assistance, firms can navigate the challenges of EMIR Refit with greater ease and confidence, ensuring compliance while minimising the operational impact.

The eflow team is on hand to guide you through the EMIR Refit process and ensure that your firm is compliant ahead of the deadlines.

Get in touch to book a no obligation consultation.

Book a consultation

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