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FINANCE AND BANKING ALERT

IN THIS ISSUE

WHAT TO REPORT AND WHEN? THE NEW OTC TRADE REPOSITORY REGULATIONS

On 20 April 2017, the Registrar of Securities Services (Registrar) published the draft Trade Reporting Obligations Board Notice for a second round of public comment (TRO Notice). The TRO Notice was drafted in terms of s58 of the Financial Markets Act, 2012 (FMA).

WHAT TO REPORT AND WHEN? THE NEW OTC TRADE REPOSITORY REGULATIONS

The main aim of introducing central reporting of OTC derivatives transactions to trade repositories is to improve transparency; protect against market abuse; and reduce systemic risk to the South African economy.

All ODPs are required to report OTC transactions by T+1, ie the end of the business day following the day of execution, conclusion, modification or termination of the derivatives contract.



On 20 April 2017, the Registrar of Securities Services (Registrar) published the draft Trade Reporting Obligations Board Notice for a second round of public comment (TRO Notice). The TRO Notice was drafted in terms of s58 of the Financial Markets Act, 2012 (FMA).

The TRO Notice sets out the binding reporting obligations for OTC Derivatives Providers (ODPs) in respect of transactions or positions in OTC derivatives. The main aim of introducing central reporting of OTC derivatives transactions to trade repositories is:

- to improve transparency;
- protect against market abuse; and
- reduce systemic risk to the South African economy.

The TRO Notice addresses the comments received from the July 2015 consultation process and it seeks to align the South African framework with international standards as proposed by the Financial Services Board to reduce "data reporting fragmentation".

What to report?

In Scope asset classes

The draft TRO Notice provides that all ODPs must report details of their OTC derivatives transactions (whether confirmed or unconfirmed) in the following asset classes to a licensed trade repository:

- commodity derivatives;
- credit derivatives;
- foreign exchange derivatives;
- equity derivatives; and
- interest rate derivatives.

South Africa does not yet have an established or licensed trade repository.

When to report?

The TRO Notice provides that an ODP must ensure that all data reported to a trade repository is consistent and it is required to keep a record of all OTC derivatives transactions (as well as any modifications thereto) for at least five years following the termination of the transaction. Further, all ODPs are required to report OTC transactions by T+1, ie the end of the business day following the day of execution, conclusion, modification or termination of the derivatives contract.

Collateral reporting

Annexure A to the TRO Notice requires that, in respect of all reportable contracts, the parties must indicate whether the trade is:

- uncollateralised;
- fully collateralised (bi-lateral initial and variation margin);
- partially collateralised (bi-lateral variation margin); or
- one-way collateralised (only one party will be required to post some form of collateral).

Data regarding the currency and value of any collateral must be included in the relevant report.

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The Registrar plans to expedite the implementation of the trade reporting obligations and margin requirements so that South Africa can align itself with international standards.



Back-loading

Based on the TRO Notice, ODPs will be required to comply with the reporting obligations six months from the effective date of the TRO Notice (Reporting Start Date). All transactions concluded 18 months prior to the Reporting Start Date must be back-loaded within 180 (one hundred and eighty) days after the Reporting Start Date.

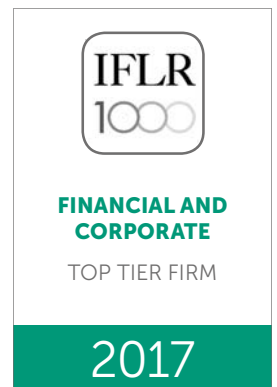
Who must report?

Where two authorised ODPs transact with each other, the counterparties may agree that only one of them will need to fulfil the reporting obligations. However, the non-reporting ODP must provide sufficient information to the reporting counterparty to enable it to fulfil the reporting obligations. Further, the reporting ODP must allocate a unique transaction identifier (UTI) to the transaction and

the counterparty must utilise the same identifier. The UTI enables the trade repository to aggregate and compare data across different trade repositories.

In comparison to other jurisdictions such as the European Union or the United States, South Africa is somewhat behind with the finalisation and implementation of the regulations relating to OTC derivatives transactions. The Registrar plans to expedite the implementation of the trade reporting obligations and margin requirements so that South Africa can align itself with international standards. However, parallel processes such as the authorisation of ODPs and licencing of infrastructures (such as trade repositories) could affect the implementation and transitional arrangements of the TRO Notice.

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