GFMA Global FX Division

Market Architecture Group

Determining the Reporting Party under Dodd-Frank in the Foreign Exchange Market

Version: 20th September 2012

Background to the GFMA FX Market Architecture Group (MAG)

About the GFMA FX Division

The Global Financial Markets Association (GFMA) joins together some of the world's largest financial trade associations to develop strategies for global policy issues in the financial markets, and promote coordinated advocacy efforts. The member trade associations count the world's largest financial markets participants as their members. GFMA currently has three members: the Association for Financial Markets in Europe (AFME), the Asia Securities Industry & Financial Markets Association (ASIFMA), and, in North America, the Securities Industry and Financial Markets Association (SIFMA).

The GFMA Global FX Division, headquartered at AFME in London, was formed in June 2010 to support efforts to promote an efficient global FX market, monitor regulatory developments that could affect the foreign exchange markets and assist the industry in building out the infrastructure of the future. Its members comprise 22 global FX market participants, collectively representing more than 90% of the FX market (according to Euromoney surveys).

About the MAG

The MAG is a working group of the GFMA FX Division. Its principal remit is to promote common industry standards and workflows in response to the new international regulatory environment. As such, the group wishes to foster dialogue and discussion with a wide range of market participants, vendors, industry utilities and regulators. The group works closely with ISDA in respect of other asset classes to harmonise cross-asset approaches where possible.

As the first key leg of implementing regulatory reform, the group is focusing on the approach to global trade reporting. This work includes focusing on the development of identifiers (in particular unique transaction identifier workflows and product identifiers / taxonomies) and protocols for determining various reporting responsibilities. All of the MAG's relevant documentation is posted on the GFMA's website at: http://www.gfma.org/initiatives/foreign-exchange-(fx)/fx-market-architecture/

Whilst the group will continue to focus on supporting regulatory reporting, it will also be discussing approaches to all new regulatory infrastructure, including in respect of clearing and execution. Market participants are encouraged to communicate with the MAG on these, or any other related issues.

Important notice

Please note that any materials issued by the MAG contain suggestions and comments on approach based solely upon the views of the participants of the MAG. These materials have not been validated with regulators or any other participants, stakeholders or advisers (including legal advisers) to assess compliance with legislation in any applicable jurisdiction, and GFMA makes no representations as to the accuracy or completeness of the materials.

The materials issued by the MAG are provided for informational purposes only. They do not constitute, and should not be relied upon as, legal, tax or other advice.

It is up to individual market participants to determine how best to meet any relevant regulatory requirements and to ensure that they conduct their own appropriate due diligence when implementing processes and procedures, including, as necessary, seeking advice or guidance from local regulators and legal or other advisers.

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Neither GFMA nor any participant of the MAG shall have any liability (in contract, tort, negligence or otherwise) to any GFMA member or any other person with respect to any use they make of these documents.

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1. Background

This document relates to certain aspects of the reporting requirements for the foreign exchange industry as set out in 17 CFR Part 45 Swap Data Recordkeeping and Reporting Requirements ("Part 45") and 17 CFR Part 43 Real-Time Public Reporting of Swap Transaction Data ("Part 43") as issued by the CFTC to implement provisions of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank").

The CFTC rules set out the requirements relating to reporting of eligible trades to a swap data repository ("SDR"). Under these rules, one party to the trade bears the responsibility to ensure that the trade is reported (the "Reporting Party"). The CFTC has set out a hierarchy whereby Swap Dealers always report when trading with Major Swap Participants and End Users, and Major Swap Participants always report when trading with End Users. Within each level of the hierarchy it is left to participants to determine which party should act as the Reporting Party.

This document sets out some suggested rules that participants may wish to consider for determining the Reporting Party within a relevant hierarchy level, as well as setting out suggestions in respect of specific hierarchy cases not covered by the above.

2. Participants at the same level of hierarchy

The FX Cash Rule: The seller of risk in the currency which is first, when sorted alphabetically by ISO code, would bear responsibility to report the trade.

The Option Seller Rule: The seller of the product in the transaction would bear responsibility to report the trade.

Application to the FX Taxonomy[1]

Taxonomy	Rule	Comment
Forward	FX Cash Rule	For FX Swaps, the Reporting Party of both legs of the swap would be determined by applying the FX Cash rule to the far-leg of the swap
NDF	FX Cash Rule	
Option	Option Seller Rule	
NDO	Option Seller Rule	
Simple Exotic	Option Seller Rule	
Complex Exotic	See Comment	For a complex exotic product where there is an unambiguous seller of the product, the Option Seller Rule would apply. The seller determination would be driven by the seller as agreed in the standard FPML representation of the product. If there is no clear seller then the FX Cash Rule would apply.

[1] Please see http://www2.isda.org/identifiers-and-otc-taxonomies/ for the latest version of the FX taxonomy, which has been developed in cooperation with the MAG.

3. Participant hierarchy cases

- The Executing Broker under an FX master prime brokerage give-up agreement would be the Reporting Party for the EB to prime broker leg of a give-up.
- The Prime Broker would be the Reporting Party for the prime broker to prime client leg of a give-up.
- If both parties are prime brokered, the parties are considered to be at the same place in the hierarchy and the methodology above applies.
- If a new trade not originating from a bilateral trade between two participants[2] is created between a DCO or CCP and another market participant (e.g. in the cases of portfolio compression or transfer) then it is suggested that the market participant would retain the reporting party obligations, but the DCO or CCP may act as their agent.

4. Discussion in support of the above

The assignment of the Reporting Party is built on a principles basis and is intended to be capable of being leveraged to further guide product specific discussion which may not be covered by the broad statements above.

Principle 1: Rules must cater to the lowest common system denominator

There are several means for booking trades in the FX marketplace which are economically equivalent but create different types of trade records which may or may not be linked. As such, the individual legs of an execution (i.e., multi-leg option strategy for which there is no agreed confirmation template, etc) are suggested to be reported independently (in the same way that they are confirmed) and therefore assigned independent Reporting Parties.

Principle 2: the seller of risk is the Reporting Party

For products where there is a single exchange of cash there is a clear buyer and a clear seller of the product. Accordingly it is suggested that:

- The net receiver of premium takes on the obligation to report.
- For index products the seller of the index is obligated to report.

In the case of cash FX and structures where no premium is exchanged and the seller of risk is open to interpretation, the FX cash rule is suggested to apply.

Principle 3: the Reporting Party should be apparent to any party reviewing the trade, regardless of market experience or knowledge

In defining the Reporting Party for the FX Cash Rule, a number of potential outcomes were explored. The first would involve defining the relative economic strength of one currency versus another. However, this is dynamic and changes over time and requires an agreement as

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[2] This clarification does not apply to newly cleared bilateral trades and for the trades that it does apply, it is the expectation that if the other participant is a Swap Dealer or Major Swap Participant then they will be required to submit valuations

to which metric or metrics to apply to determine relative economic strength. This also captures NDF and cash settled forwards as non-market specialists may not know if a currency's typical market convention is non-deliverable or deliverable.

Secondly, the use of quote terms on the trade was also explored as being a viable option as the seller of the numerator currency in the dealt rate taking on the reporting obligation. However, no universally agreed quoting style currently exists.

The solution suggested uses the alphabetic order of the ISO currency codes. For instance trading CHF-CAD, CAD comes first alphabetically and so the seller of CAD would take on the obligation to report.

Principle 4: minimize disruption to existing market conventions

In discussing the impact of trade reporting on the prime brokerage market, it was recognized that the transaction is not fully executed until the prime broker has stepped into the trade. However, this may take several hours from the time the trade was originally priced – thereby leading to misinformation or noise being made available under real-time public dissemination. As a resolution, and in recognition of the fact that the prime broker is bound to accept the trade as long as it is within the terms of the designation notice, and the EB is under the obligation to ensure transactions are done within the terms of the designation notice – it is suggested that the least disruptive solution to trade reporting under a prime brokerage arrangement is for the EB to report the EB-PB leg at execution under the assumption of PB clearing regardless of EB position in the reporting hierarchy relative to the PB, and that the PB step-in should be treated as a non-price forming lifecycle event on the trade in which the PB will report the PB-client leg of the give-up.

Version Control

New version	Previous version	Summary of changes to previous
20th September 2012	1st June 2012	Editing changes throughout document