GFMA Global FX Division

Market Architecture Group

MiFID II and FX Swaps

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Background to the FX Market Architecture Group (MAG)

About the Global Financial Markets Association's (GFMA) Global FX Division (GFXD)

The GFXD was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 25 global foreign exchange (FX) market participants[1], collectively representing over 80% of the FX inter-dealer market[2]. Both the GFXD and its members are committed to ensuring a robust, open and fair marketplace and welcome the opportunity for continued dialogue with global regulators.

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.

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 infrastructures, 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.

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[1] Bank of America Merrill Lynch, Bank of New York Mellon, Bank of Tokyo Mitsubishi, Barclays, BNP Paribas, Citi, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Lloyds, Mizuho, Morgan Stanley, Nomura, RBC, RBS, Scotiabank, Société Générale, Standard Chartered Bank, State Street, UBS, Wells Fargo and Westpac

[2] According to Euromoney league tables

Contacts

MAG Chairs: Jesse Drennan (jesse.r.drennan@us.hsbc.com)
Louise Goddard (louise.goddard@db.com)
GFMA: Andrew Harvey (aharvey@gfma.org)

Background

The MAG has recently performed an exercise to assess how the current global industry representation of a FX swap for regulatory purposes should be considered within the Markets in Financial Instruments Directive II (MiFID II) and associated Regulation (MiFIR).

This assessment was required due to the new definitions of package transactions under MiFID II/R, as well as the new requirement to represent transactions with an ISIN for Transaction Reporting purposes. The MAG also considered the suitability of the representation for other obligations under MiFID II/R, such as trading on trading venues.

We believe that a consistent representation will promote harmonisation, resulting in a more effective outcome to meet regulatory and market requirements alike.

Considerations

Our assessment considered the following:

- the definition of a package under MiFIR[3];
- the existing global FX market's use of the ISDA FX 2.0 taxonomy, which does not have an instrument type 'FX swap'[4];
- the existing post trade reporting obligations, globally implemented under the 2009 Pittsburgh G20 commitments, including EMIR[5], where FX swaps are widely reported as two individual FX forwards, linked with an appropriate ID;
- the existing FX swap definitions under EMIR for margin on un-cleared derivatives purposes as well as the CFTCs DEA definition[6];
- FX contracts which are excluded from MiFID II, MiFIR and EMIR obligations, including relevant spot contracts[7]
- the existing requirements to report FX swaps under Central Bank market reports, such as those produced by the Bank of England and Federal Reserve Bank of New York[8]; and
- the new requirements to assign ISINs to transactions under MiFIR for post-trade and transaction reporting, as well as an expectation that this ISIN could be used for other purposes such as promoting a consistent product identifier for trading on trading venue purposes[9].

Conclusion

Considering the above, the GFXD supports that for the purposes of MiFIR transaction reporting and transparency and EMIR trade reporting requirements, a FX swap is a package transaction consisting of two FX forwards, a near and far leg and that this representation should be considered irrespective of the

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[3] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0600-20160701&from=EN

[4] http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/upi-and-taxonomies/

[5] https://www.esma.europa.eu/policy-rules/post-trading/trade-reporting

[6] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R2251&from=EN and Commodity Exchange Act (CEA) 1a(25)

[7] https://ec.europa.eu/transparency/regdoc/rep/3/2016/EN/3-2016-2398-EN-F1-1.PDF - Article 10

[8] http://www.bankofengland.co.uk/markets/Pages/forex/FXjsc/default.aspx and https://www.newyorkfed.org/fxc/volumesurvey/index.html

[9] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2017:087:TOC

tenor of each leg.

Note: this also includes FX swaps with tenors less than 'spot' dates.

An individual FX forward ISIN should be used for each leg. The two FX forwards should be flagged with a package identifier (where that is available) to ensure that the consumers of any data reported will understand that the individual legs are part of a package.

Market participants, including trading venues should therefore use two FX forward ISINs for each swap, noting that current ISIN structure includes a maturity date element which will enable that ISIN to be used for all relevant transactions which mature on the specific single maturity date contained within the ISIN.