



The Effect of OTC Derivative Market Regulation on Canadians

JAMES HOLLANDS
Head of triResolve Sales
TriOptima

MIKE KOURIS
Head of Regulatory Initiatives
Scotiabank

GORDON F. PEERY, ESQ.
Global Derivative Advisor
Borden Ladner Gervais LLP



Portfolio Reconciliation in the Post Regulatory Environment

Toronto - April 2014



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Agenda

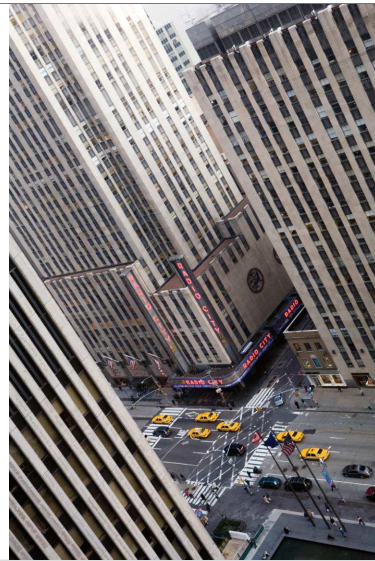


- Global portfolio reconciliation requirements
- ISDA protocol considerations
- Canadian Trade Reporting rules
- Repository validation
- Growth in global reconciliation



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Portfolio Reconciliation Regulation




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CFTC Portfolio Reconciliation Rules



Overview of §23.502 Portfolio Reconciliation

Item	Swaps with SDs and MSPs	Swaps with Other Entities
Rule applicable to	Swap Dealers (SDs) and Major Swap Participants (MSPs)	
Compliance date	Compliance required from the 23 rd of August 2013	
Terms	Agree in writing with each counterparty on portfolio reconciliation terms	
Scope	Swaps (collateralized & uncollateralized) within the CFTC's jurisdiction Cleared swaps excluded	
Reconciliation venue	Bilateral or a qualified 3 rd party	Bilateral or 3 rd parties subject to agreement of the parties
Reconciliation frequency	Daily for portfolios ≥500 trades Weekly 51-499 trades Quarterly 1-50 trades	Quarterly for portfolios ≥101 trades Annually 1-100 trades
Material terms definition	Terms to be reported to SDRs	
Resolution of parameter discrepancies	Immediate resolution of any discrepancies in material terms	Resolution of any discrepancies in material terms in a timely fashion


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CFTC Portfolio Reconciliation Rules



Overview of §23.502 Portfolio Reconciliation

Item	Swaps with SDs and MSPs	Swaps with Other Entities
Valuation discrepancy definition	A difference between the lower valuation and the higher valuation of more than 10% of the higher valuation.	
Resolution of valuation discrepancies	Establish policies and procedures reasonably designed to ensure that swap valuation discrepancies are resolved as soon as possible but in any event within five business days	Establish policies and procedures reasonably designed to resolve swap valuation discrepancies in a timely fashion
Reporting of valuation disputes	Valuation disputes outstanding for more than 3 business days and exceeding USD 20M to be reported to the CFTC and other US regulators (if applicable)	Valuation disputes outstanding for more than 5 business days and exceeding USD 20M to be reported to the CFTC and other US regulators (if applicable)
Record keeping	Each swap dealer and major swap participant shall make and keep a record of each swap portfolio reconciliation, including the number of portfolio reconciliation discrepancies and the number of swap valuation disputes (including the time-to resolution of each valuation dispute and the age of outstanding valuation disputes, categorized by transaction and counterparty), for a period of five years after termination, maturity, expiration, transfer, assignment or novation date of the swap. Records to be made available promptly on request to CFTC and other US regulators (if applicable)	

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ESMA Portfolio Reconciliation Rules



Item	Swaps with Financial and Non-Financial counterparts (NFC)*	Swaps with Non-Financial counterparts (NFC) below clearing threshold*
Rule applicable to	Financial and non-financial institutions within the European Union	
Compliance date	Compliance required from the 15th September, 2013	
Terms	Agree in writing, or through equivalent electronic means, with each counterparty on portfolio reconciliation terms	
Scope	OTC Derivatives (collateralized & uncollateralized) Cleared swaps excluded	
Reconciliation venue	Bilateral or a qualified 3rd party duly mandated	Bilateral or a qualified 3rd party duly mandated
Reconciliation frequency	Daily for portfolios ≥ 500 trades Weekly 51-499 trades Quarterly 1-50 trades	Quarterly for portfolios ≥ 101 trades Annually 1-100 trades
Agreement of resolution of discrepancies between counterparts	(a) Procedures and processes to identification, recording and monitoring disputes relating to the recognition or valuation of the contract and to the exchange of collateral. (b) Resolution of disputes in a timely manner with a specific process for those disputes that are not resolved within five business days .	


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ESMA Portfolio Reconciliation Rules



Item	Swaps with Financial and Non-Financial counterparts*	Swaps with Non-Financial counterparts below clearing threshold*
Reporting of certain disputes	Disputes outstanding for more than 15 business days and exceeding EUR 15M to be reported by Financial Counterparts to the competent authority designated (Article 48 of Directive 2004/39/EC)	

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ISDA Protocols



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ISDA Portfolio Reconciliation Protocols



- The agreement of Reconciliation Terms is mandated under both EMIR and Dodd Frank
- ISDA has produced protocols to facilitate the mass amendment of terms of participants covered agreements
- If both parties in a trading relationship adhere to a protocol - agreement has occurred (further detail may have to be agreed...)
- Adherence and protocol material can be viewed on the ISDA website:

ISDA 2013 EMIR Port Rec, Dispute Res and Disclosure Protocol
<http://www2.isda.org/functional-areas/protocol-management/protocol/15>

ISDA March 2013 DF Protocol
<http://www2.isda.org/functional-areas/protocol-management/protocol/12>



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Dodd-Frank Protocol Considerations

- Registered Swap Dealers (SDs) have a **regulatory compliance** obligation
- SDs must reconcile all of their portfolios under D-F
- SDs perform reconciliations or send portfolio reports to clients either **Quarterly or Annually** based on portfolio size
 - SDs may request that their counterparts supply portfolio data for reconciliation to preserve the trading relationship
- Non-dealers may have a **contractual compliance** obligation
- March 2013 Supplemental D-F Protocol – Schedule 4
 - Some execute as receivers of portfolio data
 - Some as exchangers of portfolio data
 - Exchangers have a **contractual compliance obligation**

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EMIR Protocol Considerations

- All EU FCs and NFC parties have a portfolio reconciliation **regulatory compliance** obligation under EMIR
- Protocol adherence is required under EMIR so there is also a **contractual obligation**
 - Receiving Entity vs. Sending Entity, it is the Receiving Entities responsibility to reconcile
 - Sending Entity vs. Sending Entity. Data exchange and both parties must perform reconciliation
- Some firms agree portfolio reconciliation terms bilaterally (Disclosure element a common concern)
- Changing from D-F protocol to EMIR protocol for EU based CPs
 - ISDA "Top-Up" agreement:
<http://www2.isda.org/search?headerSearch=1&keyword=top+up>

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EMIR Protocol Considerations



- While non-EU firms (“TCE’s”) are not required to comply with the regulations, signing of the protocol constitutes legal commitment
- Some firms agree portfolio reconciliation terms bilaterally (Disclosure element a common concern)
- Changing from D-F protocol to EMIR protocol for EU based CPs
 - ISDA “Top-Up” agreement:
<http://www2.isda.org/search?headerSearch=1&keyword=top+up>



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Wider Regulatory Considerations?



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Post Regulatory Challenges



- Exponential increase in portfolio exchange
- Regulatory developments in new jurisdictions
- Portfolio and data bifurcation
 - Cleared populations (multiple clearing houses and clearing members)
 - Legacy bilateral (collateralized and uncollateralized)
 - Trade repositories

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Post Regulatory Challenges



- Repository proliferation across the globe
- Valuation/Collateral submissions to repositories for EMIR (Likely Aug 2014)

2015 and beyond?

- Bilateral Initial margin for new trades

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Trade Reporting



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Canadian Reporting Rules



On November 14, 2013, final versions of harmonized derivatives rules in respect of product determination, trade repositories and derivatives data reporting were simultaneously published by:

1. The Ontario Securities Commission (OSC)
2. Manitoba Securities Commission (MSC)
3. Autorité des marchés financiers (AMF) [Quebec]

OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting

MSC Rule 91-507 Trade Repositories and Derivatives Data Reporting

Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting



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Effect of OTC Derivative Market Regulation on Canadians





On April 17, 2014 The OSC, MSC and AMF amended Trade Repositories and Derivatives Data Rule.

- **October 31st** for clearing agencies and dealers
- **June 30, 2015** for other participants
- **Repealed** the TR Rule requirement for local non-dealer counterparties to monitor and confirm that transaction reporting requirements have been satisfied by their foreign dealer reporting counterparties

OSC Amends Trade Repositories and Derivatives Data Reporting Rule

TORONTO – The Ontario Securities Commission (OSC) published today amendments to OSC Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (TR Rule). The amendments extend the effective date of reporting obligations under the TR Rule and alleviate certain reporting burdens on Ontario non-dealer counterparties.

On April 10, 2014, the CSA announced intentions to extend the July 2, 2014 date for the commencement of OTC derivatives trade reporting. Accordingly, today's Notice amends the effective date of reporting obligations under the TR Rule to October 31, 2014 for clearing agencies and dealers, and to June 30, 2015 for all other OTC derivatives market participants.

The extension will provide additional time for trade repositories engaged in the designation or recognition process to accept market participants onto their systems and develop the reporting infrastructure necessary to comply with the rule. The Autorité des marchés financiers and the Manitoba Securities Commission published related Notices today.

The OSC has also repealed the TR Rule requirement for Ontario non-dealer counterparties to monitor and confirm that transaction reporting requirements have been satisfied by their foreign dealer reporting counterparties. The OSC understands there are significant resource and technological challenges for non-dealer counterparties in developing systems to monitor their counterparties' reporting, and this amendment serves to alleviate this burden on smaller end-user counterparties.

The OSC remains committed to guiding market participants through the transition to the TR Rule and to developing a strong derivatives oversight regime for Ontario's capital market.




Today's amendments do not represent a material substantive change and, consequently, are not required to be published for public comment.

The amendments can be found on the OSC's website at www.osc.gov.on.ca




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Item	US	Europe	Canada
Regulation	Dodd-Frank	EMIR	Trade Repositories and Derivatives Data Reporting
Regulatory Body	CFTC	ESMA	Canadian Provincial Security Regulators
Compliance Date	May 29, 2013 (final phase-in date)	February 12, 2014	October 31, 2014 (formerly July 2, 2014)
Reporting model	Single-sided reporting	Double-sided reporting	Single-sided reporting
Delegation permitted	Not applicable	Yes	Yes
UTI/USI	Dealer assigns	Bilateral agreement	Bilateral agreement or SDR assigns
Dealer market participants	SD/MSP	FC/NFC+	Derivative Dealer
Other market participants	End-User	NFC-	End User
Threshold	\$8 billion de minimis threshold	Asset class based thresholds	No threshold
Timing	Real time	T+1	T+1
What is reported?	OTCs (trade and mtm)	OTCs and ETDs (trade, mtm and collateral information)	OTCs (trade and mtm)



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Canadian Reporting Rules

Item	Description
Compliance date	October 31 st 2014 – for Cleared and Dealer transactions (formerly July 2 nd 2014) June 30 th 2015 – End user transactions (formerly September 30 th 2014)
Product Scope	All derivatives involving a “Local Counterparty” (LC) <i>Notable Exclusions:</i> FX Spots Physical Commodities physically settled Physical commodities where a local counterparty to the trade has a gross notional less than \$500k
Market Participants	Local Counterparty definition i. Person or company “organized” under Canada law ii. Person or company principal business or head office in relevant province iii. Guaranteed affiliate of the above iv. Registered “Derivatives dealer” – a person or company engaging in the business of trading derivatives as principal or agent.....registration process open in Quebec but no requirement/measure to register
Reporting party	<ul style="list-style-type: none"> Cleared transactions – CCP reports Involving Dealer – Dealer reports Dealer vs Dealer – Commission recommends delegation to avoid duplication End user when no dealer - Commission recommends delegation to avoid duplication




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Canadian Reporting Rules

Item	Description
Backloading	Transactions live on reporting start date and will still be live on 31 st December 2014 must be reported by 31 st December 2014
Identifiers to be reported	LEI, UPI, UTI
Timing	Goal for Real Time, t+1 deadline for all data Valuation Data <ul style="list-style-type: none"> Daily for Dealers and CCPs Quarterly for local end users
Local counterparty fallback	Local End users must report if non-local dealer fails Checks will need to be in place: Best practice to have “notice of confirmation” (The OSC, MSC and AMF repealed the TR Rule requirement for local non-dealer counterparties to monitor and confirm that transaction reporting requirements have been satisfied by their foreign dealer reporting counterparties)
Errors and omissions	Upon discovery of an error or omission – notification must occur no later than t+1
Data record keeping	For 7 years after maturity



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Canadian Supporting Docs



ISDA have produced two documents to facilitate compliance

1. **ISDA Canadian Representation Letter #1** (March 14, 2014)
 - Bilateral notification of organization type (Dealer, Local Counterparty, Affiliate) and jurisdiction (Province or Provinces)

http://www2.isda.org/attachment/NjM2Mw==/SETOR1-%236216374-v3-ISDA_Canadian_Representation_Letter_Final_Version.doc

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Canadian Supporting Docs



2. **ISDA Canadian Transaction Reporting Party Requirements** (April 4, 2014)

- Dealer v Dealer or LC v LC = delegation to one of the parties is accepted and preferred
- Doc can be utilized for “**Same Level Determination of the Reporting Party**”
- Leverages CFTC hierarchy determination by Asset Class

http://www2.isda.org/attachment/NjQxOQ==/Reporting%20Party%20Requirements_Canada_4Apr14_FINAL.pdf

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Repository Reconciliation



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triResolve Dodd-Frank – Repository Reconciliation Drivers



- Under Dodd-Frank only SDs report trades to repositories (i.e. **single sided reporting**)
- **Increased appetite to check** that dealers reported trades correctly to **SDRs**
 - Government's **first detailed view** of buy-side positions in market
 - **Fear of CFTC enforcement actions** for bad data
 - **Good internal control** – introduction of LEI causing noise in data quality
 - Ability to **consume USIs**
- **Material Terms** reconciliation



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EMIR Repository Reconciliation Drivers



- Many **buy-side** parties will **delegate trade reporting** to EU TRs to their **dealer** counterparts
- Under the Trade Reporting regulations they have an **obligation to ensure** that **trades reported** on their behalf are **accurate**
- CPs may report to **different repositories** under EMIR
- Scope of portfolio is generally larger (i.e. include cleared and ETD trades)
- **Large demand** for reconciliation of own books to own record at repository to ensure Trade Reporting regulations compliance

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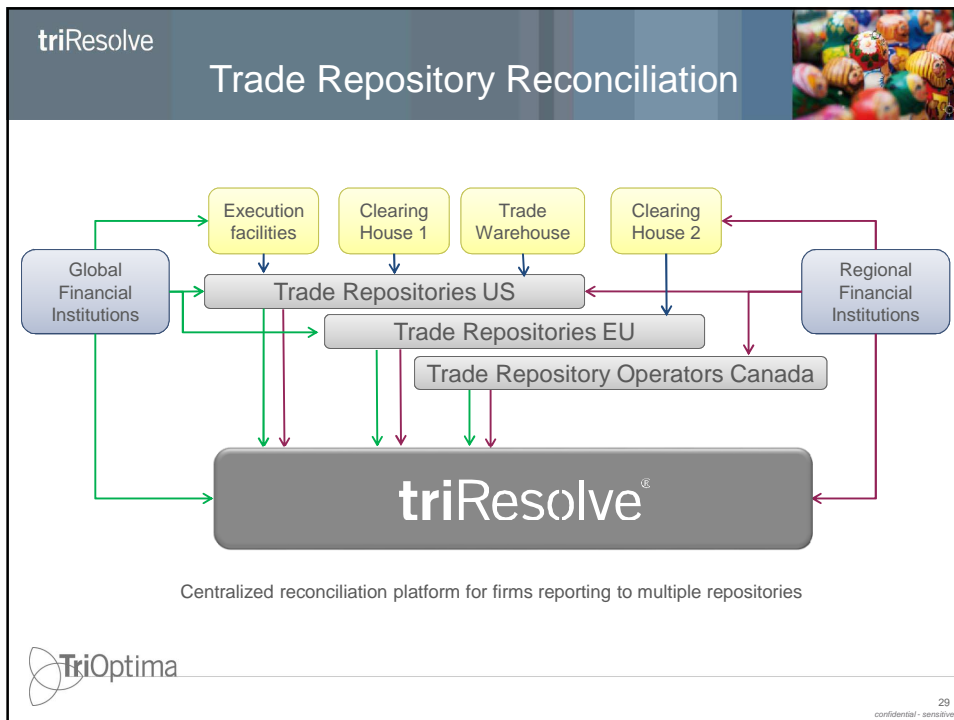
Canadian Repository Reconciliation Drivers



- **Responsibility** – delegation may occur but reporting party remains responsible for timeliness and accuracy
- **Errors and Omissions** - Upon discovery of a discrepancy or non-reported trade:
 - Non reporting LC must inform Reporting Party on t+1
 - Reporting party must notify TR t+1

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After USI/UTIs are booked, ideally firms send these back to triResolve in the daily feed

- Review, consume and identify discrepancies across matched trades
- For all trade types reconciliation is available in both sections in triResolve
 - Exposure reconciliation
 - Repository reconciliation

UTI Trade Browser, ABC/KTH ISDA 2013-10-21 USD

Filter: own matched major=us

Common filter keywords: break, own, unmatched, diff. For the full list of filters, see the Filter Reference section of the main help file.

Match	Party	CP	Trade ID	CP Trade ID	UTI	Product Class	F/R	Notional	Cur	Notional2	Cur2	Strike	Reference Entity	Trade D	Start D	End D	MMNC	MMN Date
***	ABC1	KTH1	158194113057246		51667627e4c44822366b04f3	Credit - Default Swap - Unspecified		674,638	EUR				PUBLICIS GROUPE SA	2012-11-21	2012-11-22	2016-09-20	USD	2013-10-21
	KTH1	ABC1	68746461356849		5e19cc0cc01c180851a2761	Credit - Default Swap - Unspecified		674,638	EUR				PUBLICIS GROUPE SA	2012-11-21		2016-09-20	USD	2013-10-21
***	ABC1	KTH1	e76c5abaf2982f		254c1baf44c56ee42a9ff4	FX - Option		250,000,000	USD	1,547,500,000	CNY	6.19		2013-04-26	2013-04-26	2013-10-31	USD	2013-10-21
	KTH1	ABC1	122979ec13716e		8096f8ee43cf389102224059	FX - Option		1,547,500,000	CNY	250,000,000	USD	6.19		2013-04-26	2013-04-26	2013-10-31	USD	2013-10-21

Match Selected | Unmatch Selected | Approve Selected | Add Selected to Cart | Add Selected to New Cart | Eligible for Rematch | Calculate Badness | Bulk Add/Edit Breaks | Bulk Comment | Edit Match View | Data Summary | Report Component

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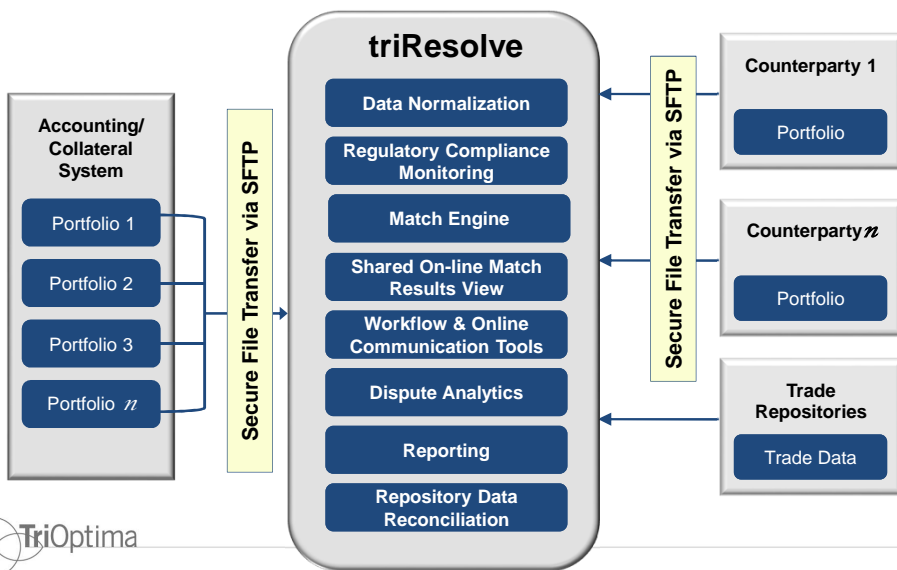
Growth in Global Reconciliation



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Online Multilateral Community



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