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Implementation of Australia's G20 OTC Derivatives Reform Commitments

**AFMA Be-Briefed Session
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Agenda



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- **Background – G20 commitments and ASIC’s role in implementation**
- **Australian implementation updates:**
 - Trade reporting
 - Overview of new rules
 - Central clearing
 - Platform trading
 - Bilateral risk mitigation
- **International aspects:**
 - Substituted compliance/equivalence processes
 - Cross-border engagement
- **What’s next for OTC derivatives reform in 2014?**

Background – GFC and OTC derivatives

- GFC:
 - Collapse of Lehman Brothers and bailout of AIG
 - a lack of transparency in OTC derivatives markets hampered crisis resolution efforts of authorities and increased market uncertainty
 - Exposures between market participants not fully understood by regulators
- G20 objectives with regards to OTC derivatives markets:
 - improved transparency,
 - mitigation of systemic risk, and
 - protection against market abuse.
- More generally G20 objectives:
 - **Growth:** fostering an open, global financial system that can finance economic growth,
 - **Reforms:** Substantially completing core reforms in response to GFC: building resilient financial institutions, ending too-big-to-fail; addressing shadow banking risks; and making derivatives markets safer



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Background – G20 OTC derivatives reform commitments

Trade reporting

- All OTC derivative transactions to be reported to trade repositories

Central clearing

- All standardised OTC derivatives transactions to be centrally cleared

Platform trading

- All standardised OTC derivatives transactions to be traded on exchanges or electronic trading platforms, “where appropriate”

Bilateral risk mitigation

- Increased capital requirements
- Margining requirements
- Bilateral risk mitigation requirements



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ASIC's Role in Implementation

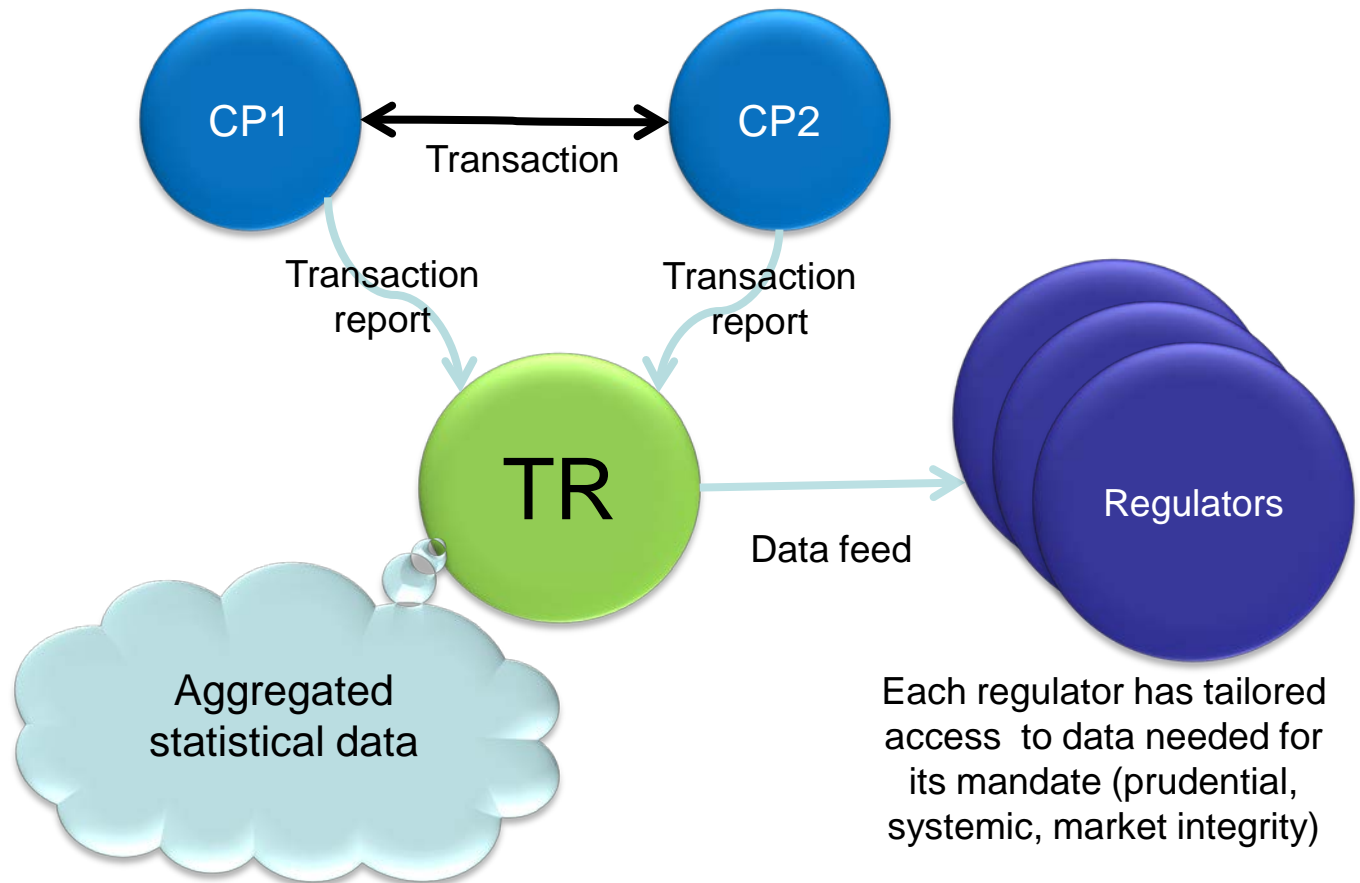


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- Australian implementation through the Council of Financial Regulators (CFR):
 - ASIC
 - APRA
 - RBA
 - Treasury
- Corporations Act Part 7.5A gives ASIC rulemaking power
 - dependent on Ministerial mandates
- CFR recommends mandates to Minister through periodic market assessment reports
- ASIC rules and guidance to date:
 - ASIC Derivative Trade Repository Rules 2013
 - ASIC Regulatory Guide **RG249**: Derivative trade repositories
 - ASIC Derivative Transaction Rules (Reporting) 2013
 - Regulatory Guide **RG251**: Derivative transaction reporting

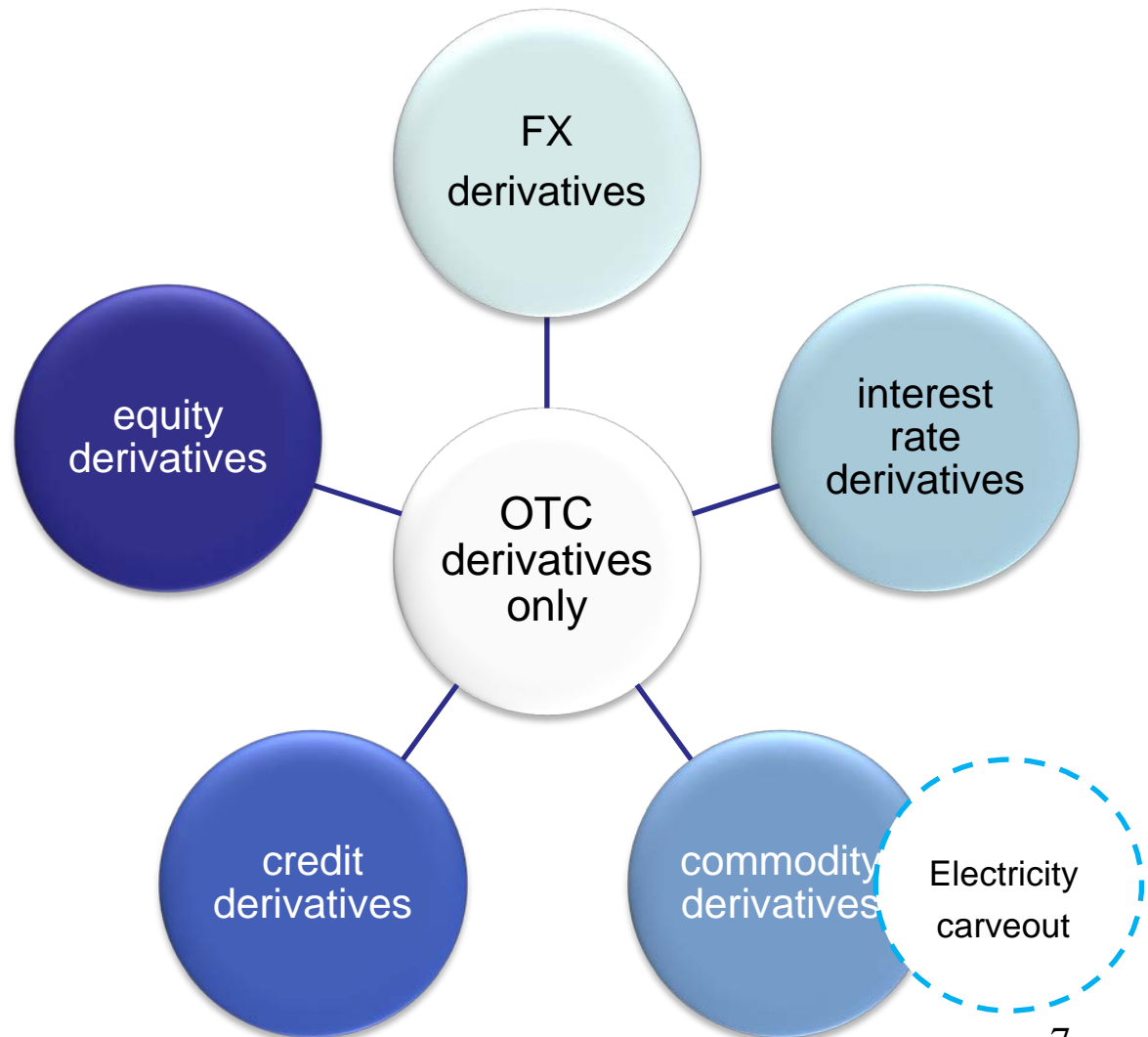
Trade reporting - what are trade repositories?



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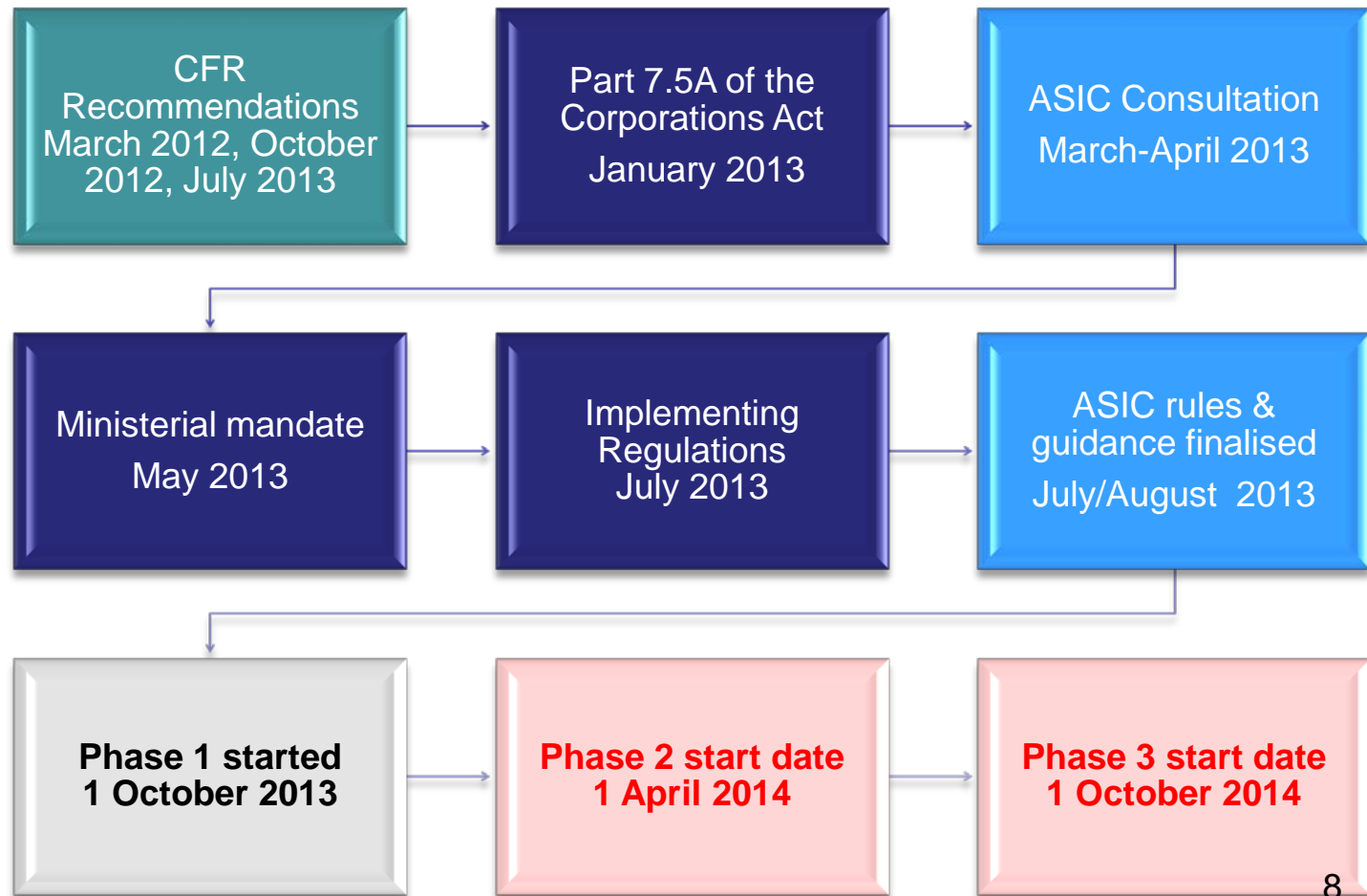
Which asset classes are reportable to trade repositories?



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Trade reporting – process so far



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Trade reporting phases



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Phase	Who covered	Transaction reporting start date
1	CFTC registered swap dealers (ie major banks)	1 October 2013
2	Major financial institutions (≥\$50b notional outstanding)	1 April 2014 (rates, credit)
		1 October 2014 (other)
3	Other financial entities (ADIs, AFSLs, wholesale exempt firms, CCPs)	1 October 2014 (rates, credit)
		1 April 2015 (other)
--	Non-financial entities	No current plans to cover

Two-sided reporting



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- Both counterparties to transaction must report to a TR if both covered by scope of obligation
- If a counterparty is not subject to a reporting obligation, or has not yet been phased-in, they do not need to report.
- Reporting entities can delegate reporting e.g. to counterparty, CCP, etc
- Foreign reporting entities can report under foreign rules to prescribed TRs if the foreign rules are “substantially equivalent”

Trade reporting rules – Delegated reporting

- The rules allow for a reporting entity to report by another person reporting on its behalf
 - A reporting entity that appoints another person to report on its behalf remains responsible for complying with the rules in relation to the report
 - The party appointed may be a counterparty, a central counterparty, a trading platform, a service provider, a broker or any other third party
 - Delegating entity must take all reasonable steps to ensure accuracy and currency of info reported on its behalf
- Typically, large financial institutions (counterparties) may be willing to report on behalf of smaller counterparties (eg funds or AFSLs)
- Some custodians may be in a position to report for some funds



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Trade reporting rules – Who will need to report what?

Reporting entity	Transactions reported	Reported to
Australian entity ie incorporated or formed in Australia	All OTC Derivatives to which the entity is a counterparty	Licensed TRs (prescribed TRs until 1/10/14)
Foreign ADI with a branch in Australia Foreign corporation registered under Part 5.2B Corporations Act	All OTC Derivatives: -Booked to the P/L account of an Australian branch; or - entered into by the entity in this jurisdiction	Licensed TRs Prescribed TRs



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Trade reporting rules – Which trade repositories can be used?

- No TRs licensed as yet in Australia
 - DTCC Data Repository Singapore is licensed in Singapore and is expected to formally apply for an Australian TR licence soon
- TRs prescribed by Regulation (till at least 30 June):

Trade Repository	Rates	Credit	Equity	Comm	FX
DTCC Data Repository (U.S.) LLC	✓	✓	✓	✓	✓
DTCC Derivatives Repository Ltd	✓	✓	✓	✓	✓
DTCC Data Repository (Japan) KK	✓	✓	✓	✓	✓
DTCC Data Repository (Singapore) Pte Ltd	✓	✓	✓	✓	✓
Chicago Mercantile Exchange Inc	✓	✓		✓	✓
INFX SDR					✓
ICE Trade Vault, LLC	✓	✓		✓	✓
HKMA	✓				✓



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Trade reporting rules – implementation processes



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Phase	Working group(s)	Status
1	5 Australian banks Facilitated by ABA	<ul style="list-style-type: none">•Data flowing to regulators•Transitional exemptive relief granted & now rolling off•ASIC acquittal process•Periodic debriefing meetings (post-implementation) focusing on data quality/troubleshooting issues
2	Roughly 12 international and local banks Facilitated by AFMA/ISDA	<ul style="list-style-type: none">•Fortnightly meetings•Actively working on possible transitional exemptive relief
3	Investment management stream ADIs stream “Other” stream	<ul style="list-style-type: none">•Public events held March-April•Convened through relevant industry groups (ABA, FSC, FTA, etc.)•Followed by tailored engagement processes

Transitional exemptive relief

- Transitional, time-limited relief from strict compliance with elements of the reporting rules
- Granted to Phase 1 reporting entities; we are considering granting similar relief to Phase 2 reporting entities and may consider for phase 3 entities in due course
- Relief summary available on ASIC's OTC webpage
 - Delayed reporting of products not within scope of CFTC reporting rules
 - 'Snapshot' reporting allows reporting of end of day position changes instead of all intraday trades
 - Delayed reporting where dependency on middleware providers
 - Delayed reporting of counterparty IDs (masking) for specified jurisdictions and to allow time for consents/notification
 - Clarifying relief that no 'pairing and sharing' of transaction IDs where trades done away from trading/confirmation platforms



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Central clearing



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- CFR OTC market report July 2013:
 - Recommended a central clearing mandate for interest rate derivatives denominated in G4 currencies
 - Initial focus on dealers with significant levels of cross-border activity
- Treasury is expected to shortly consult on a central clearing mandate along the lines proposed by CFR
- ASIC would likely consult on draft rules H1 2014
- Next OTC market report (due March 2014) will review case for mandatory clearing of AUD-denominated interest rate derivatives
 - Initial scope of any recommendation would likely be interdealer market
 - Also examining whether there is a case to apply mandatory clearing to non-dealers
- ASX Clear (Futures) and LCH were both authorised to provide OTC rates clearing in Australia in 2013

Platform trading

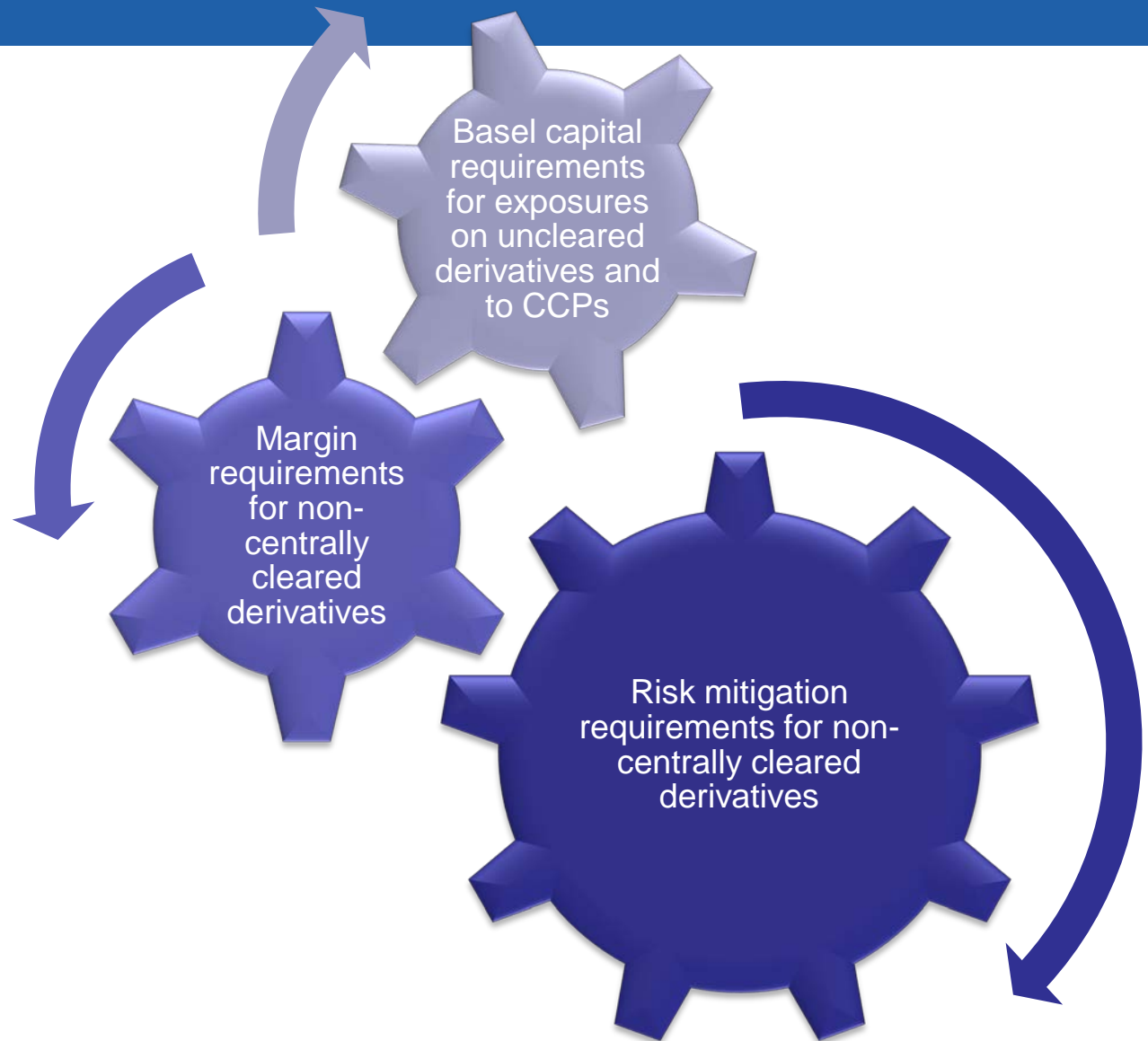


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- CFR Report on the Australian OTC Derivatives Market (July 2013):
 - Regulators are monitoring developments and seeking more detailed information on Australian market activity, to consider whether a mandatory obligation would benefit the Australian marketplace, especially where doing so will help to maintain liquidity in the Australian market by maintaining consistency with overseas developments
- Recent finalisation of CFTC SEF rules and the first mandatory trading (MAT) determinations are being made in the US
- Asian jurisdictions have expressed caution on timing of mandatory trading
 - Not wanting to damage liquidity of market
 - MiFID II has been finalised at political level but at detailed level won't be implemented till 2015-16
- Will be addressed again in next market assessment

Bilateral risk mitigation



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Margin requirements – non-centrally cleared trades

- Being coordinated globally by Basel Committee on Banking Supervision (BCBS) and International Organization of Securities Commissions (IOSCO)
- International principles issued, to be followed by implementation monitoring
- ASIC is monitoring developments, including trends in collateralisation and pricing differentials between centrally cleared and non-centrally cleared trades
- Currently awaiting Government indication on regulators' roles in implementing any margin requirements for Australia
- APRA and ASIC may both have a role



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Bilateral risk mitigation - other

- Capital requirements for exposures on uncleared derivatives and to CCPs
- Regulators are considering risk mitigation requirements for non-centrally cleared derivatives, including scope for recognition and consistent implementation



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International aspects: substituted compliance and equivalence

- The possibility of equivalence and substituted compliance has played a key role in our design decisions around the regime
- Examples of results so far:
 - positive ESMA equivalence recommendations (CCPs, trade reporting & repositories, clearing conditional)
 - CFTC equivalence decision on swap dealer regulation issued December 2013 finding a range of Australian requirements 'comprehensive and comparable'
 - Yieldbroker no-action relief from SEF registration
- Next steps
 - EC implementing Acts re CCPs, trade reporting & repositories
 - CFTC – potentially, foreign SEF regime and foreign CCP (DCO) regime



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International aspects: cross-border engagement

- ASIC regularly engages with overseas regulators to maximise the possibility of positive equivalence assessments and minimise duplicative/conflicting requirements
- Australian regulators including ASIC are significantly involved in international policy development and liaison
 - International standard-setting bodies (CPSS-IOSCO, BCBS, WGMR)
 - International coordination bodies (FSB, ODRG, ODRF)
 - Ongoing bilateral discussions with foreign regulators (CFTC, ESMA, MAS, HKMA, HK SFC, JFSA, ...)



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Next steps in implementation

- Trade reporting implementation:
 - Phases 2 and 3 working groups
 - CFR/ASIC work on data usage
 - Potential further consultation on technical amendments to reporting rules
- Central clearing
 - Govt will very shortly consult on a clearing mandate
 - Clearing mandate expected to cover major dealers with significant cross-border activity in G4 interest rate derivatives
 - ASIC to consult on implementing rules after Treasury consultation
- CFR market assessment reports :
 - Next report due March 2014
 - Possible extension of clearing mandate to AUD-denominated interest rate derivatives and North American/EU broad-based credit derivatives
 - Consideration of mandatory clearing for non-dealers
 - Further consideration of a platform trading mandate



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More information

- Rules, FAQs, Explanatory Statements, Reg Guide on TRs:
 - www.asic.gov.au > Markets tab > OTC derivatives reform
 - Includes links to CFR, FSB and other resources
- Queries/comments etc.:
 - OTCD@asic.gov.au



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Questions



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