

Background

To comply with the *Swap Trading Relationship Documentation Requirements* (Swap Documentation Rules), Swap Dealers and their counterparties will have to have written legal trading agreements in place that meet minimum standards by July 1, 2013 in most cases. These agreements will include the minimum terms and conditions required for trading uncleared swaps.

This presentation outlines:

- The trading relationship documentation Swap Dealers and counterparties will need to have in place prior to July 1, 2013
- The industry solutions available to comply with the new regulatory requirement

FX: What products are covered by the Swap Documentation Rules?

- FX Deliverable Forwards
- FX Swaps
- FX Non Deliverable Forwards (NDFs)
- FX Options

FX Spot trading is not subject to the Swap Documentation Rules

FX Spot :

“FX Spot Transaction” means a foreign exchange transaction that settles via an actual delivery of the relevant currencies within two business days or by the customary timeline of the relevant market.”

“FX Securities Conversion Transaction” means a foreign exchange transaction entered into for the purchase or sale of an amount of foreign currency equal to the price of a foreign security with respect to which (i) the security and related foreign currency transactions are executed contemporaneously in order to effect delivery by the relevant securities settlement deadline and (ii) actual delivery of the foreign security and foreign currency occurs by such deadline.”*

What are the minimum content requirements to comply with Swap Documentation Rules?

Requirement	Description	Required for
Trading Relationship Terms	Including “terms addressing payment obligations, netting of payments, events of default or other termination events, calculation and netting of obligations upon termination, transfer of rights and obligations, governing law, valuation, and dispute resolution.”	Many clients by July 1, 2013
Valuation	Written documentation, in which the parties agree on the process for determining the value of each swap at any time, including alternative methods for determining value and a valuation dispute resolution process	Many clients by July 1, 2013
Other notices	Counterparty status, clearing election notices, orderly liquidations	Many clients by July 1, 2013

Complying with Swap Documentation Rules will require: (i) amending certain existing industry standard agreements as new clauses will need to be added to these agreements or (ii) creating a new ISDA Master, if an agreement is not currently in place, or if existing agreements cannot easily be amended to meet the minimum content requirements.

The Industry Solutions – ISDA Dodd-Frank Protocol 2.0 & ISDA Amend

ISDA has designed an industry solution (“Protocol 2.0” or “March 2013 DF Protocol”) to provide Swap Dealers and their clients with a standardized form of agreement for meeting swap trading documentation requirements by either:

- Amending existing documentation in order to facilitate compliance with the new regulatory requirements
- Creating a new “deemed” ISDA Master 2002 with minimal changes to the Schedule (New York law, netting of payments), allowing parties to comply with the rules without having to negotiate and execute an ISDA Master.

Advantages of Protocol 2.0:

- Standard set of documents that reduce the need for negotiation
- Does not require having an existing trading agreement
- Covers all FX products at a minimal cost

Markit offers ISDA Amend, a web-based tool that facilitates the exchange of information under the ISDA DF August Protocol. The platform functionalities are being expanded to allow for the exchange of the ISDA March 2013 DF Protocol Questionnaire.

Advantages of ISDA Amend:

The platform provides an easy electronic means to meet Swap Documentation Rules requirements by adhering to Protocol 2.0.

The FMLG will be issuing a market practice shortly to provide easy-to-follow information on complying with the Swap Documentation Rules as has been set forth above.



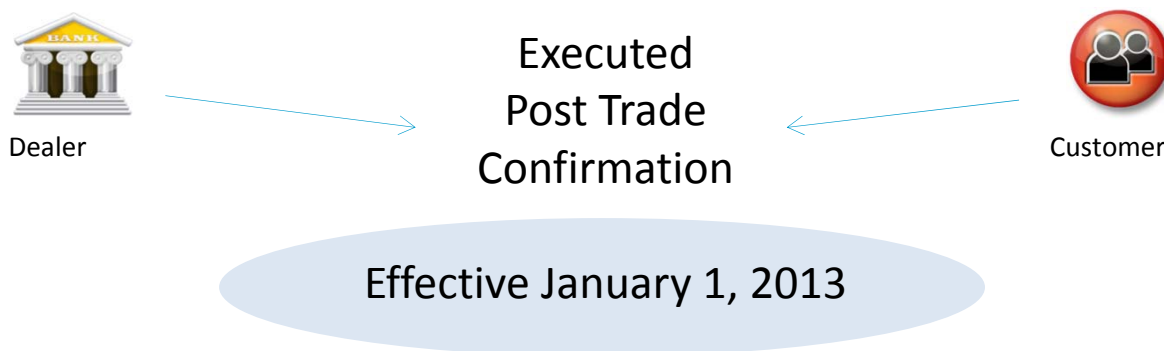
FX Trading Relationship With Non-Dealer Customers



Post Trade Confirmation Rule



FX Trading Confirmation RULE 23.501



"Each swap dealer and major swap participant shall establish, maintain, and follow written policies and procedures reasonably designed to ensure that it executes a confirmation for each swap transaction that it enters into with a counterparty that is not a swap dealer, major swap participant, or a financial entity not later than the end of the second business day following the day of execution."



FX Trading Confirmation RULE 23.501

Executed Post Trade Confirmation AFTER EXECUTION

Effective January 1, 2013



Dealer



Customer

PHASE IN	SENT BY	AGREED AND RETURNED
until August 31, 2013	3 rd Business Day	7 th Business Day
until August 31, 2014	2 nd Business Day	4 th Business Day
Thereafter	1 st Business Day	2 nd Business Day



FX Trading Confirmation RULE 23.501



Dealer

Executed Post Trade
Confirmation



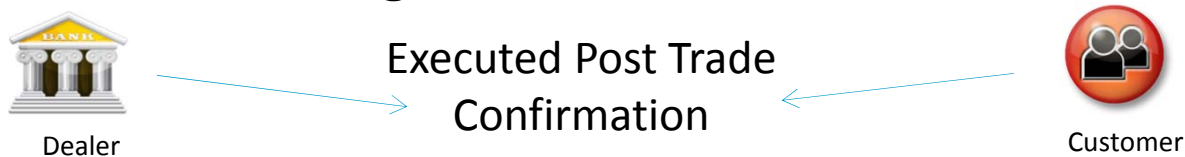
Customer

CONFIRMATION DEFINITION

“...the consummation (**electronically or otherwise**) of **legally binding documentation** (electronic or otherwise) that memorializes the agreement of the counterparties to **all of the terms of a swap** transaction. A confirmation must be **in writing** (whether electronic or otherwise) and must legally supersede any previous agreement (electronically or otherwise). A confirmation is created when an acknowledgment is manually, electronically, or by some other legally equivalent means,
signed by the receiving counterparty.”



FX Trading Confirmation RULE 23.501



STATUS OF FX COMPLIANCE

- **Highly Compliant**
Well Developed Back Office Infrastructure by FX Dealers for confirmation documentation
- **Industry Standards Robust and Uniform**
Federal Reserve Bank of New York
Foreign Exchange Committee Best Practices
- **Advanced Technology**
FX Industry active use of electronic confirmation systems

Swap Trading Documentation Rules – Considerations as an Asset Manager for Client Accounts

- Client Communication
 - Coordinating with clients to understand the implications of the Swap Trading Documentation Rules and how they affect client portfolios
- Complying with the Swap Trading Documentation Rules
 - Reviewing current trading documentation and transactions for client accounts
 - Are master netting agreements in place to cover all transactions covered by the Swap Trading Documentation Rules for all client accounts (including , for example, FX forward transactions)

Swap Trading Documentation Rules – Considerations as an Asset Manager for Client Accounts

- For client accounts that require additional trading documentation, consider
 - Whether the client will want to comply to the Swap Trading Documentation Rules by adhering to the March 2013 DF Protocol on its own behalf
 - If so, this typically will require further coordination with the client so that all trading counterparties receive the information necessary to comply with the adherence process
 - Whether the client will want the manager/trading advisor to comply with the Swap Documentation Rules on behalf of the client by adhering to the March 2013 DF Protocol
 - If so, this typically will require the manager/trading advisor to review investment management agreements with the client to determine whether there is sufficient authority to enter into the March 2013 DF Protocol and bind the client to its terms
 - Certain representations and agreements may raise questions with certain clients (for example, the form 2002 ISDA Master Agreement that is incorporated into the March 2013 DF Protocol requires parties to waive sovereign immunity)
- Ensure that the adherence process is completed through the Markit® ISDA Amend website.