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Proposed US and EU Derivatives Regulations: How they Compare

The US and EU are currently introducing new measures to regulate the OTC derivatives markets and their participants. This memorandum highlights the main similarities and differences between the US and EU approaches.

Introduction

On September 15, 2010, the European Commission published a proposal for new EU regulations covering OTC derivatives, central counterparties and trade repositories, known as the European Market Infrastructure Regulation (the "EMIR"). The EMIR, when enacted, will be directly applicable in all EU member states so that there should generally be no inconsistencies in implementation or interpretation as between member states.

The draft EMIR is broadly similar in many respects to the reforms adopted in July of this year in the United States under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). The Dodd-Frank Act, when fully effective, will make sweeping changes to the regulation and structure of the derivatives markets in the United States and to participants in those markets. Depending on how they are implemented, EMIR and other European legislative proposals are likely to have a similar effect in the European markets.

Despite the similarity in overall approach, there will likely remain certain differences in the regulatory approaches taken in the US and EU. This may lead to the possibility of regulatory arbitrage. In addition, both sets of regulations may have extraterritorial effects, and it is possible that in some cases market participants may be caught by conflicting or inconsistent requirements. In both cases, the ultimate scope of the new requirements will depend on implementing rules and regulations, and regulatory authorities may have broad authority to interpret key provisions.

This client memorandum highlights some key similarities and differences between the new US and EU regulatory approaches to regulating the derivatives markets.[1] This memorandum is restricted to derivatives regulation and, therefore, does not cover other aspects of the Dodd-Frank Act or the EU regulatory reform proposals.

KEY SIMILARITIES	KEY DIFFERENCES (Where EU has Diverged)
• Mandatory clearing for standardized contracts. • Scope of derivatives covered. • Exemptions from clearing for end-users. • Reporting of cleared and OTC transactions by (nearly) all financial counterparties.	• The "Volcker Rule" – restrictions on bank proprietary trading not adopted in the EU. • Swaps "push-out" rule (swaps business in a separate entity from banking) not adopted in the EU. • The US has mandatory exchange trading requirements but these are not necessarily going to be replicated in the EU and are being considered separately by the European Commission. • Clearing organization ownership rules.

[1] See further our other client memoranda entitled:

Landmark Financial Regulatory Reform Legislation Passed by U.S. Congress

A New Panorama for the Clearing and Recording of Over-the-Counter Derivatives in Europe: the Proposed European Market Infrastructure Regulation

Dodd-Frank Wall Street Reform and Consumer Protection Act: Implications for Derivatives

Category-by-Category Analysis

ISSUE	US APPROACH	EU APPROACH	DIFFERENCES
Regulatory Responsibility for Derivatives Markets	· Jurisdiction over the derivatives markets is divided between the Commodity Futures Trading Commission (the "CFTC") and the Securities and Exchange Commission (the "SEC"). · The CFTC will have jurisdiction over "swaps", which include most non-security based derivatives (including interest rate, currency and commodity derivatives) as well as derivatives on broad-based security indices (such as index-based credit default swaps). · The SEC will have similar jurisdiction except with respect to "security-based swaps", including derivatives on individual securities or loans or narrow-based security indices (such as single name credit default swaps). · Some derivatives businesses may be subject to regulation by both agencies.	· The new European Securities and Markets Authority (the "ESMA")[2] would have various new roles including responsibility for deciding whether transactions in particular classes of derivatives should be subject to mandatory clearing by authorized central counterparties ("CCPs") (as discussed further below). The choice of ESMA rather than the more logical European Banking Authority (the "EBA") is highly political. ESMA may be replaced by the EBA during the negotiations on EMIR. If so, the EBA would be given the role currently proposed for ESMA. · Separately, derivatives trading will continue to be regulated at a national level under the Markets in Financial Instruments Directive 2004/39/EC ("MiFID"). · Under MiFID, EU member states are required to have in place national laws and rules that provide for the regulation of dealing, advising, arranging and other financial services and activities in relation to derivatives. National regulators are responsible for detailed implementation, superintendence and enforcement. · National regulators are required under MiFID to cooperate with each other, as well as with the European Commission, with a view to maintaining a broadly harmonized regulatory framework across the EU (subject to certain opportunities for national discretion or derogation). · The Financial Services Authority (the "FSA") is the main UK regulator but it is proposed that certain prudential regulatory	· EU regulatory jurisdiction is not divided between swaps and security-based swaps, unlike in the US. At the European level, ESMA will be the relevant co-coordinating regulator. · EU member states have the flexibility to determine the powers of their national regulatory authorities, and regulation will take place largely at a national level (subject to ESMA oversight). In the US the oversight will be solely at the Federal level.

[2] See our client memo entitled The New EU Financial Supervisory Architecture for a full discussion of the new European system.

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		functions will be moved to a new Prudential Regulatory Authority, which will be a subsidiary of the Bank of England.[3] Systemic risk oversight will be undertaken by a committee of the Bank of England.	
Scope of Derivatives Covered	· The Dodd-Frank Act covers a broad range of derivatives (including swaps, options and some forwards) on financial and non-financial assets. · Security options and exchange-traded futures are not covered under the new framework but remain subject to existing securities and commodities laws, respectively. · FX forwards are covered but may be exempted by regulation.	· EMIR covers OTC derivative contracts regulated under MiFID including options, futures, swaps, forward rate agreements and financial contracts for differences. · Spot foreign exchange transactions are excluded as are, in principle, commercial forward transactions.	· Coverage is broadly similar.
Registration and Regulation of Market Participants	· Dealers in swaps or security-based swaps are required to register with the CFTC and/or the SEC, as applicable. · A new regulated category of non-dealer market participant is established for "major swap participants", which include entities with a substantial derivatives position (as defined by regulation), with certain exceptions for commercial hedging activity. · The requirement to register may mark a significant change for many major swap participants, such as hedge funds and corporations. · Registered swap dealers and major swap participants will be subject to new capital, margin and business conduct standards, among other requirements. · For cleared transactions, the clearing intermediary will be required to be registered as a futures commission merchant ("FCM") (in the case of swaps) or a broker-dealer or security-based swap dealer (in the	· Under MiFID, swap dealers which execute orders on behalf of clients or engage in professional proprietary trading are already required to be authorized by national supervisors and are subject to capital, business conduct and regulatory reporting requirements. · Swaps participants which only engage in treasury activities or commercial hedging for their own account are generally not subject to EU-level authorization or regulation. · There are no additional authorization or registration requirements for non-financial swaps dealers. · All such entities would be required to comply with the new rules mandating the central clearing of certain derivatives and new reporting and disclosure requirements.	· Although the registration categories differ, the regulatory requirements in this area are broadly similar.

[3] See our client memo entitled HM Treasury Publishes a Consultation on Reforms to the UK Financial Regulatory System.

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	case of security-based swaps). · Requirements may also apply to non-US intermediaries dealing with US customers. · Particularly in the case of the FCM requirement for cleared swaps, this may in practice require a separation of US customer business from the derivatives business of non-US customers.		
Registration and Regulation of Central Counterparties	· The CFTC will be the regulator for derivatives clearing organizations ("DCOs") for swaps. The SEC will be the regulator for clearing agencies for security-based swaps. · DCO regulatory requirements are provided under "Core Principles", which include rules on margin, financial resources, risk management and organizational requirements. · The CFTC and/or SEC may grant exemptions from registration for non-US clearing houses subject to comparable regulation in their home countries.	· CCPs are currently subject to national regulation or recognition regimes in certain individual EU member states. · Under the draft EMIR, CCPs would continue to be authorized and regulated by national regulators, but would also be subject to supervision by a college of regulators for authorization, extension of the activities undertaken, stress testing and interoperable arrangements. The colleges will be comprised of ESMA, the European Central Bank and various relevant national regulators including the CCP's national regulator and the three national regulators supervising clearing members making the largest contributions to the CCP's default fund. · Authorization requirements for CCPs under the draft EMIR would be standardized, including rules on margin, financial resources, risk management, settlement and organizational issues. · ESMA would also be given the power to recognize CCPs established in non-EU countries if the EU Commission determines that the legal and supervisory arrangements of the non-EU country in question are equivalent to the requirements resulting from the EMIR.	· It remains to be seen how the mutual recognition of third country CCPs will play out. It is unclear whether the US or EU will require transactions to be cleared domestically.

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Clearing and Trading Requirements	· Central clearing is required for certain derivative types. · The CFTC, in the case of a swap, or the SEC, in the case of a security-based swap, will determine whether a derivative or category of derivatives is subject to the clearing requirement, either at the request of a clearing organization or on its own motion. · If a swap is required to be cleared, a party to that swap must submit it for clearing, unless an exemption is available. An exemption is available to non-financial entities which use swaps to hedge or mitigate commercial risk and which notify the CFTC or SEC, as applicable, how they generally meet the financial obligations associated with entering into non-cleared swaps.[4] · Will likely limit the clearing exemption to corporate end-users engaged in hedging transactions. Hedge funds and similar entities, whether or not they are major swap participants, will likely be ineligible for the exemption. · Scope of permissible hedging of commercial risk for the purposes of this exemption will depend on implementing regulations. · Transactions that are subject to the clearing requirement must also be executed on a regulated exchange or a registered swap execution facility ("SEF"), a new category of regulated multilateral trading facility. · The trading requirement does not apply if the transaction is exempt	· The draft EMIR would require certain standardised OTC derivatives, as determined by ESMA as being subject to the clearing obligation, to be centrally cleared. · There is an exemption for "non-financial counterparties"[5] of OTC derivatives, with volumes below a "clearing threshold". · Commercial hedging exemption: applies to positions of non-financial counterparties used to, for example, manage commodity price and interest rate fluctuations and to hedge business risks (i.e. an end-user exemption). Such positions are excluded from calculating the clearing threshold. · There would also be a lower "information threshold", over which a non-financial counterparty would be required to notify its national regulator and provide justification for taking the positions in question. · The draft EMIR would require CCPs to admit clearing members in accordance with non-discriminatory, transparent and objective criteria so as to ensure fair and open access to CCPs. · Both financial counterparties and non-financial counterparties subject to the clearing obligation would have to have risk mitigation arrangements in place for any OTC derivative contracts not centrally cleared.	· The EU clearing exemption for non-financial counterparties is only available to the extent that the institution's positions in such derivatives fall below certain thresholds, whilst the US approach does not involve thresholds but instead has exclusions for particular behaviors. · The EU does not currently propose to have an exchange trading requirement for derivatives. Such a provision may be considered for a set of subsequent amendments to MiFID.

[4] A "financial entity" is defined in the Dodd-Frank Act for the purposes of the clearing exemption as (i) a swap dealer, (ii) a major swap participant, (iii) a commodity pool, (iv) a private fund as defined in the Advisers Act, (v) an employee benefit plan as defined under the Employment Retirement Income Security Act of 1974, or (vi) a person predominantly engaged in activities that are in the business of banking, or in activities that are financial in nature.

[5] "Financial counterparty" is defined in the draft EMIR as including investment firms, credit institutions, insurers, undertakings for collective investment in transferable securities, and alternative investment fund managers.

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	from the clearing requirement or if no exchange or SEF makes the swap available for trading.		

Clearing Organization Ownership Rules	· The CFTC and SEC have proposed rules under the Dodd-Frank Act that would limit the ownership of voting equity in clearing organizations by clearing members and other financial entities.
	· Under the proposal, a CCP would have to comply with one of two alternative limits:
	  · (1) No member may own more than 20% of the voting equity, and specified financial entities (whether or not members) may not own more than 40% of the voting equity in the aggregate; or
	  · (2) No specified financial entity (whether or not a member) may own more than 5% of the voting equity.
		· Holders of significant shareholdings, direct or indirect, must be notified to the regulator, which may refuse authorization of the CCP if it does not consider such shareholders to be suitable (taking into account the need to ensure the sound and prudent management of the CCP). There are no specific rules in the EU on holdings by members and none are included in the proposed EMIR.	· The EU has not proposed numerical ownership limits on clearing organizations but in practice may apply similar standards.

Trade Repositories	· The Dodd-Frank Act requires data collection and reporting through clearing houses to improve market transparency and to provide regulators with the tools for monitoring derivatives trading. Swaps and security-based swaps must be reported to registered electronic storage facilities known as "swap data repositories" or, if one does not exist, to the CFTC or SEC, as applicable. The details of the reporting requirements and the timing of reporting will be specified in legislation.	· The draft EMIR would require financial counterparties to report the details of any OTC derivative contract entered into, and any modification or termination of such contract, to registered "trade repositories" (which would be equivalent to "swap data repositories" under the Dodd-Frank Act). · Reports would need to be made no later than the working day following the execution, clearing or modification of the contract in question. · If a trade repository were unable to record the details of an OTC derivative contract, the report would need to be made directly to the relevant national regulator. · Data reported to a trade repository would be accessible by regulators. · The requirements for the recognition of trade repositories established in non-EU countries are similar to those for CCPs (discussed above).	· Authorization and reporting requirements concerning repositories are similar. · The US requirements do not specifically provide for the recognition of non-US repositories. · It remains to be seen how information-sharing between global regulators will work.
Capital and Margin Requirements for Dealers and End-Users	· The CFTC or SEC, as applicable, will set the parameters for minimum capital requirements and minimum	· Capital requirements are dealt with in existing EU directives, including the EU Capital	· The US currently requires bank clearing members to hold capital against exposures to a CCP but

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	initial and variation margin requirements for non-bank swap dealers and major swap participants. · Applicable bank regulators will set the parameters for such requirements for swap dealers and major swap participants that are banks. · These capital requirements will be established prior to the expected implementation of the Basel III capital regime for US banks. The extent to which these requirements differ from the Basel III framework is uncertain. · There is some uncertainty as to whether margin requirements may also apply to end-users, which will need to be addressed in the rulemaking process. · For market participants that are subject to new capital and margin requirements, the rules may substantially increase the cost of derivative transactions.	Requirements Directive (the "CRD", comprising Directives 2006/48/EC and 2006/49/EC in relation to banks and investment firms respectively), which implement the principles set out in the Basel Accords on capital. · The new Basel III capital regime is tentatively slated for implementation in Europe in January 2013. This is expected to result in significant changes to capital and liquidity regulation, including for "trading book" exposures and classes of acceptable collateral. · Zero risk weighting will apply to exposures to a CCP for the purposes of the credit risk capital charge under the CRD. EMIR makes provision for this. · EMIR further requires 99% (margin) / 99.9% (default fund) risk confidence levels for CCPs' margin requirements. · Capital requirements should encourage CCP clearing, once a product becomes eligible, because non-cleared products will attract a capital requirement based on the (higher) exposure of the party to the contract and the credit risk of its counterparty and will not be zero weighted. · There is no proposal in EMIR for counterparty credit risk ratings to be set at penal levels for non-cleared trades.	the EU does not. · The US has not yet proposed specific requirements for margin.
Additional Requirements with "Special Entities"	· Imposes additional requirements on swap dealers and major swap participants advising or dealing with US federal, state and local government agencies, employee benefit plans, governmental pension plans or endowments. The Dodd-Frank Act generally prohibits derivatives with retail clients unless entered into on a regulated exchange.	· Under MiFID, dealers already owe enhanced disclosure obligations and other protections to any customers that are categorized as "retail clients", with less stringent disclosure requirements for "professional clients". Most government and public pension fund clients would be treated as "professional clients". · The MiFID review will re-consider the distinction between professional and retail clients and the obligations that result from the classification. However, based on public feedback to a consultation undertaken by the Commission of European Securities Regulators ("CESR") and CESR's own views,	· The EU has not introduced special additional protections for government or pension fund investors to date, although it is reviewing the matter.

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		any major change is unlikely.	
Bank "Push Out" of Derivatives into a Separate Subsidiary	· As a condition of receiving certain US Federal assistance, including access to the Federal Reserve's discount (lending) window, banks will be required to move certain derivatives activities into a separately capitalized affiliate. · There are limited exceptions available for FDIC-insured banks for hedging activities and derivatives involving certain permitted assets for banks (such as interest rate and currency derivatives). · Exemptions are not currently available for uninsured US branches of non-US banks.	· Some national governments are considering taking similar steps to reduce the potential "too big to fail" costs that they could face. One of the parties in the UK coalition government, the Liberal Democrats, is in favor of such restrictions, but the other coalition partner, the Conservatives, is less enthusiastic. · An Independent Commission on Banking (the "Independent Commission") was set up by the UK coalition government in June 2010 and is due to produce a final report by the end of September 2011. · The Independent Commission's remit includes the consideration of a number of reform options that aim to reduce systemic risk in the banking sector. In its Issues Paper published on September 24, 2010, the Independent Commission noted the "push-out" provisions of the Dodd-Frank Act which have the same objective.	· The EU has no current plans for a "swaps push-out" rule.
The "Volcker Rule" / Restrictions on Proprietary Trading by Banks	· The "Volcker Rule"[6] prohibits proprietary trading in many derivative instruments by some regulated financial institutions and affiliates. · Banking groups are permitted to engage in certain activities, however, such as trading derivatives in connection with underwriting or market-making-related activities to the extent that any such activities "are designed not to exceed the reasonably expected near term demands of clients, customers, or counterparties", and also risk-mitigating or hedging activities in connection with positions of the	· The UK Independent Commission (see above) is currently examining a range of reform options related to the structure of banks, including limits on proprietary trading and investing (similarly to the Volcker Rule) or the separation of retail from investment banking (similar to previous requirements under the Glass-Steagall Act of the US, which separated commercial and investment banking but was subsequently watered down). · Owing to political differences, EU-wide implementation of Volcker Rule-type provisions is not thought	· The EU has no rules requiring the segregation of proprietary trading or other activity from banks, whilst this will be required in the US. · Certain EU states may impose similar requirements to those in the US, especially those countries which have incurred significant bail-out costs.

[6] See our client memo entitled: Financial Regulatory Reform Update: The Volcker Rule Continues to Garner Outsized Attention in the Wake of Passage of Financial Reform Legislation.

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	banking entity. · Includes restrictions on banking group's ability to "sponsor" or invest in hedge funds and private equity. This restriction may require divestment of some ownership interests in these types of funds. · There are a number of exceptions and exclusions from these restrictions.	to be imminent.	
Segregation of Collateral Requirements	· Cleared swaps of non-clearing members (i.e., customers) are required to be cleared through a registered FCM. · May require the spin-off of customer clearing business currently conducted by banks into an FCM. · With respect to cleared security-based swaps on behalf of customers, the clearing member is permitted to be a broker-dealer or a security-based swap dealer. · The customer margin segregation regime is broadly similar to the FCM segregation model under Section 4d of the Commodity Exchange Act of 1936, as amended (the "Commodity Exchange Act"), although the details are left to implementing regulations to be adopted by the CFTC and SEC. · The extent to which portfolio margining between swaps and security-based swaps will be permitted under these requirements is uncertain. Some questions have also been raised about loss mutualization across customers in cleared derivatives. · In the non-cleared space, swap dealers and major swap participants must, upon request of a counterparty, segregate the funds or other property transferred as collateral in connection with a non-cleared trade, and maintain those funds in a separate account with an independent third-party custodian for the benefit of the counterparty. The requirement only applies to initial margin, not variation margin.	· The draft EMIR requires each clearing member to distinguish and segregate in its accounts with a CCP the assets and positions of that clearing member from those of its clients. This appears to suggest a choice of different levels of segregation. · Most clearing houses operating in the EU receive at least cash assets by way of a title transfer financial collateral arrangement under the EU Financial Collateral Directive 2002/47/EC. Some clearing houses receive both cash and non-cash assets pursuant to a title transfer financial collateral arrangement. As a result, upon receipt, under such a model, all initial margin will belong legally and beneficially to the CCP, but subject to segregation requirements. · Client money and assets held with clearing members themselves are (and will remain) subject to the safeguarding rules in MiFID and the MiFID Implementing Directive 2006/73/EC: assets held for or on behalf of clients must be adequately protected and recorded. Firms must also ensure that money held for or on behalf of clients is promptly deposited with an approved banking institution or money market fund (or transferred to a CCP or broker in order for a client to meet its own obligation to provide collateral for a transaction). · EMIR also refers to customers choosing different levels of segregation with CCPs: query the effect if CCPs only offer omnibus customer accounting. · Client money received by a UK regulated firm is further held	· Details of customer asset segregation requirements, at the intermediary and CCP levels, in the EU and US remain to be seen.

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		subject to a statutory trust, and rules are also in place specifying how client money is to be distributed from the estate of a firm or bank in the event of failure.	
Position Limits	· The CFTC and SEC have enhanced position limit and large trader reporting authority for swaps and security-based swaps, respectively. · The CFTC may establish limits (including related hedge exemption provisions) on the aggregate number or amount of positions in a particular commodity held by any person or group for each month across (i) futures contracts traded on US exchanges, (ii) contracts traded by US participants on certain foreign boards of trade, and (iii) swaps that perform or affect a significant price discovery function. · The SEC may similarly establish limits (including related hedge exemptions) on security-based swaps together with underlying securities or loans.	· Harmonized EU rules and ESMA powers relating to reporting of short positions and sovereign debt will be introduced. Regulators will have powers to introduce position limits in certain situations. See the section on short selling below. · Otherwise, the issue of position limits is currently being considered by the European Commission (within the wider context of the European Commission's review of MiFID and the EU Market Abuse Directive 2003/6/EC). No firm proposals have yet been published. The Commission is expected to publish a consultation paper on the MiFID review before the end of 2010 and legislative proposals are expected in Q2 2011. · CCPs exercise discretion over what, if any, position limits should be set. · The FSA expects position limits to be used and reviewed by a CCP in the context of assessing and managing counterparty risk, but does not require hard position limits to be imposed, and has stated that – at least in commodity derivative markets – it is opposed to introducing such new obligations unless it is clear that the benefits will outweigh the costs. · In the context of energy futures, the UK's approach towards position limits moved closer to the US rules in 2008, when the CFTC, the FSA and exchange operators agreed that "similar" position limits and reporting requirements would apply on London-based exchanges when business was accepted from US-based counterparties.	· Regulatory powers in US over position limits generally and those of EU in relation to short positions and sovereign debt are broadly similar. · The EU measures are much less detailed and responsibility is essentially delegated to CCPs to monitor positions as part of their risk management function.

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Short Selling	· Securities Exchange Act of 1934 amended to prohibit manipulative short sales, in addition to existing antifraud, antimanipulation and emergency authority. · SEC given authority to enhance public reporting of aggregate information on short selling. · Dealers required to notify customers that they may choose not to allow their securities to be used in connection with short sales.	· Currently each member state has its own rules resulting in different powers and requirements across the EU. · The European Commission has proposed legislation[7] to create a harmonized framework for the disclosure and reporting to regulators of short positions in relation to shares admitted to trading on a European exchange or trading facility (including share positions entered into pursuant to derivatives). · Short positions of 0.2% (and each 0.1% increment above that level) would be reportable to the relevant national regulator. · Short positions of 0.5% (and each 0.1% increment above that level) will be disclosable to the public. · "Naked" short selling – where traders sell a security without owning it or borrowing it in the expectation of buying it back at a cheaper level – would only be allowed for investors who have borrowed the instruments or have an agreement to do so. · Requirement to notify the relevant national regulator (but not the public) for persons with a net short position relating to the issued sovereign debt of an EU member state, or an uncovered short position in a credit default swap referencing an EU member state's debt. Thresholds for notification have yet to be determined. · National regulators and ESMA would have powers to take further measures during times of actual or threatened market turbulence, including requiring enhanced disclosure and imposing conditions	· The US allows emergency actions to restrict short selling but the EU proposes to have specific disclosure requirements in addition to such powers.

[7] See our client memo entitled: New European Proposals on Short Selling.

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		or restrictions on short sales or CDS transactions relating to an obligation of an EU member state.	
Extra-territoriality	· Consistent with existing US law, the Dodd-Frank Act applies to activities outside the US that have a "direct and significant connection with activities in, or effect on, commerce of the United States." In practice, this will likely mean that non-US persons dealing with US persons in covered derivatives will become subject to the requirements of the Act, unless an exemption can be obtained. The extraterritorial application of the clearing requirement may raise particular complexities, both for intermediaries and clearing organizations.	· In principle, all EU-established regulated entities and non-financial counterparties with positions exceeding the "clearing threshold" will need to clear trades in a EU clearing house, regardless of the location of their counterparty. However, non-EU clearing houses can be subject to mutual recognition in the EU. Extraterritoriality will depend on extent to which non-EU clearing houses are so recognized.	
Effectiveness	· Derivatives regulation provisions generally take effect in July 2011 or, if a provision requires rulemaking, 60 days after publication of the final rule. · The Volcker Rule is due to take effect on the earlier of (a) 12 months after the date of the issuance of the final rules or (b) two years after the date of enactment of the Dodd-Frank Act (i.e. July 2012). A banking entity or non-bank financial company supervised by the Federal Reserve Board will be required to bring its activities and investments into compliance with the requirements of the Volcker Rule not later than two years after the date on which the requirements become effective or two years after the date on which the entity or company becomes a non-bank financial company supervised by the Board. The Board may, however, extend this two-year period by up to three additional one-year periods. · With respect to the "push out" rule, a bank has until July 2012 to divest the swaps entity or cease the activities that require registration as a swaps entity. This transition period may also be extended by up to one additional year upon approval by the appropriate Federal banking agency in consultation with the CFTC and the SEC, and conditions to operation may be imposed during the transition period.	· EU member states have undertaken to conclude all negotiations relating to G20 commitments on financial reform (including the central clearing of OTC derivatives) by the end of 2011. · In line with G20 commitments, the new EMIR should be fully in place by the end of 2012. The EMIR would (if passed in its current draft form) enter into force on the 20th day following its publication in the Official Journal. · Other changes (e.g. to MiFID, Market Abuse Directive, Basel III) are being implemented on a similar timetable.	· Timelines are broadly similar, as driven by G20 commitments.

This publication is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

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