

# Regulations Working Group Minutes

4<sup>th</sup> November 2011



## Attendees

David Ewings - Threadneedle ISITC ELG member (chair)  
Tony Kirby - E and Y - ISITC ELG member  
Michael Buzza - Northern Trust  
Stephen Smith - BAM Advisory Group  
Chris Jenkins - Threadneedle  
Steve Ince - Threadneedle  
Janine Pietersen - Nomura  
Paul Kennedy - Interactive Data  
Rory McClaren – Impendium Systems  
Stuart Clark Impendium Systems  
Sophia Bantandis - Northern Trust  
Chris Mason - Northern Trust  
Madeleine Thompson - DST Global Solutions  
Mary Ann Callahan - DTTC.

## Introduction

DE extended a very warm welcome to everybody to Threadneedle's offices at 60 St Mary Axe and asked everybody to introduce themselves.

DE then gave an overview of the agenda and outlined what ISITC Europe was trying to achieve with the Regulations Working Group.

## FATCA

DE invited Stephen Smith - Director BAM Advisory to walk through the FATCA solution proposal.

Issues with this

1. Would all parties buy in?
2. Data protection / indemnity
3. Who pays
4. What information would the repository hold and where would it be located ( some jurisdictions have information restrictions - Middle East for example

Whilst it might not be possible to record all the information required for FATCA reporting to the IRS within a central repository, attendees felt that it would make sense to record the guidance rules for FATCA compliance. This is where the repository could provide most benefit. In addition the repository could provide guidance on the data structures required.

FATCA might be the thin end of the wedge if the US make it work and as a result all firms will need to rewrite their client take on process to record key data elements. Attendees agreed that this might be an area where ISITC could

assist. Aim will be to set up a working group session in early Q1 2012 to focus on the key elements required for FATCA and prepare a draft op model for client types.

AS most of this is about data ISITC to work out how this would fit with other data projects ( ie BEI and LEI) which need work also.

## **Additional Contextual Information – Dr. Anthony Kirby**

- There is information in circulation from the IRS e.g. circulars 2010-60; 2011-34; 2011-53 but a relative lack of granularity around the definitions of FFIs vs USFIs
- FATCA will affect foreign entities and some asset managers may be deterred from managing money for US accounts and/or persons
- The new regs are published from Jan 2012 and while approaches to solutions are helpful, it will be premature to assume the precise components within the regulations
- We are not certain whether other countries will issue their own (e.g. retaliatory) equivalents of FATCA
- We need a running FATCA timetable that illustrates the actions that need to be taken by FFIs before and after June 2013
- Accordingly to EY's Risk Survey 2011, many asset managers are relatively advanced in their high-level planning but varied when it comes to implementation; some US-headquartered entities are taking the lead
- Legal entity standards are sorely needed at the corporate/account and the personal/fund levels
- ISITC-Europe should think about reconstituting a data WG to address FATCA but not reinvent the wheel if such a group exists
- Market infrastructures and custodian banks should be invited to contribute their thoughts on outsourcing and/or data maintenance
- A workshop is proposed for Q1 2012 to cover the above.

## **RDR and UCITS IV**

### **RDR**

I spent most of my time listening rather than writing so do not have that much to add other than to say this has a similar ring to it - regulator has not thought through how this would be implemented operationally.

In addition we may see polarisation amongst smaller IFAS with the result that platforms gain more business. Also some IM's are looking at D2C non advised solutions to offer a presence in this space

### **UCITS 1V**

The new rules will add additional regulatory cost and in addition greater data requirements. This is a common theme across all the topics. In addition are sure that the focus on VAR is the right metric for risk management going forward - would scenario planning and Monte Carlo simulation make more sense. This may see a fundamental change to the risk management process going forward. Could the RMP be outsourced to a third party?

That's everything I can remember - in summary 2 further workshops required. 1 for FATCA and another for RDR and UCITS - aim to establish high level op model / straw man.

## Additional Contextual Information – Dr. Anthony Kirby

### RDR/PRIPs/MiFID II/UCITS IV/V:

- The FSA has taken a long time consulting on RDR; despite all efforts, it is not clear whether they really understand the basis of how platforms work and/or how the UK's IFA model might interoperate under EU regulations and/or bank assurance models to come
- Comment that firms not fully not sure that the FSA fully tested the core RDR principles with consumer associations because clients did not express a strong preference behind paying up-front fees to get advice
- Despite the evidence of cross-over between RDR and MiFID II, investment managers see greater convergence potential between PRIPs, UCITS and MiFID II instead
- PRIPs will apply UCITS-style KIID standards to pre-contractual disclosures and marketing materials to enable investors to make informed investment decisions by focusing on key information presented in a format which allows for easy comparisons
- Firms do not exactly want to see a proliferation of share classes when it comes to implementing RDR
- Not all respondents in a Compliance Survey run by EY in 2011 were in agreement on whether RDR would really simplify the landscape; some firms thought that the transition to RDR would be anything but simple because there would be more platforms and intermediaries to consider
- Other firms expected a shakeout of platforms and/or poorly capitalised IFAs
- Some asset managers believe that replacing commissions with advisory charges should remove product provider bias and could give a boost to ETFs and passive investments such as trackers
- Once more, centralised data would be preferable
- Investment managers have expressed concerns that RDR might introduce extra complexity and costs at a time when the capital charges (ICGs) levied on some platforms are also high; Many firms believe that extra costs of managing the complexity that would arise from unbundling, would be fed straight back to the end investor
- 56% of firms in EY's recent Compliance Survey reckoned that there would be an increase in platform use post RDR
- 58% of firms in EY's recent Compliance Survey reckoned that there would be a significant level of industry consolidation post-RDR
- Firms seem to be more comfortable with the differentiation between offering unbiased 'investment advice' vs 'restricted advice'.
- The knowledge level behind PRIPs is not as advanced as for RDR
  
- Asset managers were relatively comfortable when it came to implementing UCITS IV but there were a couple of selective 'challenge' areas
- Many indicated issues when preparing KIIDs in different versions or coping with the SRRI
- Results were much more varied with regard to applying hard risk limits or a liquidity risk management framework
- Upgrading the simplified prospectus to carry key investor information (KII) data and narrative - describing the firm's objectives, investment policy, charges, past performance, countries of listing, domicile, asset classes and investment destinations without ambiguity.
- Asset managers have experienced varying degrees of challenge in trying to restrict the length of the KIID down to two pages (or three for structured funds) without making undue assumptions as to the skills of typical retail-classified readers
- According to the Compliance survey of Asset Managers run by Ernst & Young, 53% of firms reported challenges with constructing and operating the seven new risk ratings under the Synthetic Risk & Return Indicator

- There is tendency by the industry and regulators alike to regard VaR for statistical market risk modelling as a panacea, irrespective of whether the VaR models are parametric VaR (based on portfolio volatility), historical VaR (based on past performance) or simulated VaR (based on Monte Carlo or comparable iterations)
- 42% of respondents in the Compliance survey of Asset Managers run by Ernst & Young reported issues when applying hard risk limits as part of their escalation approach. Only 31% of firms applied a Liquidity Risk Framework (or Management System) in the same survey.
- Depository liability is becoming a growing concern under UCITS V to come too because of backfill from AIFMD
- There is a huge need for custodian banks and transfer agents to step up to the plate, possibly room for a MI or two also; industry solutions featuring outsourcing or 3rd party solutions would need to take account of the regulatory direction of travel concerning roles/responsibilities in each country
- Entity data, whether static or dynamic, would be a pre-requisite for maintaining quality SRRI data for back-testing.
- ISITC-Europe should look to run a workshop in the New Year alongside the above, but be mindful of other measures (BBA?) in the space.

## Actions

What	When	Subject	Comments
FATCA Op Model Workshop	Q1 2012	aim to establish straw man / summary of data requirements / rules	DE /TK to discuss at next ISITC Europe ELG meeting
RDR and UCITS IV workshop	Q1 2012	aim to establish straw man / summary of data requirements / rules	DE /TK to discuss at next ISITC Europe ELG meeting. In addition workout if we can partner with other trade bodies in this space