SPECIAL REPORT

EMIR Refit

Navigating the mandatory changes

In collaboration with:

Broadridge®

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Executive Summary: the ever-growing complexity of reporting requirements

EMIR Refit reporting requirements are expected to come into force in the first half of 2024. The rules are anticipated to apply in the EU from the first quarter of the year, while UK participants should come into scope in the second quarter.

The new requirements will increase the amount of data fields firms must send to regulators as well as adding action and event combinations, unique product identifiers and ISO 20022 messaging. Firms will also face new demands for matching fields and resolving errors and omissions.

The EMIR Refit is intended to better align EU derivatives reporting with global standards and improve the quality of data that regulators use to supervise financial markets.

Firms will have to adapt to these new rules at the same time as other jurisdictions also introduce new reporting standards. This will lead to an exceptionally busy period for institutions as they upgrade multiple systems to comply. That will add to regulatory fatigue from previous rounds of implementing reporting requirements, highlighted in interviews with senior reporting executives for this report.

These new requirements across jurisdictions are expected to start going live from late 2022. They will take in the US CFTC's rewrite, as well as ASIC, HKMA, JFSA and MAS reporting regulations. The US SEC has also floated Rule 10c-1 which would bring securities lending into scope.

Adding to this volume of jurisdictional framework changes will be Brexit. Firms working on EMIR Refit will have to contend with any divergence between the UK's Financial Conduct Authority and the European Securities and Markets Authority's interpretation of the new regulatory regime.

To understand how firms are approaching this new load of reporting requirements, with special focus on EMIR Refit, in Q1 2022 Acuiti surveyed or interviewed senior regulatory reporting heads at 40 sell-side firms on their preparations for the regulation.

This report identifies where sell-side firms face the greatest obstacles in implementing the new EMIR Refit rules and where systems need to adapt most. The key findings are:

- EMIR Refit will strain resources, with concerns that both budget and staffing issues will challenge some firms' capacity to comply
- The increase in data fields and fields for mandatory matching will make reconciliation a major issue for firms
- Errors and issues with reconciliation breaks can be solved with the right exception management infrastructure
- Firms are expecting Unique Transaction Identifier implementation to be complicated, with pairing and sharing highlighted as a particular pain point
- Ambiguity on how to interpret some new fields, such as for lifecycle events, is heightening the risk of breaks between counterparties
- Integrating ISO 20022 is expected to be a relatively smooth part of the EMIR Refit implementation
- The experience of implementing previous regulatory reporting regimes is driving greater engagement with, and higher expectations of, third-party solution suppliers and professional services providers that can help their EMIR Refit processes

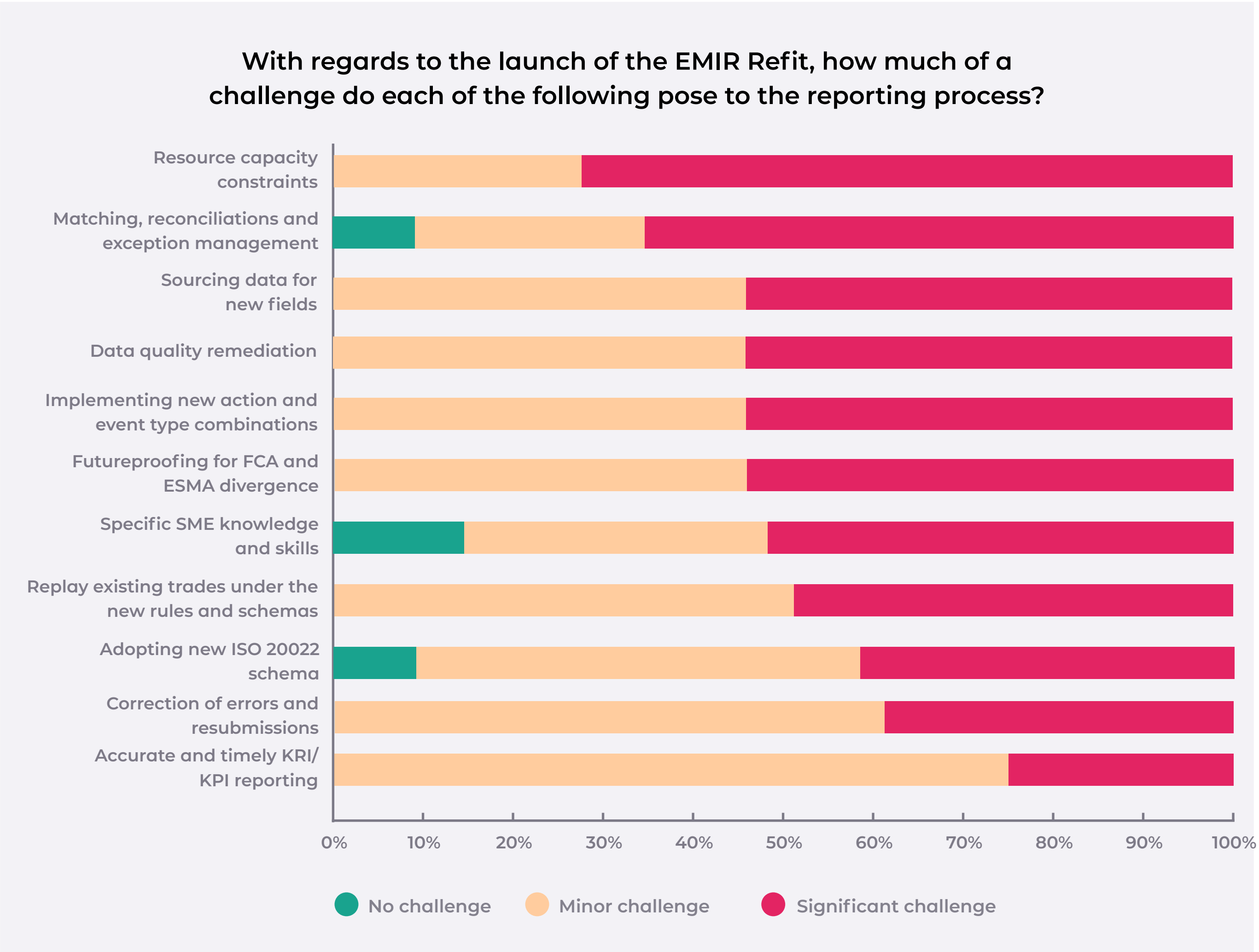
EMIR Refit: The current state of play

With over a year until implementation, it is perhaps no surprise that the majority of firms that took part in this study – from January to March 2022 – reported being at a relatively early stage in their preparations.

Most firms were confirming rule applicability with their legal and compliance departments and project planning. Just under a third had moved on to conducting requirements analysis but very few had progressed to solution implementation, vendor selection or testing.

Despite being in the early stages of implementation, many firms are already cognisant of the scale of challenge ahead.

The EMIR Refit is a major project for reporting teams. Almost two thirds of respondents to the survey for this report said that they were making "significant" changes to their current reporting processes and infrastructure.



This lift is being driven primarily by the increase in reporting fields. Firms expect this to increase both the volume of data to be reported and the complexity of reporting requirements. Concerns were raised by executives interviewed for this report that this also elevates the risk of errors.

Adding to the compliance burden is uncertainty over how to interpret new fields. Reporting of life-cycle events (see 'Taming the data' below) is one area where uncertainty may lead to breaks with counterparties.

For many, getting ready for the EMIR Refit will need to be done with constrained budgets. At the same time, the timeframes involved in identifying, competing for and onboarding reporting staff will be challenging against the busy calendar of regulatory deadlines. Executives interviewed for this report cited intense competition for talent in building the teams to develop reporting processes for the Refit.

Given this backdrop, firms may find turning to consultancy to be an effective solution. Done right, this option can be a plug and play for firms, bringing in teams with a holistic view gained from working with different reporting regimes, and specialised knowledge of each regulation. Given the increasingly tight timelines for implementation, dedicated consultancy service providers can scale their expertise quickly to address implementation.

These teams also have the advantage of having consistently kept on top of the evolving regulatory landscape. While the temptation for firms to follow processes used for the original EMIR may be high, there are differences in the Refit that could trip teams up and increase the risk of fines.

The survey found that resource capacity constraint is the most pressing challenge facing firms in implementing EMIR Refit, with the vast majority seeing it as a significant challenge and none seeing it not posing challenges.

Investment: Ensuring efficiency will be key

These resource constraints explain why respondents to the survey reported that project management, project staffing and advisory services were the current priority area for firms when investing to meet EMIR Refit requirements.

Data harmonisation solutions will also require significant investment. EMIR Refit demands standardisation in line with global guidance on data requirements such as the Unique Transaction Identifiers (UTIs).

Despite regulators' desire to create greater alignment in global reporting standards, firms often run into divergence in requirements when implementing CPMI/IOSCO guidance. Firms will also seek to improve data remediation and tighten internal controls, as they try to minimise incorrect submissions to regulators and improve their systems for resolving errors.

For smaller and more regional players with less money to invest, this regulatory reporting burden can be especially draining on resources, taking up budget and creating knock-on effects in areas such as technology spend.

Interviews revealed that this is already hampering some firms' competitive edge in bringing front-office platforms to market. These firms were particularly likely to be looking for third party vendors to ease their internal burden (see 'Third party or in-house' below).

Backloading - the requirement to report existing trades with new fields and updated ISO schemas - was one example of a requirement that consumes particularly large resources. However, interviews did show that some firms felt readied for this obligation by their experience with backloading during SFTR implementation. This has put them in good stead for the EMIR Refit.

In which areas are you investing to meet the requirements of the EMIR Refit (order of number of times selected)?

1. Project management, project staffing & advisory services
2. Connectivity and data harmonisation solutions
3. Data remediation of existing known issues
4. Tighter internal controls and reporting
5. Testing / QA automation
6. Better exception management capabilities

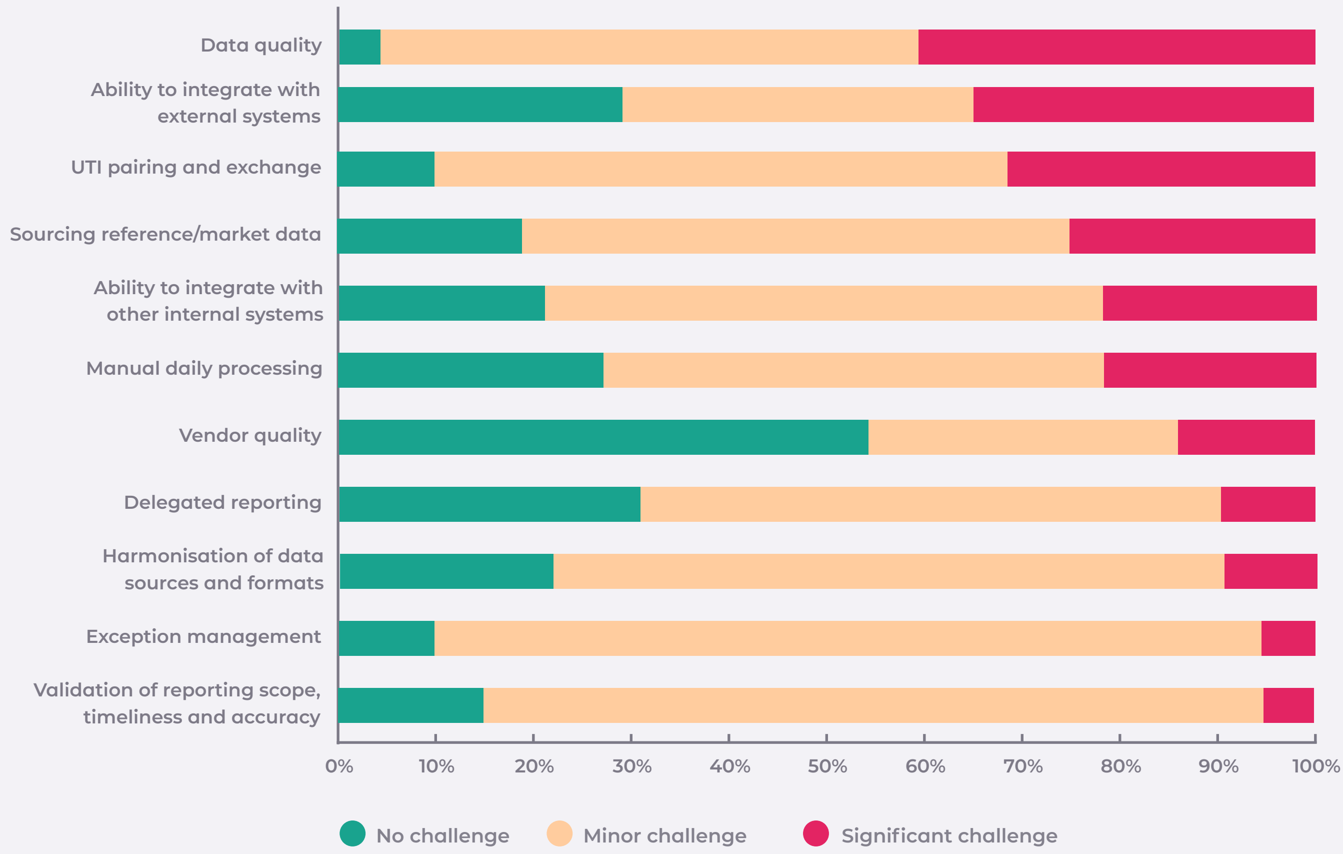
A snapshot of reporting challenges

The EMIR Refit is dominating the minds of senior sell-side reporting executives today. However, while there are some unique issues posed by EMIR, many of the challenges apply to regulatory trade and transaction reporting in general. Acuiti asked respondents what challenges they faced overall in their reporting businesses.

Data quality was the top challenge overall for firms when it came to meeting their reporting obligations. This was particularly an issue for tier 2 and 3 banks with 86% saying that data quality was very challenging compared with 25% of tier 1 banks (although 69% of tier 1 banks said it was quite challenging).

Data harmonisation was also more of a challenge for tier 2 and 3 banks with 28% saying it was very

How much of a challenge do the following pose in meeting your overall regulatory trade and transaction reporting obligations?



challenging, and the remainder that it was quite challenging compared with 25% of tier 1 banks who said they did not find data harmonisation a challenge.

The one area where tier 1 banks reported more of a challenge than other company types was manual daily processing. This reflects the historical approach in terms of investment in headcount rather than technology that the largest firms have had, often off-shoring data processing.

Non-bank FCMs were most likely to report challenges with the ability to integrate with external systems, while for brokers souring reference and market data was a top challenge compared with other company types.

Firms also anticipate problems in UTI pairing and sharing and indeed were already identifying challenges in implementing this in interviews. There was particular concern around rebooking UTIs in bilateral transactions, which firms fear will lead to delays in resolving mistakes with counterparties.

Exception management was another significant challenge identified by firms. However, this was linked more to the need to have solid exception management in place rather than any particular challenges in implementing this part of the system.

Taming the data: significant challenges lie ahead

Matching, reconciliations and exception management were ranked in the survey as the second most significant challenge in the reporting process and the biggest technical challenge.

Obtaining the most suitable systems for these functions, especially exception management and reconciliation, was highlighted in interviews as key to minimising mistakes and avoiding fines.

The increase in fields and high volume of transactions being processed by firms on a daily basis can make resolving errors a time-consuming process. Firms may benefit here from using exception matrix tools, which map out reporting errors and the logic that led to them. By identifying the regulation and error type in each report, resubmissions can be made quicker while future process is also improved.

Sell-side regulatory reporting executives also highlighted reconciliations as an area where firms wanted robust systems that could improve processes and lead to better dialogue with regulators.

ESMA's EMIR Refit has increased the number of new fields to be reported by 40%, with more fields also coming in-scope for mandatory matching. Firms will probably not have to fill every one of these new fields but there remains a lack of clarity on which are optional, and which are not.

This complication is then often compounded by the volume of data required by regulators. While market participants see errors as an inevitable part of reporting, steps can be taken to minimise this. The right technology can identify errors thrown up by a reconciliation break. Good edit and resubmission functionality can then shorten the time to resolving problems, reducing backlogs in the submission process.

A further concern is that unclear rules will lead to counterparties taking different views on how they report, which can lead to new delays in submission when one side makes an error.

One example is the updated reporting obligations for lifecycle events that have caused a modification or termination of a contract. The EMIR Refit seeks to separate information on lifecycle events into action and event fields.

Interviews for this report revealed a general concern over a lack of clear guidance on this new format, which could lead to different counterparties taking different approaches to reporting for this part of the requirements.

Team leaders fear this could lead to more reconciliation breaks between counterparties. Again, firms may find that using the right exception management tools can help shorten the time lost to these breaks, by allowing for easier resubmission.

Complexities can cause snare-ups in the reporting process that may lead to regulatory investigations and fines. Given the high volume of submissions, the chances of achieving perfectly correct reporting every day are minimal. These issues could be alleviated by "message hospitals" though, which analyse why messages between entities have not been accepted and identify where they can be fixed.

It must be noted that executives saw complexity as more of a challenge than volume in ensuring accurate entries – with structured products considered a more challenging asset class to report on due to their complicated nature, as compared to higher volume but more vanilla asset classes such as FX.

Under the cosh: regulatory divergence creates new complications

ESMA has already officially noted its displeasure at data quality in derivatives reporting under EMIR, ratcheting up the pressure to improve in this area. However, executives that took part in this study pointed to the sheer scale and complexity of reporting requirements and the challenges they face in pulling together internal data from disparate sources.

Several also said that each regulator often takes different approaches to datasets, causing confusion around which data inputs regulators required.

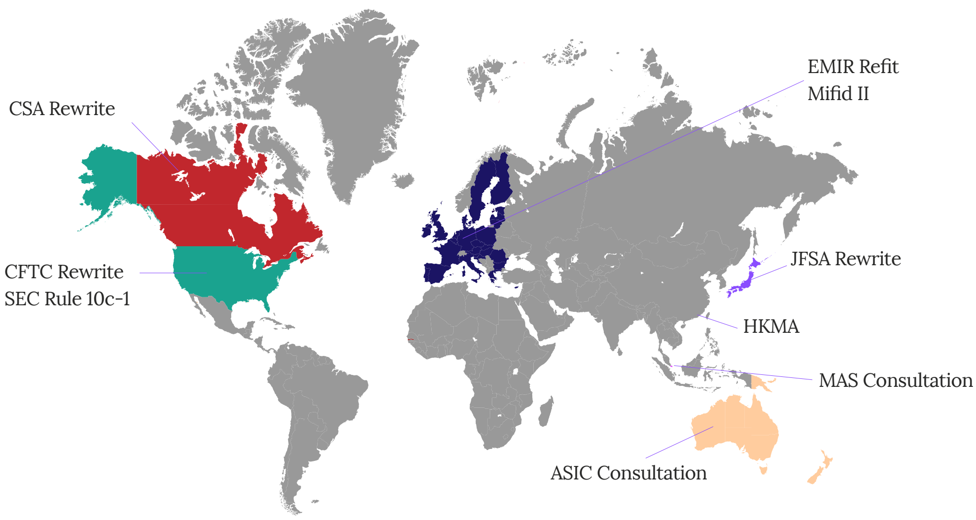
Considering the complexity of the requirements and the relative fragmentation of data sources across the sell-side, errors are inevitable - a fact that reinforces the need for effective control processes and sophisticated exception management tools.

Many in the market want a better dialogue with regulators to be able to show their processes, explain where errors are emanating from, and to demonstrate that they had been made in good faith – mitigating fines and developing a means of solving collective challenges in a collaborative fashion.

This would also lead to better internal processes to resolving errors, which can be hampered by defensive attitudes and wrangling over interpretations of minor aspects of regulatory language.

Interviews highlighted occasions where this had been an issue with firms and their ARMs as well, leading to delays and a drain on staffing. These can be highly manual processes, as both sides try to resolve errors in a generally defensive setting.

This is another area where an exception matrix that orders exceptions into groupings by logic could help firms identify errors in their reporting processes and create quality reports for regulators, as well as bettering their own internal systems. Grouping types can include regulatory regime, exception reason and exception locations.



Major current global reporting reforms

Third-party or in-house?

The continual development of reporting regimes across increasing numbers of jurisdictions has created major complexity for the technology built across the sell-side to manage and process reporting requirements.

Almost three quarters of survey respondents said that their organisation currently uses two to five different reporting systems. However, there was significant variance by company type with 20% of tier 1 banks using more than 10 systems and 15% of tier 2 and 3 banks between 6 and 10.

Firms reported the use of multiple reporting systems, generally with different systems for different asset classes rather than for different reporting regimes, although around a third used separate systems for different regimes.

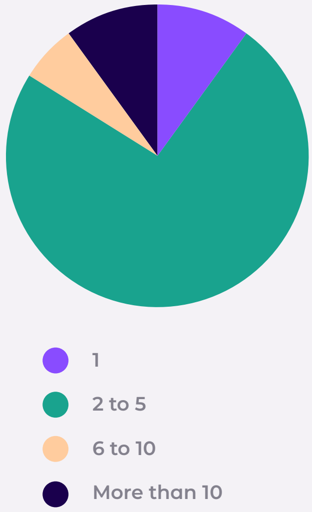
This complexity is leading to a strong desire for consolidation. Over 80% of respondents were considering consolidation of some or all of their trade and transaction reporting systems onto a single platform. Of those that weren't, all but one cited budget or internal technology constraints as the reason behind not considering consolidation.

These choices also throw up the dilemma of whether to build systems in-house or source to third-party vendors.

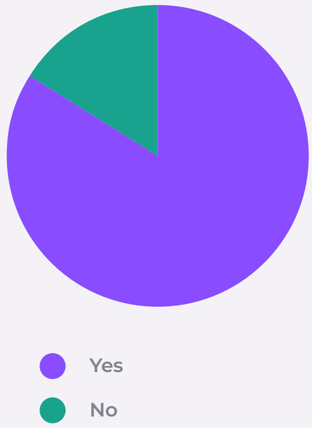
Survey data shows a clear preference among tier 1 and some tier 2 and 3 banks for in-house solutions. However, for most tier 2 and 3 banks, non-bank FCMs and brokers, executives preferred vendors.

The findings of this study suggest that working with a third-party vendor creates efficiencies. Over two thirds of firms that fully built the software in-house said their reporting operations were inefficient compared with a quarter of firms that fully outsourced. Firms that operated a hybrid of third-party and in-house build reported the most efficient operations with 88% saying they were either very or quite efficient.

How many different reporting systems does your organisation currently use?



Are you considering consolidating some of your reporting systems onto one platform?



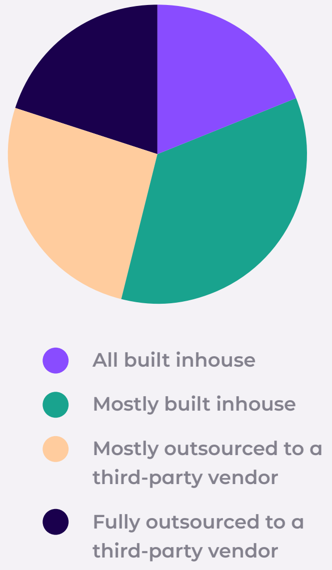
Interviews showed that firms that work with third-party vendors are comfortable with their systems and now increasingly looking to vendors for extra analytical and visualisation capabilities on top of data reporting services. These include increased analytical capabilities, such as the flexibility to conduct searches on large data sets.

Data lineage tools that allow staff, not always those in reporting roles, to clearly visualise which source systems data is coming from and which regulatory definitions apply to different data entries were also seen as valuable for increasing regulatory reporting literacy in teams such as operations, which may not be as familiar with the minutiae of new rules.

Regulatory reporting executives also reported that the market for vendor systems has become increasingly sophisticated in recent years and the complexity of reporting requirements is driving more firms to consider third-party software over in-house builds.

Of those surveyed respondents that didn't already work extensively with third-party vendors, 57% said that they were more likely to do so as a result of the increased in complexity of regulatory trade reporting requirements, including all non-bank FCMs that took part in the study.

How do you currently run your reporting software?



Dealing with Brexit

Futureproofing the incoming divergence between the EU and UK EMIR regimes was a significant challenge for a majority of survey respondents.

Given that clarity on the political question of Brexit was resolved some time ago, interviews found that firms had generally set up their infrastructure and staffing to deal with regulatory divergence between the UK and EU and this would not cause many unexpected headaches.

It could be that Brexit divergence impacts delegated reporting however, particularly for European banks serving a smaller proportion of UK clients relative to other firms. Banks not planning on expanding into the UK may end up having to judge whether the cost of offering delegated reporting to a small number of UK clients was worth the burden.

Firms that outsource are increasingly looking to vendors for extra analytical and visualisation capabilities on top of data reporting services.

Conclusion: Harmonisation challenges await

Greater data harmonisation across the industry on a global scale is seen as good in theory but hard to achieve in practice. Executives interviewed clearly recognised the benefits of greater harmonisation. However, research showed that this was often difficult to achieve between counterparties, which often lack a shared interpretation of fields.

This will drive the use of data harmonisation software. Systems that seek to create a common language, or help entities understand the logics of their counterparties, are essential tools in the complex data environment that exists today.

Pairing and sharing of Unique Transaction Identifiers (UTIs) across different jurisdictions is one area that is particularly challenging. Global UTI is a prime example of an initiative that could bring enormous benefits to the industry through global standardisation.

This desirable result will be hard to implement though, with executives sceptical in interviews that it would be achievable in a way that lowered the compliance burden. While initiatives are global in scope, firms reported that they often found regulators would in practice always differentiate on the definitions they implement.

This explains the importance of flexibility in systems, with respondents desiring a platform that could incorporate regulatory changes quickly and smoothly. Systems that analyse differences in reporting formats between counterparties or even internal entities and provide solutions could also be helpful in increasing harmonisation.

In theory, some of the incoming trade reporting regulations will have common data initiatives that will bring some harmonisation to firms' reporting systems. But many remain sceptical on how far the ideal of harmonisation could be pushed in practice. Regulators have a tendency to bring their own interpretations to global regulatory frameworks, which then leads to further reporting burdens. This requires firms to have wide and detailed knowledge of the nuances between different reporting regimes.

Some experts have already observed differences in the way Asian, European and North American regulators are approaching UTI, with varying levels of adherence to IOSCO standards.

Internally, data harmonisation was also seen as a good thing. But given most sell-side firms operate across multiple jurisdictions, introducing common data models across subsidiaries was seen as difficult to implement by many.

One exception to this was the ISO 20022 standard approach for the development of messages, which executives reported was popular with the developer teams that were responsible for implementing it.

Given the complexity and scope of reporting requirements coming online over the next two years, firms face significant operational challenges in updating their systems to comply. These will be exacerbated by regulators' insistence on better data quality and the threat of fines if those demands are not met.

This will make efficiency paramount, especially given the need to control costs that could have a knock-on impact to competitive performance in other parts of firms' operations. That will require budgetary restraint, but it does also open the door to innovation, with the opportunity to improve how reporting systems function as well as the quality of data submissions.

About Broadridge

Broadridge, a global Fintech leader with $5 billion in revenues, provides the critical infrastructure that powers investing, corporate governance and communications to enable better financial lives.

Through its strategic trade and transaction reporting solutions and services, Broadridge helps firms to efficiently fulfil their global regulatory obligations and implement robust control frameworks using a single dashboard. Firms can benefit from a holistic approach to compliance through a multi-jurisdictional, cross-asset class platform that is source- and destination-agnostic and Cloud-based.

Firms can also have extensive access to Broadridge's business, technology and change management experts who can provide deep, regulatory-specific expertise to assess the best solutions for their business. In addition, Broadridge's team of experts can execute a proven delivery framework and allocate the most suitable resources to ensure a successful implementation, helping firms get ahead of today's challenges and capitalise on what's next.

About Acuiti

Acuiti is a management intelligence platform designed to provide senior executives with unparalleled insight into business operations and industry-wide performance. Acuiti helps identify market trends, enhance decision-making and benchmark company performance. The platform anonymises and aggregates information from its exclusive network of senior industry figures to provide insightful in-depth analysis.