THIS MONTH

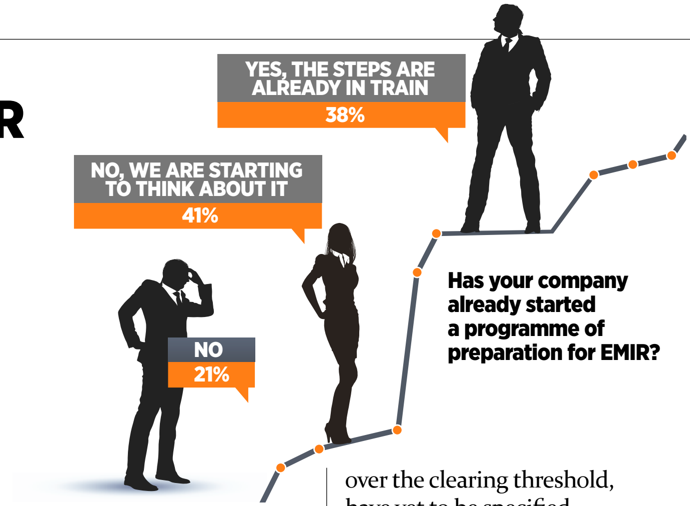
OTC DERIVATIVES REGULATION

The recent ACT webinar on what OTC derivatives regulation means for businesses, sponsored by Goldman Sachs, was a huge success, with almost 500 registered participants. Questions flowed in thick and fast, showing how big an issue this is for corporates. More on this topic is covered in our article below and we're planning to use the questions that are still coming in as a basis for a Q&A paper. Watch out for that, and for more technical webinars, throughout the year.

Michelle Price is ACT associate policy and technical director @michellehprice

{ IN DEPTH }

COMPANIES ARE BEHIND ON EMIR



Practical preparation for implementation of the new European market infrastructure regulation (EMIR) covering OTC derivatives must now be a priority. In fact, the start date for the rules on confirmations was 15 March 2013. Initially, non-financial counterparties have five business days to complete confirmations on interest rate swaps and seven days for FX derivatives, but both will be reduced to two days by 2014.

As companies work through their new compliance needs, it is becoming apparent that the rules are far from clear. For instance, the implication is that confirmations must be two-way, so a negative affirmation whereby companies need only respond to a bank confirmation if they disagree may not be adequate.

A poll taken during an ACT webinar on EMIR in March found that banks and service providers are well behind in offering advice and services to their customers. Some 44% of organisations are only just beginning to hear from a few banks or service providers and 39% have heard nothing from them. The poll also revealed that just 38% of companies have their implementation projects up and running, 41% are starting to think about it and 21% have done nothing yet.

Companies are concerned about the procedure that regulators will use for checking compliance with EMIR. For the time being, that, too, is unclear. In the UK, it appears to be based on self-certification, but there will undoubtedly be penalties eventually if non-compliance comes to light. By contrast, Germany has taken the opposite tack. Recent legislation obliges companies to submit to verification and certification by appropriate auditors if they enter into more than 100 OTC derivatives or derivatives with a notional value that exceeds €100m.

As a result of the rush to get derivative regulation onto the statute books, the requirements have phased-in start dates and some of the details remain unclear. The rules on bilateral margin on deals that cannot be cleared, applicable to companies over the clearing threshold, have yet to be specified. But indications from the International Organization of Securities Commissions are that both initial and variation margin will be required, but with a four-year phased implementation.

In the UK, there are forms available on the Financial Services Authority's website to notify the FSA if the group has a sufficient volume of non-hedging derivatives to cross the threshold into mandatory clearing. The requirement to notify started, in effect, on 15 March and it does impact the timescales for confirmations and other procedures even though clearing itself will not be up and running until 2014. Pension funds can now apply for the three-year delay to the start date for clearing that will eventually impact them.

YOUR SHOUT

The ACT publishes technical briefing notes to provide coverage on topics where we perceive a lack of information exists in the marketplace or as useful *aides-memoires*. If you have any topics you would like to see covered, please email technical@treasurers.org

{ INTERNATIONAL }

RENMINBI CURRENCY SWAP

The Bank of England is in discussions with the People's Bank of China (PBOC) to sign a three-year sterling-renminbi swap line. The swap agreement will be used to finance trade and direct investment between the UK and China. It will allow the Bank of England to purchase Chinese government bonds in the Chinese mainland market and expand its reserves into another currency, the renminbi. The swap agreement will also be used to support domestic financial stability if needed, offering a backstop liquidity provision to the growing renminbi market in London. Sir Mervyn King, governor of the Bank of England, said: "London is growing rapidly as a centre for renminbi business. The establishment of a sterling-renminbi swap line will support UK domestic financial stability. In the unlikely event that a generalised shortage of offshore renminbi liquidity emerges, the bank will have the capability to provide renminbi liquidity to eligible institutions in the UK."

Currency swap lines are not uncommon among central banks. The Bank of England has swap lines with many central banks, including the Federal Reserve Bank of New York and the European Central Bank.

To date, PBOC has signed bilateral currency swaps globally with Belarus, Indonesia and Argentina (in 2009); Iceland and Singapore (2010); New Zealand, Uzbekistan, Kazakhstan, Korea, Hong Kong, Thailand and Pakistan (2011); and the United Arab Emirates, Malaysia, Turkey, Mongolia and Australia (2012).

The Bank of England and PBOC are expected to sign the final agreement shortly.

NEW ON THE WEB

View the following technical updates and policy submissions at www.treasurers.org/technical

Technical webinar: OTC regulation for non-financial companies

ACT responses to the European Securities and Markets Authority, European Banking Authority and the International Organization of Securities Commissions on principles for financial benchmarks setting

{ WATCH THIS SPACE }

NEW GUIDANCE ON UK LISTING RULES

In its regular *Primary Markets Bulletin*, the Financial Services Authority (FSA) is proposing additional guidance to listed companies via new *Technical Notes*. Risk factors are a part of any prospectus and the FSA is reminding issuers that these should be specific to the company and its industry, and should be relevant to the type of securities being offered. It deprecates the tendency towards generic, standardised risk factors.

The notes stress that a prospectus summary must disclose only key information on the core risks to the issuer, its industry and its securities, as opposed to the main prospectus, which covers 'material' risks. Hence, a different materiality test applies for risk information that needs to be disclosed in the summary as compared with the risk factors section of the prospectus.

In another *Technical Note*, the FSA reminds issuers of the need to disclose inside information as soon as possible and that disclosure should not be delayed merely so that it can coincide with a scheduled announcement of a periodic financial report.

{ TECHNICAL ROUND-UP }

LIBOR, LSE AND DERIVATIVE EXCEPTION

The Hogg tendering advisory committee has been established by HM Treasury to recommend a new Libor administrator, following on from the Wheatley Review last year. Committee members include the ACT's chief executive, Colin Tyler. To date, the committee has published its terms of reference and a pre-tender questionnaire to provide a preliminary assessment of bidders.

The London Stock Exchange has published its proposals to create a new 'high-growth segment' aimed at fast-growing trading companies that intend to seek admission to the official list, but don't currently meet the eligibility criteria. The high-growth segment will form part of the main market, but in essence it will be a hybrid between the Alternative Investment Market and the main market. Companies will not be subject to the *Listing Rules*, but they will be subject to certain EU directives. Hence, while companies will be required to prepare a prospectus, they won't have to prepare a further prospectus when progressing to a standard listing.

The IASB has published an exposure draft proposing that when a derivative is novated from a counterparty to a central counterparty, it is not deemed to be a discontinuation of a hedge. This narrowly scoped exception is due to new regulation.

UK PAYE information must be reported to HMRC in real time from 6 April 2013. Employers must submit their information online on or before the day employees are paid. Further information is available on the HMRC website.

The UK government has published a set of proposals on share buybacks that is designed to remove barriers to employee ownership and ease restrictions on the financing of buybacks. These proposals were initiated by the Nuttall Review of Employee Ownership, which was published in July 2012. Secondary legislation to implement the proposals will amend the Companies Act 2006 and is expected to come into force during 2013.