

Jingle Bells - Trade Reporting

Further to our client briefings of 12 December 2012, 6 October 2011 and 31 January 2011, the purpose of this note is to provide a brief update with respect to the introduction of trade reporting in Russia.

Trade Reporting - Commencement Date and Reporting of Historic Transactions

As noted in our earlier client circulations, the trade reporting regulation No. 11-68/pz-n dated 28 December 2011 ("**Reporting Regulation**") adopted by the Russian Federal Service for Financial Markets ("**FSFM**") states that the obligation of the parties to report derivative transactions, repos and FX and securities transactions entered into under a master agreement will arise once a trade repository commences its operations and both parties to a master agreement have entered into a trade reporting agreement with the relevant repository.

Although National Settlement Depository ("**NSD**") was supposed to commence trade repository operations on 3 December, due to a number of technical and logistical difficulties, the launch of the trade repository was delayed and it is now expected that NSD would start accepting reporting with respect to a limited number of transactions (namely, FX swaps and repos) in late January-early February with full reporting not being available until sometime in the second half of 2013. With that in mind and in order to address the apparent conflict between the requirement for the market participants to report all relevant transactions from day one and the repository's practical inability to do so, the FSFM have amended the Reporting Regulation providing

for a gradual introduction of the trade reporting requirements. Further, the FSFM intends to extend the cut-off period for the parties to conclude trade reporting agreements with the trade repository and report outstanding historic trades from three to nine months.

It appears that the above amendments have already been adopted by the FSFM and are awaiting registration with the Russian Ministry of Justice (which is a prerequisite for the amendments to be officially published and come into force). Although the situation is not entirely clear, we would not expect the trade repository to commence its limited operations before the amendments come into force.

As noted in our earlier client briefing (see [Netting in Russia: Reporting of OTC Transactions Documented under a Master Agreement](#)), we would suggest that market participants do not execute trade reporting agreements with the trade repository until such time as they are prepared to report both the historic trades as well as the new trades on the ongoing basis.

Alternative Trade Repository?

In the meantime, Non-for-Profit Partnership RTS (through St. Petersburg Stock Exchange) ("**NP RTS**") have announced that they are assessing the market to see whether it would be feasible to create an alternative trade repository. Should the market study be positive, NP RTS may commence their operations in the first half of 2013.

Administrative liability for non-reporting or improper reporting

With effect from 1 January 2013, the Russian Administrative Offences Code was amended to introduce administrative liability in the form of a fine of up to RUB 2,500 (approx. US\$ 80) for individuals, up to RUB 30,000 (approx. US\$ 1,000) for company's officers and up to RUB 500,000 (approx. US\$ 17,000) for legal entities for failure to report or

improper (e.g. late or incomplete reporting) trade reporting.

However, it is unclear whether the fine can be imposed on a non-Russian entity failing to properly report and if yes, how the relevant penalty can be enforced against such a non-Russian entity.

We continue to closely monitor the situation and will keep you posted on the developments.

Happy Holidays and all the best for 2013!

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