Regulatory Outlook 2022 and Beyond

Ready for Next

Staying up-to-date on evolving regulations is an essential requirement for financial institutions large and small. Yet, continuous regulatory changes, delays, and additions can complicate an already challenging task.

Take advantage of our Regulatory Outlook 2022 and Beyond to quickly assess what's new regarding regulations around the globe. You'll gain insights into how you can proactively prepare and respond to recent shifts in the regulatory landscape. You'll also learn about the expertise and solutions that can improve your processes, increase efficiency — and ultimately bring some ease to the complicated world of compliance.

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California Consumer Privacy Act (CCPA)

Following on the heels of the European Union's General Data Protection Regulation (GDPR), the CCPA grants consumers new rights concerning the collection of their personal information. It grants a consumer the right to request that a business disclose the categories and specific pieces of personal data that it collects about them, the categories of sources from which that information is collected, the business purposes for collecting or selling the data, and the categories of third parties with which the information is shared. It also requires a business to make disclosures about the information and the purposes for which it is used.

Many companies doing business in California will need to reassess data collection and use and modify their business processes to meet CCPA requirements. We help companies manage communications data to comply with privacy requirements and protect the interests and preferences of their customers.

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Dodd-Frank Wall Street Reform and Consumer Protection Act

Dodd-Frank is a massive piece of financial reform legislation targeting the sectors of the financial system that were believed to have caused the 2008 financial crisis, including banks, mortgage lenders, and credit rating agencies. It originally contained numerous provisions that were to be implemented over a period of several years, including the establishment of a number of new government agencies to oversee its components and, subsequently, many aspects of the financial system. However, Congress recently rolled back some restrictions in response to protests that the regulatory burdens it imposes could make United States firms less competitive. New requirements cover three key areas of an institution's workflow: execution, clearing, and reporting. Specifically, amendments to the Volcker Rule effective October 1, 2020, change who can own collateralized loan obligations (CLOs) and what CLOs can contain; changes which may significantly impact the CLO market.

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DOL Prohibited Transaction Exemption (PTE) 2020-02

The Department of Labor's (DOL) new prohibited transaction exemption (PTE) provides a single, broad exemption for investment fiduciaries that provide conflicted investment advice to plans, participants, and IRA accounts. This includes registered investment advisors (RIAs), broker-dealers, insurance companies, banks, and individuals who are their employees or agents. If a financial professional makes a recommendation to a client, which constitutes "investment advice" as defined by a five-part test, which results in more compensation, third-party payments (e.g., commissions, 12b-1 or trails, solicitor fees, etc.) or dual representation, then a prohibited transaction (PT) will result, and a prohibited transaction exemption (PTE) is necessary to avoid significant penalties. Requirements of the PTE include analyzing ERISA plan/IRA transfers, most commonly IRA rollovers, with a fiduciary standard of care, then documenting details of each ERISA plan/IRA transfer analysis, as well as performing an annual retrospective review to detect violations and achieve compliance.

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LIBOR Transition

The London Interbank Offered Rate (LIBOR) is the world's most widely used interest rate benchmark, with approximately $350-$370 trillion of open notional exposure across bonds, derivatives, loans and other instruments. For USD LIBOR alone, estimated exposure is at least $200 trillion; cash products comprise more than $8 trillion, with about $288 billion maturing beyond the expected 2021 LIBOR end date. These securities will likely need to be converted to an alternative Risk Free Rate (RFR), to a fixed rate or to other indices per deal agreements and covenants. With this tail-end of securities and the proposal of several RFRs, the future of LIBOR replacement is uncertain.

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Regulation Best Interest (Reg BI)

In these uncertain times, the value of objective financial guidance cannot be overestimated, and the importance of the financial profession has never been more apparent. Regulatory changes initiated well before any of us had even heard the phrase "social distancing" are now in effect and establish a new landscape that governs the relationship between those who seek financial guidance, and those who provide such services.

June 30, 2020, marked the implementation date of regulations passed by the Securities and Exchange Commission (SEC) more than a year ago. Called "Regulation Best Interest" or "Reg BI," the new rules include a new standard of care for broker-dealers, as well as new disclosure and compliance obligations. It requires broker-dealers to act in the best interest of the retail customer when a recommendation is made. Under Reg BI, broker-dealers must establish, maintain and enforce policies and procedures designed to identify, and fully and fairly disclose material facts about conflicts of interest.

Broker-dealers and SEC-registered RIAs are required to provide a retail investor with a customer relationship summary, which discloses certain information about the firm. This Customer Relationship Summary (Form CRS) will need to be delivered to all retail investors, in either print or digital formats. Firms will also need to deliver the form when there are material changes to the disclosure; upon certain customer activity; and on-demand to an investor or prospect, as required. It must also be posted on broker-dealer and SEC-registered RIAs' websites.

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SEC Corporate Disclosures

Public companies must keep their shareholders informed on a regular basis. The Securities and Exchange Commission (SEC) requires all publicly traded companies to disclose certain types of business and financial data to the SEC and to the company's stockholders. These documents must be filed so they can be made publicly available on the SEC's EDGAR website and subject to review by SEC staff for compliance with federal securities laws.

The composition, filing, and printing of SEC disclosure materials can be a cumbersome process — with significant consequences for non-compliance. We help streamline compliance, reduce costs, and accelerate outcomes with a full range of services for capital markets transactions and compliance disclosure.

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SEC Rule 10c-1

Market participants, the public and regulators have limited information about securities lending in the USA. Market data isn't complete, and what data there is isn't centralized, nor is it available to the general public. These gaps in available data result in significant inefficiencies in the securities lending market, making it hard for borrowers and lenders to know if the terms of their loans fall within market parameters.

SEC Rule 10c-1, which the Securities and Exchange Commission has proposed, would require securities lenders to provide the material terms of securities lending transactions to a registered national securities association (RNSA) such as the Financial Industry Regulatory Authority. The registered national securities association would then provide the material terms of the securities lending transaction to market participants, the public and regulators. SEC Rule 10c-1 would also require the RNSA make public certain information pertaining to each transaction, as well as compiled information on securities, both on loan and available to loan, to the public.

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SEC Rule 22c-2

With shareholder trading activity moving further away from fund managers, the responsibility to ensure compliance remains with the fund. The Securities and Exchange Commission's Rule 22c-2 allows fund companies to request detailed trade information within omnibus accounts from their intermediaries to be analyzed for market timing activity and to impose short-term redemption fees of up to 2% of redemption trades to discourage market timing and sanctions that would block known market timing violators from buying shares in their funds for a period of time. Rule 22c-2 requires mutual fund companies to determine if short-term redemption fees are necessary to prevent market-timing abuses.

We help capture, analyze, and report trading activities to support compliance, and minimize risk by providing partial or fully automated solutions.

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UNITED STATES

SEC Rule 22e-4

The Securities and Exchange Commission's liquidity rule is designed to benefit fund investors and help reinforce public confidence by promoting more effective liquidity risk management and better public market liquidity transparency. The rule requires asset managers who offer mutual funds and exchange-traded funds (ETFs) to establish a robust and formalized program to manage liquidity and report liquidity limit breaches to the SEC and the fund board as needed. It also requires each open-end fund, including traditional mutual funds and ETFs but excluding money market funds (MMFs), to establish a formal liquidity risk management program that includes certain key components.

SEC Rule 30e-3

In an effort to improve the investor experience, the Securities and Exchange Commission's Rule 30e-3 under the Investment Company Act of 1940 allows, but does not mandate, mutual funds to use a "Notice & Access" method to deliver annual and semi-annual reports. Under the rule, a fund may deliver its shareholder reports by making them publicly accessible for free on a website and sending investors a paper notice of each report's availability by mail. Investors who prefer to receive the full reports in paper may at any time choose that option free of charge.

Challenges around 30e-3 compliance include cost and impact to the user experience. We deliver efficient solutions to help firms prepare for the implementation of the rule and capture shareholders' delivery preferences while reducing shareholder costs and improving the investor experience.

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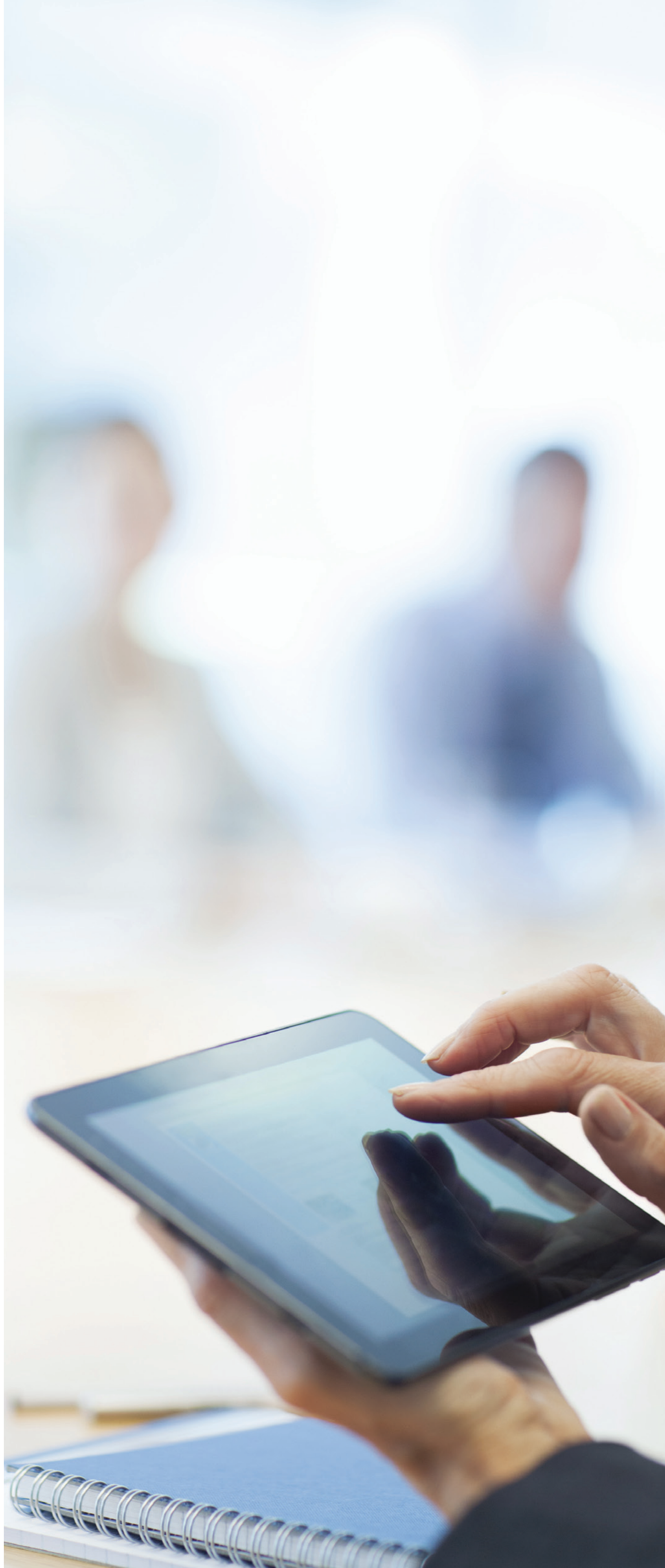

SEC Rule 613 - Consolidated Audit Trail (CAT)

With the CAT, the Securities and Exchange Commission (SEC) aims to create a single, comprehensive database to track equity and option securities trading across U.S. markets. The primary goal is to improve the SEC's and the Self-Regulatory Organizations' (SROs') ability to oversee trading. The CAT will track orders throughout their life cycle and identify the broker-dealers handling them, thus allowing regulators to more efficiently track activity in eligible securities throughout the U.S. markets.

We combine industry knowledge and innovation to help firms discover new opportunities, avoid potential obstacles, and achieve future business efficiency and growth from their CAT implementation.

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SEC Section 15(c) of the Investment Company Act of 1940

Board reporting is an essential part of helping to protect the interest of the shareholders and ensuring service provider accountability for the operation of a mutual fund. Under Section 15(c) of the Investment Company Act of 1940, the Securities and Exchange Commission requires directors to request and evaluate — and the fund's advisor must furnish — information that may be reasonably necessary for the directors to assess the terms of a fund's advisory agreement, known as the "15(c) process."

We've been providing accurate, independent, and objective fund analysis needed to comply with 15(c) for more than 29 years. Our dedicated solution helps fund directors meet the highest standard of fund board reporting so that they have the information they need to fulfill their responsibilities and stay compliant.

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Securities Exchange Act of 1934

With this Act, Congress created the Securities and Exchange Commission empowering the SEC with broad authority over all aspects of the securities industry. This includes the power to register, regulate, and oversee brokerage firms, transfer agents, and clearing agencies as well as securities self-regulatory organizations (SROs), e.g., New York Stock Exchange, NASDAQ Stock Market, Chicago Board of Options, and the Financial Industry Regulatory Authority (FINRA).

Pursuant to State law, companies are required to hold an annual shareholder meeting and send annual meeting materials to eligible shareholders.

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The '34 Act provides mechanisms for the distribution of proxy material to beneficial shareholders.

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Client Focused Reforms (CFR)

According to the Ontario Securities Commission (OSC), securities advisors, dealers, and representatives, are obligated to put the interests of the client first. Under the Client Focused Reforms (CFRs) amendments, they will be required to:

- Address material conflicts of interest in the best interest of the client,
- Put the client's interest first when making a suitability determination, and
- Do more to clarify for clients what they should expect from their registrants.

These are supported with the introduction of a know your product (KYP) provision in the Rule and enhancements to the existing know your client (KYC), suitability, conflict of interest, and relationship disclosure information (RDI) requirements. These provisions are designed to work together throughout the client-registrant relationship, as an extension for the duty of registrants to deal fairly, honestly, and in good faith with their clients.

Broadridge Canada has developed a series of components to allow brokers and enterprise financial firms to address the CFR requirements while increasing efficiency and digital enablement.

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Basel III

As part of the Basel Committee on Banking Supervision's (BCBS) continuous effort to enhance the banking regulatory framework, Basel III improves the sector's ability to deal with financial stress through risk management and transparency. It is a comprehensive set of reform measures to promote stability by strengthening regulation, supervision, and risk management in the banking sector. Compliance with new Basel III standards began Jan 2013 and have been progressively phased in. New requirements cover regulatory capital and liquidity ratios.

We advance firms to a best-practice operation for Basel III by helping them efficiently and reliably monitor real-time intraday cash positions for actual, projected, and historical balances, as well as make informed, effective, and accurate funding decisions.

Basel IV

The 2017 changes to the Basel Accords are generally referred to as Basel IV. The Basel IV changes reduce the reduction in the capital that banks realize from the use of the internal ratings-based approach established under Basel II guidelines. The key feature of the Basel IV sets a floor for Risk-Weighted Assets as 72.5% of the capital calculations using standard methodologies.

The phase-in period for the Basel IV changes has been adjusted as a result of the Covid-19 pandemic. The changes will now be phased in between January 1, 2023, and January 1, 2028.

Fundamental Review of the Trading Book (FRTB)

Designed to replace a series of patches introduced after the financial crisis, FRTB is a comprehensive suite of capital rules developed by the Basel Committee on Banking Supervision as part of Basel III. It is vast in scope and touches upon a number of complex but pivotal issues – from the design of the basic model used to measure risk, to the process for deciding what sits in the banking and trading books. While Basel 2.5 was implemented in the immediate aftermath of the financial crisis as a stopgap measure to lift trading book capital requirements, the FRTB is primarily aimed at consolidating existing measures and reducing variability in capital levels across banks.

Compliance has the potential to increase the cost of capital — in particular, to support trading activities — for banks with required infrastructure and workflow changes. Our award-winning risk management solutions support and automate the securities life cycle to help clients adapt to regulations like the FRTB.

G-20 Reporting

The regulatory directives from the Pittsburgh G-20 summit are meant to increase transparency and reduce counterparty risk around OTC derivatives, requiring that OTC derivative contracts are reported to a trade repository and cleared through a CCP. How each of the member states implements the regulation is dependent on the local regulator; some of these regulations are already live, and some are in progress.

Data and processing fragmentation has presented a challenge to G-20 reporting compliance. We take a strategic approach to reporting driven by expertise and innovation, helping our clients reap new benefits from mandatory trade reporting projects like meeting G-20 requirements.

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Alternative Investment Fund Managers Directive (AIFMD)

The AIFMD is part of an increased push for investor protections that the European Union undertook just before the 2008 financial crisis. It was accelerated when the crisis exposed systematic risks to the EU economy. AIFMD places hedge funds, private equity, and other alternative investment firms into a regulated framework for disclosure and transparency to protect investors and set standards for marketing around raising private capital, remuneration policies, risk monitoring, and reporting, and overall accountability.

AIFMD is a complex, sometimes ambiguous rule with tight deadlines that poses a significant reporting burden for most managers. We help firms define rules, run compliance reviews, and produce in-depth, targeted reports in a streamlined, highly automated reporting environment to comply with AIFMD requirements.

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Central Securities Depositories Regulation (CSDR)

As part of the European Union's regulatory reform in the aftermath of the financial crisis, CSDR supports the functioning and stability of EU financial markets by enhancing legal and operational conditions for cross-border settlement. It introduces the offering of omnibus and segregated accounts, the requirement to report internalized settlement, and the settlement discipline regime, under which market participants will be liable to pay penalties or charges against each transaction that fails.

CSDR carries clear implications for the broader securities industry in Europe and will mandate changes to a number of steps in the trade life cycle. Broadridge brings a higher level of efficiency, automation, accuracy, and control to post-trade and expense management to help firms meet CSDR obligations.

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Client Assets Sourcebook (CASS)

UK firms that hold or control client money or safe custody assets must abide by the rules in the FCA's Client Assets Sourcebook (CASS). The rules intend to ensure the safety of clients' assets in the event of the firm's failure. Brokers, investment banks, and custodians must report the value of client assets through the CASS compliance process.

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European Market Infrastructure Regulation (EMIR)

EMIR aims to increases transparency across the over-the-counter (OTC) derivatives market to create a clear view of turnover, participants and market manipulation, as well as reduce the number of the counterparties involved and reduce the operational risk for market participants. In a quest to be more transparent and reduce risk, EMIR has introduced new obligations for derivative-trading companies, including reporting of all derivative contacts, mandatory centralized clearing of standardized OTC derivatives, risk mitigation techniques for non-centrally cleared derivatives, and enhanced collateral requirements.

Meeting EMIR requirements poses significant technical and regulatory challenges. We transform post-trade control and reporting with strategic solutions to reduce exposure to EMIR requirements and other reporting mandates.

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FCA's Assessment of Value (AoV) Rule

AoV is the Financial Conduct Authority's rule requiring management companies and independent non-executive directors (INEDs) to review and analyze funds to ensure they provide value. It mandates that firms assess value for each fund and that all fund boards must include at least two new independent INEDs. The rule's objective is to provide greater scrutiny of costs and performance while adding an independent voice to the process to ensure that investor interests are being protected.

Beyond specifically requiring the review of net performance, the FCA gives no other insight on how to look at performance. This presents a challenge for firms looking to establish an AoV process. We help navigate the rule's requirements and furnish efficient ongoing oversight through streamlined data collection, analysis, and reporting.

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General Data Protection Regulation (GDPR)

The European Union's GDPR is a legal framework that sets guidelines for collecting and processing personal information from individuals who live in the EU. It intends to regulate the processing of personal data relating to individuals, whether by an individual, company, or organization. The GDPR mandates that sites present EU visitors with several data disclosures and take steps to facilitate such EU consumer rights as timely notification in the event of personal data being breached. As a replacement for the Data Protection Directive 95/46/EC (intended to harmonize data privacy laws across Europe), the GDPR may be the most significant change in data privacy regulation in decades.

Since the GDPR applies to visitors' location — not where websites are based — it presents challenges to all firms servicing clients in the EU. We transform communications data management to help companies comply with privacy requirements and protect their customers' interests and preferences when it comes to information privacy.

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Markets in Financial Instruments Directive II (MiFID II)

MiFID II came into force in January 2018. It aims to strengthen investor protection and improve the functioning of financial markets, making them more efficient, resilient, and transparent. New rules require investment management firms to provide more information about the costs and charges that apply to portfolios along with the intended target market of the product.

Any party distributing to the end investor is required to provide a MiFID II Costs & Charges Diclsoure document, both prior to the investment (ex-ante) and post investment (ex-post). The disclosure shows clearly the costs that may be incurred and also those which have been incurred.

Fund products will often not be the distributor of their own products and in these instances will need to transmit their MiFID II costs and charges, and target market information, to their distributors by means of the European MiFID II Template (EMT).

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Packaged Retail Investment and Insurance-Based Products (PRIIPs)

The PRIIPs regulation, in effect as of January 1, 2018, set out new calculation methodologies and transparency requirements for investment products across the EU. It aims to protect retail investors by allowing a comparison of the key features and risks of these products. The new regulations require investment product manufacturers to create key information documents (KIDs) for their products on an annual basis and provide product information on the fund objective, investment policy, intended investor, recommended holding period, risk levels, costs, practical information along with how the product may behave, performance wise, in different market conditions.

Asset managers will no longer be required to produce a UCITS KID once a PRIIPs KID is being produced. Where a fund product forms part of an insurance wrapper product, the fund product must transmit its PRIIPs data to the insurance product by means of the European PRIIPs Template (EPT).

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Payment Service Providers Directive (PSD2)

The Payment Service Providers Directive (PSD) in 2007 sought to contribute to the development of a single payment market in the European Union to promote innovation, competition and efficiency in the EU. In 2013, the European Commission proposed an amendment (i.e., PSD2), which aimed to enhance these objectives. It seeks to improve consumer protection, boost competition and innovation in the sector and reinforce security in the payments market, which is expected to facilitate the development of new methods of payment and ecommerce.

Securities Financing Transactions Regulation (SFTR)

SFTR is the European Union's response to the Financial Stability Board (FSB)'s policy proposals on securities lending and repos aiming to reduce perceived "shadow banking" risks in the securities financing markets. SFTR requires market participants to report details of their securities financing transactions (SFTs), including repurchase agreements (repos), securities lending, sell/buy-back transactions, and margin lending. Like EMIR for derivatives reporting, SFTR establishes that both parties to a trade need to report new, modified or terminated SFTs to a registered or recognized Trade Repository (TR) on a T+1 basis. It also offers the possibility for counterparties subject to the reporting obligation to delegate the reporting of these details.

This regulation represents a significant change to the securities financing world that will require firms to change their existing processes and overcome many potentially complex challenges. Our expertise in both securities finance and trade reporting regimes will enable clients to adapt to SFTR smoothly while minimizing operational disruption and reducing the impact of compliance.

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Shareholder Rights Directive II (SRD II)

SRD II is a European Union directive intended to strengthen shareholder positions and ensure that decisions are made for the long-term stability of a company. It amends the original SRD, which came into effect in 2007, to improve corporate governance in companies which have their registered office in an EU member state and whose securities are traded on the EU's regulated markets. It clarifies definitions, standardizes communication formats, and sets minimum data requirements and deadlines around shareholder identification, agenda distribution, and voting by intermediaries and vote confirmation.

Intermediaries need to act quickly to evolve existing processes into efficient methods of compliance. By extending our world-class global proxy management offering and award-winning blockchain-based shareholder disclosure management service, we are uniquely positioned to help intermediaries, both retail and institutional, meet their SRD obligations.

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Undertakings for the Collective Investment in Transferable Securities (UCITS)

The Undertakings for the Collective Investment in Transferable Securities (UCITS) is a regulatory framework of the European Commission that creates a harmonized regime throughout Europe for the management and sale of mutual funds. To protect investors, the regulation introduces the requirement for product manufacturers to produce key investor information document (KIID), a simple document giving investors key facts clearly and understandably. The KIID includes product information on the fund objective, investment policy, risk levels, costs, past performance and practical information which an investor may require.

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ASIC

The ASIC Derivative Transaction Rules (Reporting) 2013 set out counterparties' requirements to report derivative transaction and position information to derivative trade repositories.

The Rules aim to:

- Give effect to the Australian Government's G20 commitments in relation to trade reporting;
- Implement an Australian trade reporting regime that achieves the stated objectives of the OTC derivatives reforms, in particular by enhancing the transparency of OTC derivative markets, both to regulators and the public, leading to an increased capacity for the oversight and monitoring of systemic risk and the prevention and detection of market abuse;
- Ensure the Australian trade reporting regime is consistent with other international regimes, including those in the European Union (EU), the United States (U.S.), Canada, Hong Kong and Singapore for mutual recognition or substituted compliance purposes; and
- Meet internationally-agreed standards on transaction reporting developed by the International Organization of Securities Commissions (IOSCO) and the Committee on Payment and Settlement Systems (CPSS).

HKMA

HKMA Reporting refers to the requirement put in place by the Hong Kong Monetary Authority and the Securities & Futures Commission of Hong Kong for firms to submit details of their derivatives transactions to the HKMA trade repository.

Japan Financial Services Agency (JFSA)

The JFSA is responsible for ensuring stability of Japan's financial system, protection of depositors, insurance policyholders and securities investors, and smooth finance through such measures as planning and policymaking concerning the financial system, inspection and supervision of private sector financial institutions, and surveillance of securities transactions. We help our clients in Japan to be compliant with JFSA regulation and reporting standards.

Monetary Authority of Singapore (MAS)

The MAS is known to have some of the most comprehensive cybersecurity regulations in the world, including its national guidelines for cyberbanking. Some MAS requirements include source code inventory and review, vetting of outsourced information technology and software, mobile security testing, vulnerability assessment, and routine information technology audits. Penalties for non-compliance with MAS requirements include fines, reputational damage, and revocation of license to operate in Singapore.

MAS compliance sets the standard for international cybersecurity, but it requires consistent, robust, and granular controls. We help our international clients with global solutions to improve control and spur business growth.

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If there's one certainty within the world of compliance, it's that regulations will continue to change. The mindset around compliance, however, is evolving as well. Many organizations are looking for ways to not only meet regulatory requirements, but also uncover opportunities to improve the customer experience, streamline operations, and even generate revenue. New technologies are ensuring that these objectives become part of compliance reality for leading financial institutions.

Broadridge has long helped clients navigate the evolving regulatory landscape. We offer expertise and innovative solutions that enable our clients to reliably meet the current requirements and stay ahead of pending changes, so that you're ready for what's next.

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