

# ***Futures & Options Association Update to ESMA Trade Reporting Obligations Under EMIR***

June 2013

18 June 2013 – v0 1

# Executive Summary

- Due to the complexities with applying EMIR's reporting requirements to exchange-traded derivatives (ETDs) - in January 2013 ESMA asked FOA to propose a solution on behalf of the ETD industry
- FOA created a Working Group with senior level individuals from Clearing Brokers (CB) and Central Counterparties (CCPs)
- The Working Group has focused on interpreting EMIR's technical standards to develop operational solutions in line with the aims of the reporting obligation
- The Working Group is addressing key challenges for the ETD industry which are distinct from the OTC market. FOA wishes to share the solutions with NCAs and ESMA as part of a collaborative approach to developing a response
- Significant progress has been made but a number of outstanding questions remain
- The Working Group anticipates completing the analysis by 28 June and FOA intends further engagement with NCAs and ESMA in order to finalise proposals by August
- The message to NCAs and ESMA is that the industry is working towards compliance, noting the updated timeline of obligations, published by ESMA on 22<sup>nd</sup> May 2013

[http://www.esma.europa.eu/page/European-Market-Infrastructure-Regulation-EMIR?goback=%2Egde\\_4014308\\_member\\_243874355](http://www.esma.europa.eu/page/European-Market-Infrastructure-Regulation-EMIR?goback=%2Egde_4014308_member_243874355)

# Context

The G20 committed to measures to increase transparency and reduce risks in the OTC Derivatives market at the Pittsburgh Summit in September 2009.



EMIR broadens the scope of reporting to Trade Repositories to cover all derivatives, including exchange traded derivatives (ETDs)

- Article 9(1): *“Counterparties and CCPs shall ensure that the details of any derivative contract they have concluded and of any modification or termination of the contract are reported to a trade repository”.*

In January 2013 ESMA asked the FOA to develop a proposal through its Working Group structure to address these issues

# Approach

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FOA is working with member firms to develop a consistent industry approach and consensus to the implementation of reporting obligations under EMIR for exchange traded derivatives (ETDs)

## **FOA Operations Working Group**

- Purpose: to reach a consensus view on how members of CCPs should interpret EMIR's technical standards and meet their regulatory obligations
- Participation: experts in Clearing Operations and Regulatory Reporting selected from FOA member firms
- Focus: interpreting EMIR's technical standards and developing solutions

## **Regulatory Engagement**

- Parallel engagement with NCAs and ESMA to socialise proposals and manage Compliance risk

# Key Challenges and Approach

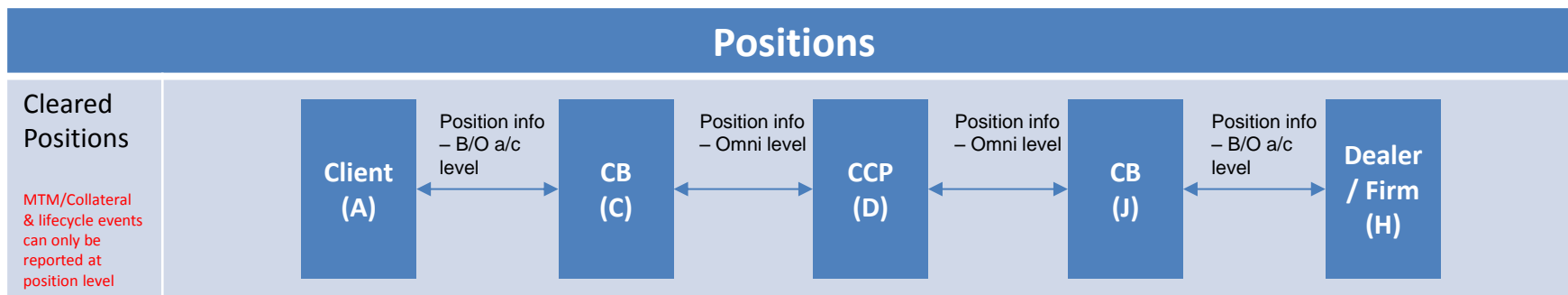
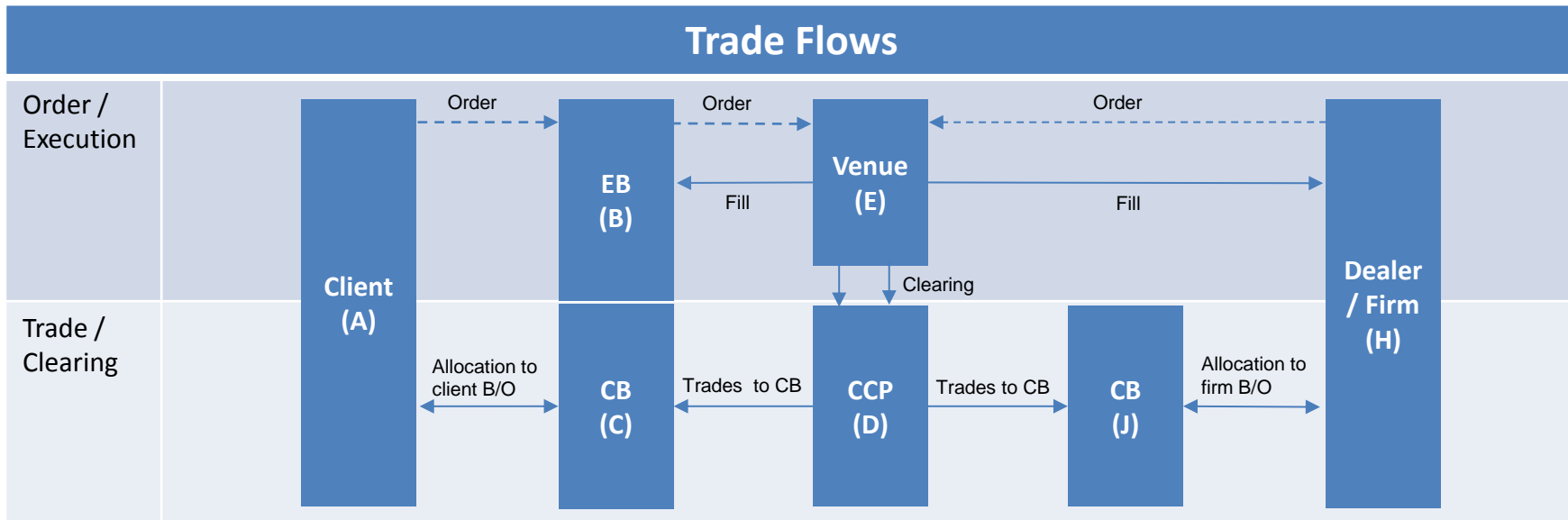
	Key Challenge	Proposed Approach	Rationale
1	What to report – state of reported trade	Cleared trades only to be reported (Clearing is a Non-Contingent event)	<ul style="list-style-type: none"> <li>ESMA's Q&amp;A of 20 March, in the ETD context: "where clearing takes place on the same day of execution, the report should be submitted once to a TR up to 1 working day after the execution"</li> <li>Eliminates superfluous messages</li> <li>No rationale for capturing the momentary 'pre-cleared' state of an ETD transaction</li> </ul>
2	What to report – how to provide requested data	Trades <u>and</u> end of day positions shall be reported	<ul style="list-style-type: none"> <li>Collateral and lifecycle events data are maintained at the position/portfolio/account level, <u>not</u> the trade level</li> <li>Sending position reports in addition to trade reports is the appropriate solution to reflect exposure/risk</li> </ul>
3	Who to report – reporting party obligations	Clearing Broker, CCP and client to Report	<ul style="list-style-type: none"> <li>Reflects true relationships of market participants</li> <li>Omits Executing Broker because all required information is available to Clearing Broker</li> <li>Clearing Broker is counterparty to Client</li> <li>Client and CCP do not have a relationship/are not counterparties to each other</li> </ul>

# Reporting Approaches for ETDs

Approach	C'pty	Trade	Pos	Points for consideration
<b>Approach 1</b> Client and CCP report trades and positions	EB			<ul style="list-style-type: none"> <li>• Contrast to MIFID reporting</li> <li>• CCPs and clients are not counterparties to each other</li> <li>• Omitting clearing members as reporting counterparties will result in <b>single sided reporting</b> by both CCP and Client               <ul style="list-style-type: none"> <li>• CCP reports CB as counterparty</li> <li>• Client reports CB as counterparty</li> </ul> </li> <li>• Minimises reporting parties and volume of reports, but reflects partial contractual relationships of market participants</li> </ul>
	CB			
	CCP	Y	Y	
	Client	Y	Y	
<b>Approach 2</b> EB, Client and CCP report <u>trades</u>  CB, Client and CCP report <u>positions</u>	EB	Y		<ul style="list-style-type: none"> <li>• EMIR reporting               <ul style="list-style-type: none"> <li>• CCP required to report as a counterparty</li> <li>• CCP does not recognise EB as counterparty</li> <li>• EB as reporting counterparty will result in <b>single sided reporting</b> by CCP</li> </ul> </li> <li>• Contrast to MIFID reporting               <ul style="list-style-type: none"> <li>• MIFID reporting obligation is for EB and clients</li> </ul> </li> </ul>
	CB		Y	
	CCP	Y	Y	
	Client	Y	Y	
<b>Approach 3</b> CB, Client and CCP report <u>trades</u> and <u>positions</u>	EB			<ul style="list-style-type: none"> <li>• Contrast to MIFID reporting               <ul style="list-style-type: none"> <li>• FOA WG is considering what execution level data can be provided without additional reports</li> </ul> </li> <li>• Reflects all contractual relationships of market participants               <ul style="list-style-type: none"> <li>• CCP reports CB as counterparty</li> <li>• Client reports CB as counterparty</li> </ul> </li> </ul>
	CB	Y	Y	
	CCP	Y	Y	
	Client	Y	Y	
<b>Approach 4</b> End client reports	EB			<ul style="list-style-type: none"> <li>• Contrast to MIFID reporting</li> <li>• Places the heaviest burden of reporting on participants least prepared and engaged i.e. NFCs</li> <li>• <b>Failure to report market events correctly i.e. reporting modifications versus what are real new events.</b></li> <li>• <b>How is it determined who the “end” counterparty is</b></li> <li>• Minimises reporting parties and volume of reports however reflects partial contractual relationships of market participants</li> </ul>
	CB			
	CCP			
	Client	Y	Y	

**We are proceeding with Approach 3, which delivers the objectives of EMIR legislation.** 6

# Participants in a typical ETD trading scenario



# Tracking WG Deliverables

The FOA tracks the status of consensus amongst its Working Groups and highlights any Regulatory engagement. Key next steps are also identified.

Theme	Workstream	Workstream Objectives	RTS Fields	Owner	Milestone Progress			Stage	Link	Action required to complete milestone
					Total	Completed	%			
Scope	Reporting Obligations	Clarify who reports what under EMIR Trade Reporting		Ops	2	1	50%	Submitted	<a href="#">Link</a>	Submitted to ESMA 12th Apr, awaiting ESMA feedback
	Product Scope	Clarify which products are in scope for EMIR Trade Reporting		Barc	3	1	33%	In discussion		Review by law firm and incorporate into EU Regulation handbook
	Legal Entity Scope	Clarify the legal entity scope for Trade Reporting under EMIR		Barc	3	1	33%	In Discussion		
Common Identifiers	Trade ID	Reach a consensus approach for European common UTI standard	8-9	GS				In Discussion		At least 118 alphanumeric fields required
	Product ID	Reach consensus on standard for product identifier	1-4	GS				Consensus		Formally document, submit to ESMA for feedback
	Legal Entity ID	Reach a consistent interpretation and implementation approach for entity ID (LEI or equivalent)	2-6	HSBC				In Discussion		FCA to advise on how LOU process will work practically
Fields Analysis & Industry Approach	Non Applicable Fields	Reach consensus on which fields are N/A to ETD	see link	Ops	31	31	100%	Consensus		Formally document, submit to ESMA for feedback
	Counterparty Data - Entity related	Reach consensus on populating entity & counterparty related fields	1-16	HSBC	14	8	57%	In Discussion		FCA to advise on how LOU process will work practically
	Counterparty Data - MTM related	Reach consensus on MTM definition & calculation	17-21	MS	5	4	80%	In Discussion		CCPs to provide valuation methodology by product
	Counterparty Data - Collateral related	Reach consensus on Collateral definition & calculation	22-26	MS	5	2	40%	In Discussion		[24] to be alphanumeric, [25] confirm calc for value
	Common Data - Contract Type	Reach consensus on product type data fields, including identifier	1-7	Citi	7	5	71%	Consensus		FOA to confirm with ESMA if CFI is acceptable as taxonomy
	Common Data - Details on the transaction	Reach consensus on populating trade static data fields	8-25	GS	9	3	33%	In Discussion		To be discussed at Ops / CCP onsite
	Common Data - Notionals	Reach consensus on notional definition & calculation	14	Citi	4	2	50%	In Discussion		Ops / CCP follow up - 22nd May
	Common Data - Clearing related	Reach consensus on populating clearing related fields	28-32	Ops	3	3	100%	Consensus		Formally document, submit to ESMA for feedback
	Common Data - Timestamps	Reach consensus on interpretation of timestamp fields	19,30	DB	2	2	100%	Consensus		Formally document, submit to ESMA for feedback
	Common Data - Option related fields	Reach consensus on populating option related fields	55-57	Ops	3	3	100%	Consensus		Formally document, submit to ESMA for feedback
	Common Data - Modifications	Map all EMIR action types to ETD business / lifecycle events	58-59	JPM	2	0	0%	In Discussion		Ops / CCP follow up - 22nd May
	<b>Total</b>				<b>85</b>	<b>63</b>	<b>74%</b>			
EMIR Trade Reporting User Guide	Scope of the EMIR TR Reporting Obligation	Describes reporting obligation, legal entity & product scope		TBD				Not Started		
	Guide to the Reportable Fields	Interpretation and applicability of reportable fields (RTS)		TBD				Not Started		
	Guide to Common Identifiers (UTI, UPI, LEI)	Explanation & overview of standard identifiers		TBD				Not Started		
	Guide to lifecycle events	Explanation and overview of action types under EMIR TR		TBD				Not Started		
	EMIR FAQ	FAQ's around EMIR Trade Reporting		TBD				Not Started		
Other Focus Areas	Commodities focus	Impact specifically on commodities of EMIR Trade Reporting		GS				Not Started		Workstream not yet formally kicked off
	Delegation	Assess Impact on clients & CCP's, including costs		TBD				Not Started		workstream to be kicked off with CCPs
	Trade Repository Matching	Matching and exception process analysis		TBD				Not Started		Workstream to be kicked off with TRs
	Backloading / Archiving	Reach consensus on backloading obligation and approach		Barc				Not Started		

Not Started	Not yet discussed at an industry level
In discussion	Ongoing discussions at an industry level
Consensus	Agreed & approved at an industry level - ready to submit to ESMA
Submitted	Submitted to ESMA - Awaiting Feedback
Complete	Complete - Confirmed by ESMA



# WG Status Update

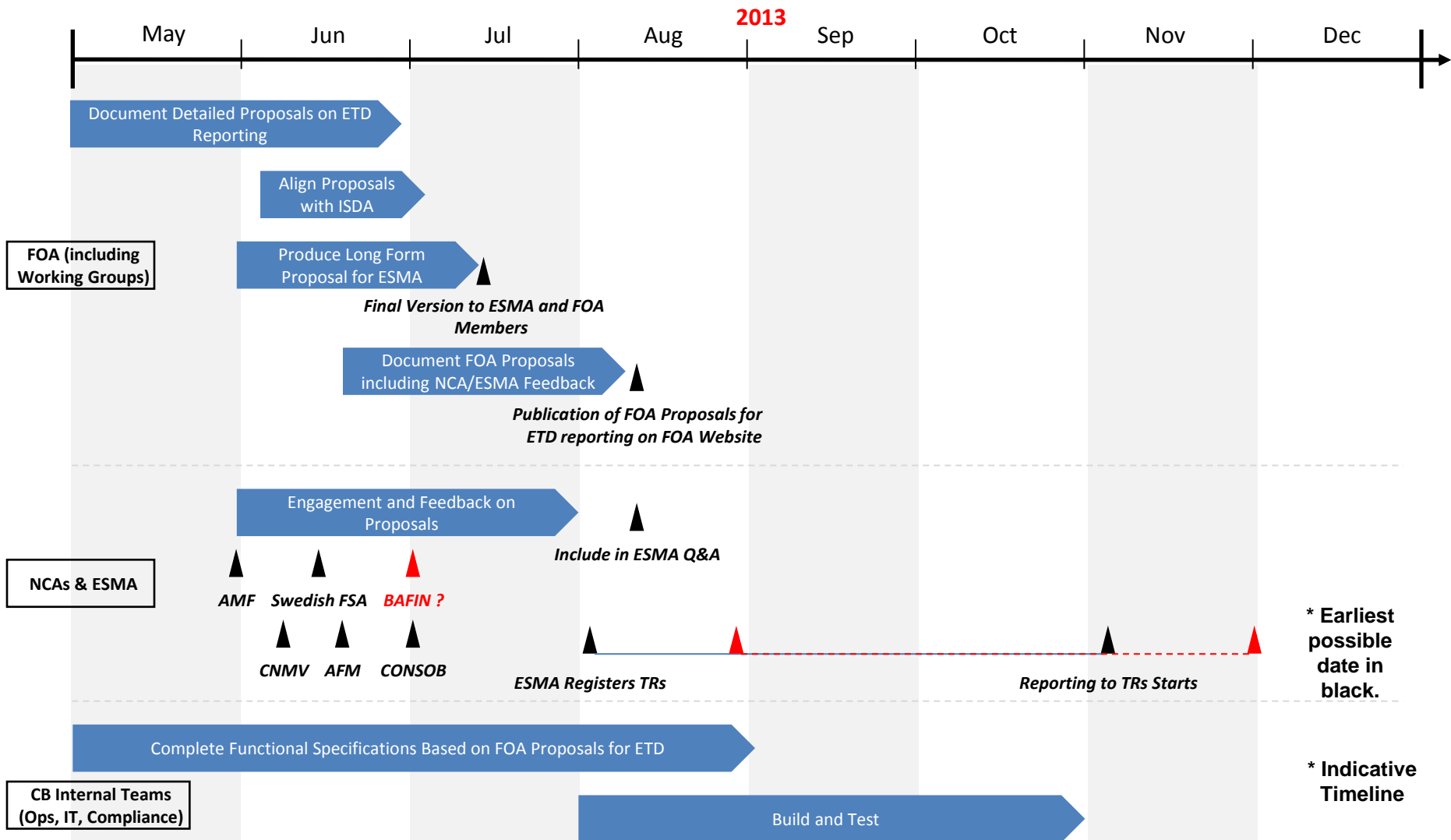
The Working Groups have achieved consensus on the interpretation of the reporting obligations and 78% (66 out of 85) of the fields on the Technical Standards. A number of issues remain outstanding and are expected to be concluded by 28 June.

Time pressure remains to clarify all requirements and ensure IT development work can be completed and tested on time. (See Timeline on Next Slide)

## **Outstanding issues (not an exhaustive list – other issues may yet emerge)**

- Legal Entity Identifier (LEI)
  - Not yet clear whether LEIs will be available in time or what interim value will be acceptable (e.g. an interim entity identifier such as CICI)
- Lifecycle Event Reporting
  - Large number of post trade events and modifications to be interpreted and categorised into prescribed Action Types
- Unique Trade Identifier development
  - Industry wide solution under consideration that fits within the Technical Standards
- Mark to Market and Collateral
  - Consistent interpretation of requirement for all counterparties

# High Level Timeline



# Next Steps

Next steps to achieve FOA's goal of assisting members regarding compliance with EMIR.

## **FOA Operations Working Group**

- Continue to resolve outstanding issues
- Develop and document harmonised industry-wide solutions

## **Regulatory engagement**

- Continue to work collaboratively with ESMA and NCAs in communicating the approach and solutions to refine the reporting data set

## **Member communication and engagement**

- Provide the Working Group outputs and regulatory perspective to FOA members
- Communicate and explain the work undertaken

## **Outputs**

- FOA is working on the basis of the best interpretation of the fields for review by member firm Compliance Officers
- Engagement with regulators is to validate proposals for inclusion in ESMA Q&A/ guidance statements
- Enable members to develop their own Functional Specifications

# List of FOA Members

## FOA MEMBERS

### FINANCIAL INSTITUTIONS

ABN AMRO Clearing Bank N.V.  
 ADMISI  
 AMT Futures Limited  
 Banco Santander  
 Bank of America Merrill Lynch  
 Banca IMI S.p.A.  
 Barclays Capital  
 Berkeley Futures  
 BGC International  
 BNP Paribas Commodity Futures  
 Bank of New York Mellon SA/NV  
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 Citigroup  
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 CMC Group Plc  
 Commerzbank AG  
 Crédit Agricole CIB  
 Credit Suisse Securities (Europe)  
 Deutsche Bank AG  
 ETX Capital  
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 GFI Securities  
 GFT Global Markets UK Ltd  
 G.H. Financials Limited  
 Goldman Sachs International  
 HSBC Bank Plc  
 ICAP Securities Limited  
 IG Group Holdings Plc  
 International FC Stone Group  
 InvestecWIN  
 Jefferies Bache Limited  
 JP Morgan Securities  
 Liquid Capital Markets  
 London Capital Group  
 Macquarie Bank  
 Mako Global Derivatives  
 Marex Spectron  
 Mitsubishi UFJ Securities International Plc  
 Mizuho Securities USA, Inc London  
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 Newedge Group (UK Branch)  
 Nomura International Plc  
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 Schneider Trading Associates  
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 ICE Futures Europe  
 Johannesburg Stock Exchange  
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 LMAX Limited  
 MCX Stock Exchange  
 MEFF RV  
 Nasdaq OMX  
 Nord Pool Spot AS  
 NYSE Liffe  
 Shanghai Futures Exchange  
 Singapore Exchange  
 Singapore Mercantile Exchange  
 The London Metal Exchange  
 Tradeweb  
 Turquoise Global Holdings

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 Cargill Plc  
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 Glencore Commodities  
 Gunvor SA  
 Hunter Wise Commodities LLC  
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 Metdist Trading Limited  
 Mitsui Bussan Commodities  
 Natixis Commodity Markets  
 Noble Clean Fuels  
 Phibro GMBH  
 J.P. Morgan Metals  
 Sudden Financial  
 Toyota Tsusho Metals  
 Triland Metals  
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### ENERGY COMPANIES

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 ChevronTexaco  
 ConocoPhillips Limited  
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 EDF Trading Ltd  
 GDF Suez Branch Energy International  
 Petrolneos Refining and Trading  
 Phillips 66 TS Limited  
 National Grid Electricity Transmission Plc  
 RWE Trading GMBH  
 Scottish Power Energy Trading  
 Shell International

### PROFESSIONAL SERVICE COMPANIES

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 ATEO Ltd  
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 BDO Stoy Hayward  
 Bovill Limited  
 Cadwalader, Wickersham & Taft LLP  
 Clifford Chance  
 Clyde & Co  
 CMS Cameron McKenna  
 Deloitte  
 Dentons UKMEA LLP  
 Ernst & Young LLP  
 FfrostFill  
 Fidessa Plc  
 Freshfields Bruckhaus Deringer  
 Herbert Smith Freehills LLP  
 Holman Fenwick Willan LLP  
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