Why ASIC's censuring of Westpac is important to the FX industry – Insight from within

As major Australian bank Westpac is censured by ASIC, we examine why accuracy when approaching the core trade reporting process required by regulators these days is vital from an FX industry point of view.

Andrew Saks-McLeod: June 27, 2017, 7:44 pm UTC

Today, Australian financial markets regulatory authority ASIC issued a $127,250 fine to Westpac, one of the country's most prominent banking institutions.

The infringement notice was issued in response to an alleged breach of the ASIC Derivative Transactions (Reporting) Rules 2013 which are laid out by ASIC, relating to the period from 2 October 2013 to 30 April 2015.

This is the first notice issued and penalty paid under the ASIC Rules, which require counterparties to report derivative transaction and position information to derivative trade repositories.

During the relevant period, Westpac failed to report information about 112,556 Reportable Transactions as required by the ASIC Rules. The Infringement Notice identifies 398 alleged contraventions of sub rule 2.1.1(1), being one alleged contravention for each Business Day during the relevant period.

Why this matters to the OTC FX industry

ASIC issued the infringement notice as it had reasonable grounds to believe that Westpac contravened a stipulation which required Westpac to report information about each of its Reportable Transactions that was the entry into an OTC Derivative to a Licensed Repository or a Prescribed Repository, generally by no later than the end of the next Business Day after entry into the OTC derivative.

In a current climate in which regulatory reporting responsibilities are a very central part of the OTC derivatives sector globally, this is very important to note from an FX industry perspective.

To gain further clarity on this matter, FinanceFeeds spoke today to Sophie Gerber, Director at TRAction FinTech, who explained: “Today’s release by ASIC of news about the first trade reporting fine to be issued is important.”

“The last phase of the regulation came in on 5 December 2015, and since then we’ve since indications that ASIC is looking very closely at the information being sent to them to try and understand what is happening in the derivatives market on a wholistic and individual participant level” said Ms Gerber.

“When looking at the details of what happened for Westpac in this instance, it is clear that ASIC were not happy with the extensive time it took for them to take action” she said.

“TRAction feels that its proactive approach to reporting OTC derivative trades for clients continues to be validated as the regime develops. Reporting for a large number of clients, we are able to easily detect anomalies and systemic issues for firms regarding their reporting. Experiences we have with one client are translated across our client base, giving them the best possible reporting solution available. As a result, the excellent standard of our reporting would be almost impossible to achieve for a firm conducting it in-house” Sophie Gerber, Director, TRAction FinTech

“We are encouraging those who don’t yet use our services to get in touch with us to have a review of their current reporting environment and submissions to the trade repository” concluded Ms Gerber.

According to ASIC, Westpac became aware of this flaw in July 2014, though the team did not know at that time the number of FMS Transactions that had not been reported due to the reporting system flaw.

At the time Westpac determined that it would not have been reasonable to divert significant project resources from management of ongoing development and implementation of new reporting processes and fields to further investigate what it expected to be a potentially small number of Reportable Transactions.

In the months leading up to 1 October 2014, Westpac undertook a significant program of work to address reporting consent requirements for transaction reporting under the ASIC Rules. Westpac prioritised its resources on external counterparties and system building to manage these requirements. Further analysis and verification of the FMS Transactions remained an outstanding task to be completed at a later date.

By March 2015, an investigation by Westpac into the transaction information for FMS Transactions showed that there was potentially a material population of underlying foreign exchange derivative transactions transacted by the business and retail channels that were not feeding into Westpac’s core trade reporting processes.

Westpac reported the Unreported Transactions to DTCC between 1 January 2016 and 22 January 2016. However those transactions were submitted to DTCC by Westpac with the counterparty buyer/seller information inadvertently reversed.

https://financefeeds.com/asics-censuring-westpac-important-fx-industry-insight-within/