

Key issues for consideration, distinct from the more general issues that may have applied to previous IM Phases:

- > **Number of Counterparties** – The likely number of counterparties, particularly in Phase 6, will mean a much increased volume of work in order to put in place the documentation needed for regulatory IM.
- > **Negotiation Formats** – With the advent of technology-based solutions for regulatory IM, there is likely to be a mix of negotiations using these solutions as well as a significant amount of manual (bilateral) negotiations, as we saw with the implementation of regulatory VM. These differing formats mean that the processes to be adopted must ensure consistency of approach and outcome.
- > **Nature of Counterparties** – To date, in-scope counterparties have all (or almost all) been sell-side institutions. Buy-side entities will start to come into scope from Phase 4 onwards and, for Phase 5 in particular, there are likely to be many counterparties that are unfamiliar with the specific issues relating to regulatory IM, segregation of IM at custodians, etc. The need to educate and “hand-hold” certain counterparties will inevitably increase the workload.
- > **Custodians** – An early start to implementation, by establishing custodian relationships etc., is critical. Resources, in particular the resources at custodians, will be stretched by the increased volumes of account establishment, collateral schedules, account control agreements, etc. Buy-side market participants and smaller sell-side ones, will be unable to use the ICSDs as custodians which will mean that most relationships will fall outside the more standardised world of ICSDs.
- > **Non-Regulatory IM** – Many of the buy-side Phase 4 and Phase 5 market participants will already be providing non-regulatory IM to sell-side participants under existing ISDA and CSA/CSD documentation. The interplay of regulatory and non-regulatory IM will need to be determined and agreed upfront. Some issues that need to be considered include whether there is a single IM amount, how any non-regulatory IM will be held and what the agreed eligible collateral for non-regulatory IM will be.

Our Solution

Data Extraction & Analytics

With access to best in class technology and experienced resources, the Condor team can extract all relevant information from your existing documentation, and provide you insightful analysis of the dynamics of your relationships at a glance. Whilst this data can then be used to help define the future negotiating playbook, this is not just a one-off exercise; the technology allows clients to maintain key legal data from all the relevant contracts and manage downstream feeds of this information to internal platforms or external service providers.

Playbook Development

Accessing Fieldfisher's expertise, and working closely with you, Condor will define a clear and comprehensive playbook for executing and governing the repapering initiative. This living document is essential to ensure quality and consistency in the delivery of any repapering engagement.

Drafting & Negotiation

Utilising approved template documents, the Condor team will draft new proposed agreements and negotiate them with clients in accordance with the playbook. The service is project managed by the Condor team with oversight by experienced Fieldfisher lawyers, and means that event driven projects such as IM Phase 5&6 repapering needn't interrupt the BAU support your legal team provides.

Contacts

If you would like to know more about our IM solution, please get in touch with us now.



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