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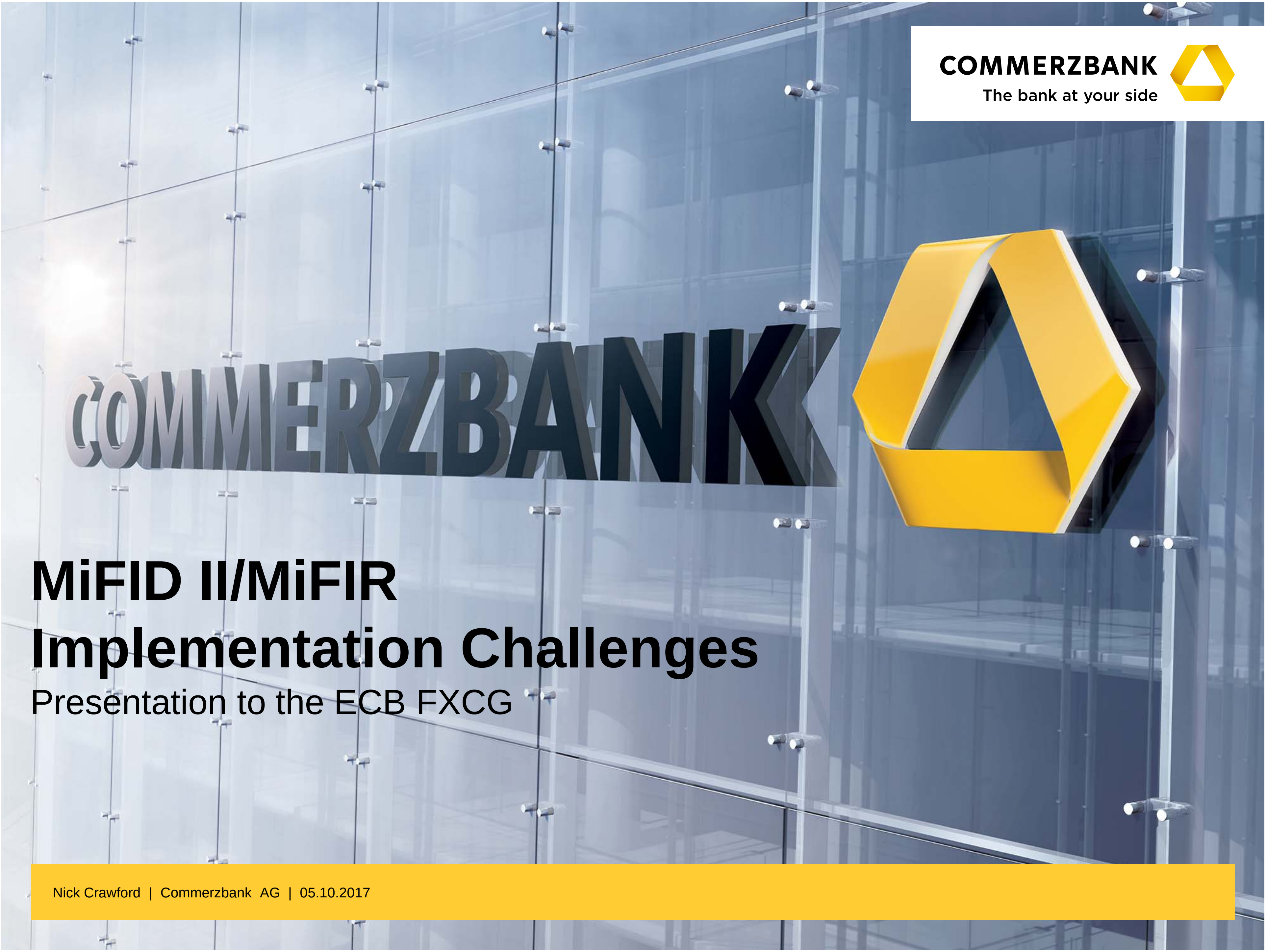

MiFID II/MiFIR Implementation Challenges

Presentation to the ECB FXCG

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FX Landscape under MiFID II/MiFIR

On 3rd January 2018, the FX sales and trading landscape is expected to change significantly with the introduction of MiFID II/MiFIR.

1

Data exchange between market participants – LEI as precondition for market access

Counterparties must exchange a number of data points before, during and after transactions. The **absence of a LEI** may result in at least temporary **loss of market access** for some, with negative impacts on liquidity. A **lack of certainty** on new data fields and processes could be disruptive for both bilateral and venue flows.

2

Greater complexity for sales and trading processes

In a highly electronic market such as FX, the **added complexity places huge demands on IT infrastructures** to cope with supporting electronic execution without slowing down the speed and *efficiency* of trading.

3

Unclarity on roles & responsibilities and product scope

Who will be an OTF, who a SI*? Who will be deemed seller? Who has to report? Are FX Forwards even Financial Instruments? When will FX Derivatives be deemed ‚liquid‘? When is a product ‘traded on a trading venue’? Large number of open issues show the **problems the MiFID architecture has with OTC Derivatives** and FX derivatives in general.

4

Impact on Market Structure – concentration among larger counterparties

New regulatory requirements are a relatively inelastic cost items for most institutions. As fixed costs continue to grow, large institutions may gain an unfair competitive advantage over smaller institutions.

* No ESMA golden source for SI expected, the market is late to the party with a solution for SI source

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Top 3 MiFID II/MiFiR Pain Points

	Impact to Market	Cost Implications
Delays in trading venues readiness for MiFIR	› Investment firms are at the end of the chain as users of the trading venues platforms. There is likely to be a big rush in Q4 2017 to implement to the venue specifications.	› Costs of carrying out system upgrades in order to continue trading on these external platforms. Potentially different solutions are needed to meet different venue requirements due to a to lack of consistency amongst trading venues.
Different interpretation…… 'The devil is in the details'	› There is still lack of clarity in many parts of the regulation with market participants adopting different interpretations. This could result in unintended market chaos in the first few days/weeks of MiFIR go live where there are inconsistencies in trading workflows as a result of different interpretation	› Market participants may find that they have to incur unplanned additional costs to make changes to their solutions implemented if the regulators provide clarity late in the day when most IT development has been completed and a new processes rolled out.
Emergence of new workflows to meet post trade requirements	› Trading venues are proposing new workflows to assist market participants, in particular the buy side to meet their post trade requirements. However the regulators have yet to provide an opinion that these workflows are regulatory compliant. The market needs a view from the regulators before adopting these workflows.	› These trading workflows if approved by the regulators will need to be incorporated by market participants into their workflows. Though there are no direct cost implications, there will be limited time for the industry to agree on consistency in the use of these workflows across participants.

Outstanding details of MiFID II / MiFiR hamper smooth start

	Issue	Implications
No Golden Source of SIs	› ESMA has confirmed that they will not be maintaining an official list of SIs by instruments, and some NCAs (e.g. FCA) have confirmed that they will have such a register only at the asset class level. Currently likely to be no opt-in SI for OTC derivatives on Day 1.	› This is not granular enough for the market to know who is an SI for each transaction, as they have to identify who has to do the reporting for post trade transparency. In all scenarios where we are not SI, we will need to ask the counterparty (for dealers etc.) if they are an SI each time we trade with them
ISINs for OTC Derivatives	› Uncertainty about which requirements apply to which instruments as FIRDS and ANNA DSB ISIN system for (OTC) Derivatives is only coming slowly on line	› This results in uncertainty about SI Status and potential negative impact on liquidity › As long as the requirements are unclear, IT-implementations will be delayed
Clients obtaining LEI	› Potential disruption ability of entities to satisfy their liquidity requirements should they not be able to liquidate existing positions in financial instruments in a timely fashion due to a missing LEI	› A large number of identifiers still outstanding for non-EMIR users

Summary: A challenge for everyone – with likely starting wobbles

Summary

- There is no doubt MiFIR/MiFID II is to date the most complex regulation with a far reaching scope to hit the financial services industry.
- Given the industry is still awaiting guidance from the regulators on various aspects, with three months to go there are clear risks that market participants are running out of time to implement the required changes to achieve regulatory compliance on 3rd January 2018.
- Additionally, many trading venues have yet to publish to their participants the data requirements for trading on Day 1.
- Disruptions are most likely in the first two weeks of the year. Pragmatic guidance on how to deal with the conflicts resulting from the objectives "capital protection", "client service", "clean regulatory reporting" could help to avoid larger displacements in the market and potentially firms going out of business due to "stop to trade" decisions.