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**9 February 2024**

**European Commission targeted consultation on selection of a unique product identifier for public transparency in OTC Derivatives transactions**

**Etrading Software (ETS) Ltd réponse**

**CONSULTATION QUESTIONS and answers**

**Question 1. For reporting reference data of in-scope OTC derivatives for the purpose of**

**public transparency which option do you prefer?**

• Option 1: mandating UPI plus additional identifying reference data

• Option 2: mandating ISIN and requiring a change to the ISIN attributes to include the above-mentioned two additional product attributes ‘Term of Contract’ and ‘’Forward Starting Term’

• Don’t know / no opinion / not applicable

* **ETS response: Option 2**

Question 2. If you prefer option 1:

a) Do you agree with the proposal to mandate additional identifying reference data alongside the UPI (ISO 4914), such as ‘Term of Contract‘ and ‘Forward Term of Contract‘ for interest rate derivatives?

• Yes

• No

• Don’t know / no opinion / not applicable

* **ETS response: N/A**

Please explain your reasoning:

b) Do you foresee any challenges and / or cost impacts in terms of system changes required to provide ESMA with the UPI plus certain additional identifying reference data, instead of only reporting a unique product identifier?

• Yes

• No

• Don’t know / no opinion / not applicable

Please explain your reasoning:

* **ETS response: N/A**

Question 3. If you prefer Option 2:

1. Do you agree that modifying the ISIN by replacing the ‘Expiry Date’ attribute with the ‘Forward Term of Contract’ for OTC derivative types which have daily ISINs (e.g., interest rate derivatives) addresses the problems identified with the use of the ISIN for the purposes of public transparency reporting?

• Yes

• No

• Don’t know / no opinion / not applicable

* **ETS response: Yes**

Please explain your reasoning:

**Answer:**

**ETS is a potential bidder for the derivatives consolidated tape, and as such, we are focused on all factors that could impact the value of the tape. We believe the choice of identifier can have a significant impact on the value of the tape by impacting the quality of the data, the ease of use of the data and the implementation costs of the service for both the CTP’s users and for the CTP itself.**

**The value of the tape in turn will impact the commercial viability of the CTP. A poorly designed identifying reference data set has the potential to make the CTP commercially unviable if it results in lower data quality or impacts the ease with which the buy-side can access the data, or else increases the implementation costs for the operator or for the consumers of the data. This is especially true because ETS believes the majority of the users for the tape are buy-side entities who may have relatively unsophisticated derivatives infrastructure and whose appetite for additional market data costs will be very limited.**

**Reviewing the choices, the modified option provides the better solution from the perspective of a CTP operator, based on the considerations outlined above. In particular, it allows the existing ISIN infrastructure to be utilised, whilst mitigating the downsides of the current ISIN.**

* **The current ISIN infrastructure has taken many years to bed down and is now operating smoothly for transaction reporting. This option allows the CTP operator and industry to leverage this existing infrastructure rather than rely on building out a new infrastructure. Leveraging existing infrastructure and the years of experience in its operation increases the quality of the data, makes it easier for user to consume the data (because they have most/all of the infrastructure already) and thereby lowers the implementation costs of the service**
* **ETS notes that the Commission has the option to bifurcate the identifying reference data used to identify swap instruments between transaction reporting and transparency. ETS believes the optimal approach is harmonisation across these use cases. Option 2 preserves the benefits of a harmonised approach for identifying OTC derivative instruments across all regulatory use cases, whilst addressing the limitations of the current ISIN, and in particular, the daily rolling nature of the benchmark swaps.**
* **Such consistency and harmonisation further increases the accuracy and reliability of the data from data contributors. High data quality reduces the risk of ‘rubbish in – rubbish out’ that pervades the market today and helps position the CTP as a trustworthy golden source of data.**

**ETS also believes that the CTP must provide a human readable label to the consumers of the tape. Such a label is essential for the consumption of the data by human operators as opposed to the machine consumption of the data by more sophisticated users. The CTP needs to provide an unambiguous mapping between the human readable label and the machine-readable identifier so that the machine consumption use case and human consumption use case can be made consistent with each other, if they are both used within the same organisation. ETS notes that the ISIN already has a link to an ISO-based human-readable label (FISN – Financial Instrument Short Name) and therefore the human-readable label can be created and maintained automatically and systematically from the associated ISIN. Option 1 on the other hand does not provide such an automatic capability, because whilst the UPI also has a human-readable label, this label is only at the granularity of the product and not the instrument and therefore not useful to the end user who wishes to identify the swap instrument from the label.**

**The Commission would like to understand the potential implications if other jurisdictions select alternative solutions for identifying OTC derivative instruments. ETS notes that if Option 2 is selected and if other jurisdictions select the UPI for transparency, then Option 2 will provide full consistency with such jurisdictions because the UPI code and attributes are part of the ISIN definition and therefore will be available to all users free of charge and free from any license restrictions from the ESMA open-source Reference Data Library. Market participants with multi-jurisdictional obligations will be able to report in any other jurisdiction that utilises the UPI because the UPI and the ISIN are available as one package whenever the ISIN is retrieved. This link from the ISIN to the UPI provides a simple means for EU market participants to aggregate swaps at the instrument level with US swaps for in-scope instruments.**

**The chosen derivative consolidated tape provider is expected to report to ESMA on data contributor data quality as part of its governance obligations. These reports will require KPIs (key performance indicators) in order for the analysis to be objective and measurable. ETS believes measurement with UPI+ attributes will be more problematic because the ‘+’ will be sourced from individual reporting entities. This fragmentation will lower the quality of the CTP reporting to ESMA, which may in turn hinder effective feedback to market data contributors that would help increase their data quality. The modified ISIN does not suffer this issue as all the identifying reference data are encapsulated within the identifier itself.**

**A further consideration is whether the tenor should be derived from effective date and expiry date, or whether the tenor should be the primary golden source from which other attributes such as dates are calculated. ETS is firmly of the view that calculating the tenor from the date will lower data quality because the original trade itself typically takes place using tenors and any transformation risks introducing errors. If the CTP were to receive dates and then derive the tenors, this would mean the original trade was agreed based on tenors, this was transformed to dates and then transformed again to tenors. This creates two opportunities for errors to occur, compared to the alternative of using the tenor as the golden source.**

**ETS also notes that deriving tenors from dates is problematic. In particular, if the effective date of a forward swap were to fall on a weekend or a holiday, the CTP will be unable to derive the tenor accurately (e.g. is it is 5Y forward or a 5Y+2d forward?). One solution is to round the tenor in such circumstances, noting the whole tenor scope of transparency. However, rounding removes the opportunity for the CTP to perform a data validation check on the instrument to ensure it is in scope of transparency. Removing such a check will lower data quality, which has the negative impacts articulated above.**

**Another benefit of Option 2 is the reduction in costs for all users of the ISIN across all regulatory use cases. ETS acknowledges this is a nice-to-have feature of selecting Option 2, rather than a critical requirement, but nonetheless it very positively impacts any future cost-benefit analysis the EU were to perform in this space. Specifically:**

1. **Market participants can obtain the benchmark swap identifier upfront to integrate into their existing workflows rather than create a new one on the day. This lowers operational costs across all regulatory use cases, not just transparency**
2. **Market participants who only trade standardised swaps will no longer have any dependency on the DSB for any regulatory use case, noting that the ESMA Reference Data Library will provide an open-source repository of the identifier and its associated data for free and with no licence restrictions. This means such market participants no longer need to have a licence with the DSB or pay the DSB any fees.**

**One final benefit of Option 2 and utilising tenors is that the Clearing Obligation (CO), the Derivative Trading Obligation (DTO) and the scope of the transparency obligation all refer to tenors and not dates. Therefore, identifying the financial instruments by utilising tenors as the golden source provides direct consistency with the regulatory specifications and hence provides the highest quality approach to allow market participants and public authorities to validate whether a specific instrument is within the scope of the relevant obligation or not. Furthermore, Option 2 provides the ability to provide a simple list of ISINs that removes all ambiguity. ETS also notes that this use of tenors by traders during price discovery is utilised by traders in all jurisdictions globally, including the US. Therefore, the Commission proposal to utilise tenors provides consistency with global market practice, which is helpful to the EU CTP operator as it increases the likelihood of data sales to non-EU clients and thereby increases the commercial viability of the CTP.**

b) Do you foresee any challenges and / or cost impacts in terms of system changes required to provide ESMA with the modified ISIN, instead of the existing ISIN?

• Yes

• No

• Don’t know / no opinion / not applicable

* **ETS response: No**

Please explain your reasoning:

**Answer:**

**ETS anticipates the implementation cost of Option 2 to be several orders of magnitude lower than the implementation cost of Option 1.**

**With Option 2, users who only trade standardised swaps whose ISINs contain tenors rather than dates will no longer need to connect to the DSB services and will be able to decommission their systems, thereby saving costs. These cost savings will be across all their regulatory use cases, not just transparency. Users who still need to connect to the DSB for trading of other instruments, can still use their existing ISIN MiFIR workflows without change.**

**Whereas Option 1 would have negative impacts and associated costs for technology departments across the derivatives ecosystem. New UPI MiFIR workflows would need to be created, introducing errors. In addition, Option 1 will negatively impact independent order management systems and execution management systems which operate buy-side and sell-side respective workflows, incurring unforeseen significant costs.**

**ETS notes that no cost benefit analysis, in the context of implementation and long-term functioning, has been carried out on either Option 1 or Option 2. Since Option 2 realises the benefits of useful transparency while also preserving harmonisation across all regulatory use cases, ETS views this option as the logical choice for cost-effective implementation of the transparency regime.**

**An additional cost benefit of Option 2 is that the reduction in ISIN generation through the introduction of tenors in the ISIN for benchmark swaps will itself also reduce costs for market participants through lower IT costs and less need to handle reconciliations across the large number of newly issued ISINs that occurs today.**

**ETS is also concerned with an implementation challenge arising from Option 1, where each market data contributor i.e. reporting counterparty to the trade need to supply the APA the and then the APA needs to supply the information to the CTP with the ‘+’ elements of the UPI ‘+’. These extra elements and stages introduce potential additional ambiguity about the data and its controls. If individual market data contributors interpret and pass on such data differently, then the quality of the derivatives tape will suffer, and the CTP will not be able to implement validation checks for such errors because the individual market data contributors will be the golden source of the data they are submitting.**

**Option 2 does not suffer this problem because the additional elements have already been standardised and encapsulated within the identifier. Essentially, the market data contributors need only select from the list of pre-existing ISINs which already have standardised tenors embedded within them rather than each market data contributor individually creating the tenors themselves.**

c) Please indicate for which specific types of interest rate swaps the problem of daily ISIN arises that require this remedy:

* **ETS response: N/A**

d) Are there other types of OTC derivatives, apart from the interest rate swaps

identified in question 3 (b) and (c), for which the integration of the attribute

‘Expiry Date’ results in unnecessary daily ISINs and which require modification

of their ISIN definition?

• Yes

• No

• Don’t know / no opinion / not applicable

* **ETS response: N/A**

Please explain your reasoning:

**Question 4.** Are there other additional identifying reference data that are neither part of the UPI or the ISIN attributes that appear relevant to enhance the above stated aims of price transparency and price formation for in-scope OTC derivatives – interest rate derivatives and/or credit default swaps?

• Yes

• No

• Don’t know / no opinion / not applicable

* **ETS response: N/A**

Please explain your reasoning:

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