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Bloomberg response to the European Commission targeted consultation on the selection of a unique product identifier for public transparency in OTC derivatives transactions

January 8th, 2024

Question 1. For reporting reference data of in-scope OTC derivatives for the purpose of public transparency which option do you prefer? • **<u>Option 1: mandating UPI plus additional identifying reference data</u>** • 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

Bloomberg supports Option 1 on the basis that: a) it would not entail modifying the current construct of ISO 4914 UPI and, b) it would use a different set of additional identifying reference data fields than those proposed in this Consultation.

It is our view that, to reduce complexity and operational burden, any additional reference data fields should be added on top of the ISO 4914 UPI and not within the UPI construct. This would ensure alignment with the use of UPI in other markets and jurisdictions globally.

We support the addition of ‘Effective Date’ and ‘Termination Date’ as additional fields to be reported in addition to the ISO 4914 UPI. We also see value in the reporting of ‘Clearing House LEI’ and ‘Spread’ where applicable.

We agree that the use of ISIN currently as the OTC derivatives identifier for public transparency obligations is cumbersome and ineffective. In our view, the Commission’s approach should not be constrained by the current FIRDS design and a desire to mirror the existing product attribute dataset in the FIRDS RDL. To do so would create a path dependency on the existing ISIN-based architecture and run contrary to the aims of the provisional agreement, as expressed in recital 19b.

Our preference, ultimately, is for the UPI to become the basis for the identification of applicable OTC derivatives products across all MiFIR reporting obligations over time (i.e., both pre- and post-trade transparency obligations, transaction reporting obligations, and reference data reporting obligations). In the event that OTC ISINs will still be required for MiFID transaction reporting obligations (i.e. under MiFIR Article 26), we consider it desirable that the UPI is reported to FIRDS along with the ISIN, and that FIRDS is updated to provide the UPI (i.e.in the same way FIRDS currently provides the CFI alongside a given ISIN).

Further to that point, whilst we are aware that this consultation only covers the identifiers to be used for the purpose of pre- and post-trade transparency obligations, the Commission should consider how the transparency calculations for derivatives instruments will be compiled and published by ESMA (pursuant to RTS 2). Currently, transparency parameters (i.e., liquidity status and thresholds) are provided at ISIN level as well as sub-class level via ESMA’s FITRS system.

In order to ensure operational viability for firms, ESMA should use the same identifiers for its publication of transparency calculations as those required for pre- and post-trade transparency obligations. This will rely on reference data being provided by trading venues being submitted using those same identifiers. Given our preference for a full alignment based on UPI across not just pre- and post-trade transparency obligations, but also for other MiFIR reporting purposes (including both transaction reporting and reference data reporting), we suggest that once this consultation is completed the Commission looks further into this issue, as directed by the full text of recital 19b of the provisional agreement, and coordinates with ESMA so that ESMA can make any changes to RTS 2 and its FITRS procedures as may be required.

Alternatively, the future transparency framework should be designed so that the identifiers to be used for pre- and post-trade transparency obligations can be easily matched against the identifiers used in FITRS to identify the applicable transparency calculations. As a further alternative, a simplified future transparency framework could eliminate the need for identifiers in the determination of transparency parameters.

Question 1.1 - Option 1. 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

Please explain your reasoning:

As indicated in our answer to Question 1 above, we support the use of the UPI (ISO 4914) as defined by ISO at the behest of global regulators, alongside additional identifying reference data. However, we do not support the proposal to mandate 'Term of Contract' and 'Forward Term of Contract' as additional identifying reference data alongside the UPI.

As noted in our answer to Question 1 above, we do not agree that the Commission's approach should be dictated by the current FIRDS design and a desire to mirror the existing product attribute dataset in the FIRDS RDL. To do so would create a path dependency on the existing ISIN-based architecture and run counter to the aims of the provisional agreement, as expressed in recital 19b.

Bloomberg's view is that it would be preferable to then mandate the use of additional reference data fields that are easily and widely available to market participants and do not involve calculations by reporting entities.

We would therefore suggest the use of more standard features of the contract such as the 'Effective Date 'and the 'Termination Date' and (where applicable) the clearing house involved, the spread and the up-front payment. These fields are either present in the derivatives contracts documentation or recorded in firms systems, and would be less prone to mis-reporting as can be the case for the tenor of the contract.

Question 1.2 - Option 1. 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:

We do not see the addition of key data fields in addition to the UPI as adding significant costs. Such data fields will need to be maintained in systems anyway. It makes sense to apply these fields outside of the UPI as needed, thus maintaining alignment with the global usage of the UPI and avoiding the code inflation seen with the OTC ISIN.

If you prefer option 2:

a) 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**

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**

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

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

Please explain your reasoning:

Although outside the scope of the new transparency regime, other OTC derivatives products which currently require ISINs, and which fall within the scope of transaction reporting under MiFIR, also suffer from ISIN code proliferation due to the inclusion of expiry dates in the ISIN allocation. The most prominent example of this is equity derivatives, which now equate for around half of the 100 million + ISINs assigned for OTC derivatives. Whilst one solution to this would be the removal of that field from the allocation of the ISIN, a better solution would be migration to UPI for all reporting of these products.

In general, we suggest that a better way forward is to avoid tinkering with the ISIN and to transition over a timeframe agreed between all stakeholders to the UPI. Such an approach would minimise confusion, ensure international consistency with markets such as the US, Australia and Singapore, and reduce the costs of obtaining and managing vast numbers of ISINs for little tangible benefit. This would also minimise any additional burden from having to adapt to updated ANNA DSB ISIN templates, or from the potential backfilling of historic ANNA DSB ISIN data with any modified attributes (if deemed necessary).

Furthermore, it should be recognised that retaining the OTC ISIN alongside the UPI means that firms operating in the EU need to pay for 2 contracts with the DSB, which issues both ISINs and UPIs.

Such a double contract arrangement is not required for markets outside the EU which only use the UPI.

EU firms are actually being asked to pay twice for the same data as the UPI is a sub-set of the associated OTC ISINs. Although these ISIN and UPI services are offered on a 'cost recovery' basis, we note that added value services, such as premium support from the DSB, are charged on top of the code creation and access fees.

Moreover, as indicated in our earlier answer we do not see the addition of key data fields in addition to the UPI as adding significant costs, we do foresee possible cost impacts in relation to providing ESMA with the UPI arising from the DSB business model. We envisage that whilst UPIs will be made available to all market participants at a basic price point, we also envisage that the provider will differentiate pricing based on both volume usage and mode of access, as is the case for ISINs today. Accordingly, we expect to see disproportionate price points for entities that require high volume, programmatic access to UPIs. We therefore ask that all pricing be fully transparent and that mechanisms be in place to prevent inappropriate and disproportionate tariffs for the heaviest users

Question 2. Are there any 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

Please see our previous answers regarding UPI+ as defined by ISDA.