Directorate-General for Financial Stability, Financial Services and Capital Markets Union, European Commission

Rue de Spa 2, 1000 Brussels

Submitted via: The online questionnaire available on the following webpage:

https://finance.ec.europa.eu/regulation-and-supervision/consultations-0/targetedconsultation-otc-derivatives-identifier-public-transparency-purposes_en

9th January 2024

Re: The European Commission's targeted consultation document, on the Selection of a Unique Product Identifier for Public Transparency in Over-the-Counter ("OTC") Derivatives Transactions.

OSTTRA[1] is a leading provider of progressive post-trade solutions for the global OTC markets across interest rate, FX, equity, commodity, and credit asset classes. OSTTRA brings together the people, processes, and networks to solve the market's most pressing problems through innovating, integrating, and optimising the post-trade workflow. The combined force of the product suite ensures a streamlined post-trade ecosystem that helps clients drive even greater efficiencies. As the demands for automation continue to transform the post-trade landscape, OSTTRA is at the forefront of helping market participants build a secure and sustainable market infrastructure.

OSTTRA has a substantial global presence, including regulated entities in the UK and Sweden, OSTTRA employs almost 1,400 staff in 12 countries.

OSTTRA is the new home of:

MarkitServ: Our end-to-end trade processing and workflow solutions connect more than 2,500 counterparties across the global derivatives and FX markets. We process 10 million trades per month and have $500 trillion in notional outstanding.

Traiana: A network of over 2,000 counterparties, Traiana processes 37 million trades and $22 trillion in notional per month.

TriOptima: We've supported the OTC industry for over 20 years, compressing more than 2 quadrillion gross notional across 28 currencies and connecting 2,000 counterparties to reconcile 34 million trades per month. We are the market leader in counterparty risk optimisation and collateral management.

[1] OSTTRA is 50/50 owned by CME Group Inc and S&P Global Inc.

Reset: Reset provides leading risk mitigation services in the derivatives marketplace. We connect 2,500 counterparties, 145 banking groups and 38 countries with our state-of-the-art algorithms.

Our services extend from post-trade processing, confirmation, trade affirmation, portfolio reconciliation, cashflow affirmation, collateral management, risk calculations (PV, Initial Margin, XVA), through to multilateral compression, benchmark conversion, and counterparty risk and IM optimisation. We help clients to meet a broad range of regulatory challenges, allowing them to optimise resources by lowering costs, optimising operational, regulatory and credit risk, improving counterparty exposure management, and reducing systemic risk in their derivatives portfolios.

Today OSTTRA, through our MarkitWire and TradeServ services, offer post-trade processing and legal confirmation services to the OTC derivatives market globally. This means we are at the heart of post trade processing in the two asset classes being considered in this Consultation and are well versed in the efficiencies available and the challenges faced by firms when adopting new standards for post trade processing.

OSTTRA is pleased to provide its comments to the European Commission's Targeted consultation document, on the Selection of a Unique Product Identifier for Public Transparency in Over-the-Counter ("OTC") Derivatives Transactions (the "Consultation").

We welcome the Consultation and its objective of aligning the EU derivatives reporting framework with international guidance from the Committee on Payments and Market Infrastructures and International Organization of Securities Commissions (CPMI-IOSCO) to ensure a more globally consistent data set, thus enabling authorities to better monitor for systemic and financial stability risk. We have set out our detailed responses to the questions below.

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 OTC ISIN and requiring a change to the OTC 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.

We support *a version of* Option 1, as the best way to identify OTC derivatives for transparency purposes. Our preferred approach would also remedy the problems caused for derivatives instrument identification caused by the daily OTC ISIN roll (which results from the inclusion of the maturity field in the original design of OTC ISIN as implemented in Europe for OTC derivatives, which remains unresolved).

We strongly support the use of international standards and therefore the use of the globally agreed standard for OTC derivatives product identification, the UPI (ISO 4914) as the unique product identifier for this purpose. It is clear that reporting of the UPI (ISO 4914) – augmented by reporting of additional fields for optimal granularity for different MIFIR purposes – should be the end state.

We understand that in practice there may be a need to allow sufficient time for the UPI to be implemented for this purpose and there may even be a need to run in parallel for a limited period to allow the efficient transition to this end state. This approach would limit or mitigate operational and financial challenges as progress is made towards this end state.

We note that the MIFIR Level 1 text (Recital 19) refers to the use of OTC ISIN for public transparency as 'cumbersome and ineffective' for this purpose. That recital refers to the ISO 4914 as a potential solution, while acknowledging that ISO 4914 needs to be complemented by 'additional identifying data'.

The version of Option 1 that appears to have the most support within the users of derivatives would entail reporting of the ISO 4914 (the globally agreed Unique Product Identifier) and a few other fields *in MIFIR RTS 2* (i.e., in post-trade transparency / trade reporting, on a trade-by-trade basis, not in an instrument reference database / ESMA FIRDS). This version of Option 1 would not entail any amendment to ISO 4914.
Additional fields favoured for inclusion in RTS 2 in this version of Option 1[2] are:

- Effective date
- Termination date (also known as 'expiry date' (e.g., in the OTC ISIN (ISO 6166) as designed) or 'maturity date' in RTS 2)
- Clearing House LEI
- Spread (this is component of the price, where spread is part of the design of the product. If trades with a spread are covered by MIFIR transparency, 'Spread' should be included as a field. Otherwise, trades including a spread should be excluded from the regime to avoid misleading consumers of transparency data. A spread is rarely a component of fixed versus floating IRS / OIS products, however, meaning that for the vast majority of in scope trades this field will be zero (or blank)).

The above is in line with the ISDA paper: https://www.isda.org/a/9uqgE/ISDA-Paper-on-Unique-Product-Identifiers.pdf.[3]

We note that the Commission has suggested instead including 'Term of Contract' and 'Forward Starting Term' to achieve the goal of identifying the amount the swap is forward starting and the length of the swap.

We note that the US CFTC transparency regime, live since 1 January 2013 leverages Effective Date and Termination Date not 'Term of Contract' and 'Forward Starting Term'.

A key consideration in this approach is how the tenor of the OTC derivative instruments covered by MIFIR transparency requirements can most efficiently and effectively be communicated.

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[2] These additional fields were specified by ISDA members in view of the scope of MIFIR trade transparency as set out in final recently revised MIFIR Level 1 text. If the scope of MIFIR transparency were to expand or reduce drastically in the future, it may be appropriate to revisit these additional fields with a view to optimally identifying a drastically different product set.

[3] We have removed Up-front payment (for CDS only) from the contents of our letter as ESMA has updated it manual to require the quoted spread be reported as price for Index CDS. "The field price should not be the "fixed rate / standardised coupon" (e.g. 100 bps for investment grade or 500bps for high yield), which is in essence reference data, but it should be the "quoted spread", i.e. the spread that reflects market condition of the trade, expressed in basis points. The difference between the standardised coupon and the quoted spread is settled at the beginning of the trade with an up-front payment."
www.esma.europa.eu/sites/default/files/2023-07/ESMA74-2134169708-6870_Manual_on_post-trade_transparency.pdf

Certainly, we would note that some firms in the investment management community wishing to consume transparency data are interested in quickly understanding the tenor of OTC derivatives instruments (and potentially the forward term, which is only required if forward starting swaps are included in the scope of the transparency regime) in the course of their investment and risk management decision-making even though they can easily be derived from the aforementioned dates.

However, we understand that many investment firms do not maintain a 'tenor', nor a 'forward starting term' field in their booking systems (in the main because the terms 'tenor' and 'forward starting term' are not included in 2021 ISDA Interest Rate Derivatives Definitions and is not part of the standard templates for legal confirmations). As such, support for the additional fields listed above (in particular effective date and termination date) is underpinned by the belief 1) that the tenor of contracts covered in MIFIR transparency requirements can easily be (and typically is) extrapolated by reference to the dates in transaction-level data, the 'termination date' (or 'expiry date' or 'maturity date') field and (in the event forward-starting swaps are eventually included in scope of the transparency regime), the 'effective date' field that should be included in RTS 2 and that 2) this approach would be less operationally disruptive (overall) for investment firms actually performing reporting requirements.

The question is who is best to do that translation, given that many firms do not capture those values in their systems. Is it best to make every firm (100s) do it, make the APAs (<10) do it, or give the CTP (singular), (that is already incentivised for their data to be valuable to consumers) the option (or the mandate) to do it?

If the tenor has to be calculated by a significant number of market participants this would increase the likelihood of diverging practice in making these calculations of tenor (from the dates held), which could increase the likelihood or errors and potentially undermine the quality and value of the data (although this is less of a concern if the scope of the transparency regime remains focused on benchmark swaps, and does not include forward-starting or other more complex contracts to calculate e.g. IMM swaps). While this approach may require some operational expenditure for some APAs or (when selected) the Consolidated Tape Provider, this would affect a smaller number of economic actors by comparison with a requirement for market participants to record tenor (and potentially 'forward starting term') as fields and provide them as inputs to the transparency regime.

Regardless as to whether the commission decides to leverage the 'Effective Date' and 'Termination Date' or the 'Term of Contract' and 'Forward Term of Contract' we believe that OTC derivatives identification for MIFIR transparency, transaction reporting, and EMIR reporting purposes would be better served by use of the ISO 4914 (UPI) as the single OTC derivatives product identifier.

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?**
   - **<u>Yes</u>**
   - No
   - Don't know / no opinion / not applicable.

Please explain your reasoning:

Yes, but the additional identifying reference data fields need to be chosen thoughtfully. Please see answer to question 1.

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?**
   - **<u>Yes</u>**
   - No
   - Don't know / no opinion / not applicable.

Please explain your reasoning:

While there would be some costs associated with implementation of UPI, complemented (in MIFIR RTS 2) with additional fields, reportable in RTS 2 (for transparency purposes), these costs should not be prohibitive, assuming sufficient implementation time would be permitted. The ISO 4914 is already being applied in other jurisdictions and even in EMIR Refit (with OTC derivatives to be reported using the UPI where no OTC ISIN is yet available for that instrument). Some of the necessary market infrastructure will therefore already be in place at firm and market level.

If the additional fields chosen are fields that are already in firms' systems, are used for economic purposes e.g. calculating cashflows, and are already part of the legal confirmations, such as Effective Date and Termination Date, then the cost should be de minimis, not least as these fields already need to be provided under the CFTC P43 public price dissemination reporting.

If the additional fields chosen are fields that need to be derived (e.g. 'Term of Contract' and 'Forward Term of Contract') from the existing data fields firms already maintain in their systems then firms will face increased costs to implement and maintain and it will impact data quality (although this is less of a concern if the scope of the transparency regime remains focused on benchmark swaps, and does not include forward-starting or other more complex contracts to calculate e.g. IMM swaps).

Question 3. If you prefer option 2:

a) **Do you agree that modifying the OTC ISIN by replacing the 'Expiry Date' attribute with the 'Forward Term of Contract' for OTC derivative types which have daily OTC ISINs (e.g., interest rate derivatives) addresses the problems identified with the use of the OTC ISIN for the purposes of public transparency reporting?**
   - Yes
   - **<u>No</u>**
   - Don't know / no opinion / not applicable.

Please explain your reasoning:

We do not agree with Option 2.

If Option 2 was preferred by the European Commission, we are concerned at potential downsides to this choice, including further cost, complexity, and lower data quality.

The consequences of a decision to focus on an OTC ISIN redesign could be significant in terms of cost and data quality. The existing OTC ISINs would either be redundant for new trades but maintained in the legacy trade population with 'new OTC ISIN' being used for new trades, or a new OTC ISIN template for benchmark swaps would need to be created which would require users to choose between the template for benchmark swaps with a 'Forward Term of Contract' as input and an existing template with a Termination Date for non-benchmark swaps. Either way, this would clearly be more complex, which would result in lower data quality.

b) **Do you foresee any challenges and / or cost impacts in terms of system changes required to provide ESMA with the modified OTC ISIN, instead of the existing OTC ISIN?**
- **Yes**
- No
- Don't know / no opinion / not applicable.

Please explain your reasoning:

We do not agree with Option 2.

If Option 2 was preferred by the European Commission, we are concerned at potential downsides to this choice, including further cost, complexity, and lower data quality.

The consequences of a decision to focus on an OTC ISIN redesign could be significant in terms of cost and data quality. The existing OTC ISINs would either be redundant for new trades but maintained in the legacy trade population with 'new OTC ISIN' being used for new trades, or a new OTC ISIN template for benchmark swaps would need to be created which would require users to choose between the template for benchmark swaps with a 'Forward Term of Contract' as input and an existing template with a Termination Date for non-benchmark swaps. Either way, this would clearly be more complex, which would result in lower data quality.

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

The daily OTC ISIN issue is a problem for all interest rate swaps, albeit less so for swaps on IMM dates, standardised rolls (e.g. 20 March, June, Sept, Dec), and swaps based on central bank interest rate decision dates. However, most swaps in-scope of MIFIR post-trade transparency are impacted.

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 OTC ISINs and which require modification of their OTC ISIN definition?**
- **Yes**
- No
- Don't know / no opinion / not applicable.

Please explain your reasoning:

If we only consider the scope of OTC derivatives subject to post-trade transparency requirements in the new MIFIR when responding to this question, then interest rate swaps are most affected. This is less of an issue for index CDS that are covered by the clearing obligation because of the standardisation of index CDS contracts relating to maturity date, with index CDS contracts maturity focusing on a specific date every quarter.

If we consider the broader scope of OTC derivatives covered by the current MIFIR post-trade transparency regime, this is also an issue for equity derivatives and FX.

Question 4. Are there any other additional identifying reference data that are neither part of the UPI or the OTC 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?

- **<u>Yes</u>**
- No
- Don't know / no opinion / not applicable.

As the question appears to reflect, the attributes required are entirely dependent on the nature of the in-scope OTC derivatives. For example, if basis swaps were included you would need two spread fields rather than the one suggested in the list below.

We believe that optimal public transparency for the set of OTC derivatives covered in scope of the Level 1 MIFIR text as recently revised, and as expect to be published in the Official Journal in Spring 2024, would be served by reporting of two to four fields in addition to the ISO 4914 Unique Product Identifier, in MIFIR RTS 2, depending on the exact scope decided upon.

The table below lists these fields (see left hand column) and explains their purpose (see right hand column):

Details	**Financial Instrument**	**Description/Details to be published**	**Comments**
Effective Date (Not required if only spot starting swaps are in scope)	For OTC derivatives	Effective date of the contract	The combination of Effective Date, Termination Date and the existing "Trading Date and Time" field will allow the tenor of the contract to be derived if forward-starting swaps are ever scoped in to the MIFIR transparency regime.
Termination Date Also known as 'expiry date' or 'maturity date.'	For OTC derivatives	Termination date of the contract	The combination of Termination Date and the existing "Trading Date and Time" field will allow the tenor of the contract to be derived for all derivatives contracts in-scope of trade transparency on day 1 of effectiveness of the regime.
Clearing House (CCP) LEI	For OTC derivatives	Valid LEI for a registered CCP	This ISO standard identifier should be added to provide consumers of the data with visibility of the CCP at which the trade was cleared. Identical

			instruments cleared at different CCPs can have divergent prices, so identification of the CCP will improve the quality and useability of transparency data.
Spread (Not required if trades with a spread are not in-scope)	For IRS derivatives (Not needed for CDS as ESMA now requires the quoted spread be reported as price for Index CDS)	The spread on the floating leg	The floating rate spread impacts price and therefore warrants inclusion. A value of 0 should be allowed where no spread exists. If this field is not included, then trades with a spread should be excluded from the transparency regime to avoid misleading consumers of the data. A spread is rarely a component of fixed versus floating IRS / OIS products.

Further details can be found in the ISDA paper (of November 2023) 'Unique Product Identifier (UPI) as a replacement for OTC ISIN for the purpose of instrument identification in UK MIFIR / MIFIR Transparency' at https://www.isda.org/a/9uqgE/ISDA-Paper-on-Unique-Product-Identifiers.pdf.[4]

We assume that the use of 'Forward Starting Term' and 'Forward Term of Contract' in the questions is unintentional and that the terms used are indented to be equivalent. We would be happy to discuss our comments with the European Commission and / or the European Securities and Markets Authority. If you have any comments or questions regarding this submission, please feel free to contact us.

Yours faithfully,

[4] We have removed Up-front payment (for CDS only) from the contents of our letter as ESMA has updated it manual to require the quoted spread be reported as price for Index CDS. "The field price should not be the "fixed rate / standardised coupon" (e.g. 100 bps for investment grade or 500bps for high yield), which is in essence reference data, but it should be the "quoted spread", i.e. the spread that reflects market condition of the trade, expressed in basis points. The difference between the standardised coupon and the quoted spread is settled at the beginning of the trade with an up-front payment." www.esma.europa.eu/sites/default/files/2023-07/ESMA74-2134169708-6870_Manual_on_post-trade_transparency.pdf

Kirston Winters

Head of Legal, Risk, Compliance and Government and Regulatory Affairs

OSTTRA

kirston.winters@osttra.com