ABBL answer to "Targeted consultation on the selection of a unique product identifier for public transparency in over-the-counter ("OTC") derivatives transactions"

Published: 8 January 2024
Author: Marilyn Rinck, Adviser - Financial Markets (marilyn.rinck@abbl.lu)

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

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?

- Option "YES"

Please explain your reasoning regarding your answer to question 1.1 for option 1:

The introduction of the ISIN for OTC derivatives under MiFID II aimed to enhance transparency, but it had the opposite effect due to the granularity of the ISIN.
The ISINs for OTC derivatives have been a point of contention and complexity, requiring ongoing efforts to ensure their effective use and regulatory compliance within the industry.

The ISIN, which changes daily for certain derivatives, hinders the tracking of price and volume evolution over time as well as within a single day, as example, a 5 year Fixed to Float EUR Euribor interest rate swap will have a different ISIN every single day, the expiry date being a key attribute of the ISIN.

We see a potential solution to this in reporting them with the Unique Product Identifier (UPI) along with other key contract terms proposed. To come back to the example given earlier the UTI would remain the same through the whole life of the Fixed to Float EUR Euribor interest rate swap. However, the UPI alone is not sufficient, therefore the addition of the 'Term of Contract' and the 'Forward Term of Contract' (only for forward starting IRS, so a value of 0 should be accepted for non-forward starting swaps) should be considered.

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?

- Option “NO”

Please explain your reasoning regarding your answer to question 1.2 for option 1:

We should simplify post-trade transparency reporting, leading to lower costs. Since the UPI will remain the same for our 5-year Fixed to Float EUR Euribor interest rate swap, there will be no need for a complex solution to query an ISIN every day it is traded. Additionally, all the extra attributes on top of the UPI are standard attributes known at the time of execution and immediately available for reporting.

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?

- Option “YES”

Please explain your reasoning regarding your answer to question 2:

In addition to the UPI, as well as the 'Term of Contract' and 'Forward Term of Contract,' other attributes that significantly impact the contract's price should be included:

For IRS and CDS a Clearing House LEI: this field should be added to provide visibility of differing prices between CCPs.

For IRS only the spread for certain IRS trades containing a floating leg is considered a price-impacting attribute and therefore should be included. A value of 0 should be allowed where no spread exists.

For CDS only the up-front payment for CDS is considered a price-impacting attribute and therefore should be included.

By including all those attributes, companies will have the flexibility to aggregate contracts by selecting the relevant attributes based on the type of analysis being conducted.

Additional information

The ISIN for OTC derivatives should also be replaced in MIFIR transaction reporting by UPI, but without additional attributes. Today it doesn’t make sense that 2 contracts with the exact same attributes and tenor (except for their Termination Date) are in-scope or not for MiFIR transaction reporting only since one is or is not traded on a trading venue (ToTV) if their underlying is not ToTV. Such determination is too complex for many, if not all firms. It would be much simpler for the whole industry that the determination whether an OTC derivative contract is in scope or not is based solely on a list of pre-defined UPIs.