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**Re: Harmonisation of key OTC Derivatives data elements (other than UTI and UPI) – first batch
– Consultative Report**

The International Swaps and Derivatives Association, Inc. (“ISDA”), The Global Foreign Exchange Division (“GFXD”) of the Global Financial Markets Association (GFMA), and The Investment Association (“IA”) (the “Associations”) appreciate the opportunity to provide the Committee on Payments and Market Infrastructures (“CPMI”) and the Board of the International Organization of Securities Commissions (“IOSCO”) with comments in response to the Consultative Report referenced above (the “Consultative Report”).

The Associations are strong proponents of global data harmonization, individually and collectively working in tandem with their members and other buy- and sell-side market participants and market infrastructure providers to promote the important role of global standards in improving data quality and increasing the efficiency and value of reporting and other global regulatory requirements. We are supportive of the initiatives undertaken by the Working Group for the harmonization of key OTC derivatives data elements (the “Harmonisation Group”) for the standardization and harmonization of important data elements, including key OTC derivatives data elements other than the UTI and UPI (“ODE”).

In its paper published in February 2015, *Improving Regulatory Transparency of Global Derivatives Markets: Key Principles*¹ (the “ISDA Data Paper”), ISDA put forth the concept of an industry data dictionary developed through the cooperation of regulators and market participants for harmonized global repository standards that would define and clarify derivatives trade data, reference data and workflow requirements for each reporting field that is required by regulators. Such data dictionary would improve the efficiency of reporting across borders and improve the quality of the data for use by individual regulators and allow for meaningful aggregation and reconciliation of data between regimes. In June 2015, eleven industry trade associations issued a joint letter² to CPMI, IOSCO and their respective regulators in support of the principles in the ISDA Data Paper, including the data dictionary

¹ <http://www2.isda.org/attachment/NzI4NQ==/Improving%20Regulatory%20Transparency%20FINAL.pdf>

² <http://www2.isda.org/attachment/NzY1OA==/Joint%20Trade%20Association%20Data%20Harmonization%20letter.pdf>



concept. We therefore appreciate that with the Consultative Report the Harmonisation Group has taken an important first step toward global regulatory alignment of reported data.

We appreciate that the Consultative Report includes both proposed definitions and formats, acknowledging existing industry standards to a certain extent. However, we believe that the Consultative Report does not sufficiently reflect current market practices and available standards in the OTC derivatives market. Instead, at times it proposes terminology and data fields that are not standard in the derivatives market or suggests solutions for problems that do not exist (e.g. determination of the time at which obligations come into effect or cease to be effective). In addition, it does not acknowledge the overlapping application of the data for other regulatory requirements and the necessity for a single approach to representing the derivatives data that is synchronized and appropriate to a broader scope of trade processes and regulatory mandates. In our comments below we will clarify where efficiencies in defining these key data elements can and should be achieved via leveraging existing market definitions and practices and taking into consideration parallel regulatory requirements and trade processes for OTC derivatives transactions.

1 Preface

“Key” data elements

In this response, we provide our feedback to the definition, values and format of the data elements proposed for comment. In doing so, we have not generally provided feedback as to whether we concur with the Harmonisation Group’s selection of the specified subset of data elements as being “key” to OTC derivatives transactions. Nor do we believe the data elements in this Consultative Report ought to be reportable across jurisdictions globally, regardless of whether guidance for them is issued by CPMI-IOSCO. Rather, our comments are provided in the interest of furthering clarity and consistency with respect to existing trade reporting requirements in various jurisdictions in which the specified data elements are already mandated. We believe that the Harmonisation Group’s recommendations associated with this and any related consultations on data elements should be clear that regulators should use the recommendations to improve existing data requirements, as opposed to resulting in requirements for new data fields.

Adoption, implementation and transition

Although this Consultative Report is only intended to be the first to address key data elements for OTC derivatives reporting, it is important to emphasize up-front the importance of consistent adoption and coordinated implementation of any changes to data elements that result from the related consultations. We recognize that the role of the Harmonisation Group is to issue guidance with respect to key data elements and that each regulator may need to amend their rules or take other steps to implement the recommendations in their respective jurisdictions. Regardless of such separate dependencies, it is imperative that a global transition be coordinated in the cases where the approach to data representation would be expected to change from current participant, jurisdictional or market practices.

Depending on their internal systems and reporting architectures, market participants and market infrastructure providers may need to make invasive changes to alter the way in which the data is reported. In addition, trade repositories (TRs) may be required to make changes to their validations and available data fields. Once these changes are affected, they should be applied consistently for all relevant global reporting requirements. It would be inefficient and extremely challenging to implement changes to data representation separately for each jurisdiction. Reporting parties, market infrastructure providers and TRs will need to carefully coordinate the implementation of any data representation changes to avoid a disruption to reporting or any unintended impact to data quality. Fragmented adoption would also delay the ability of global regulators to aggregate or analyze data - a key benefit of the effort to harmonise data elements.

In addition to the timing of a transition to any revised standards for data representation in reporting, it is absolutely critical that all regulators implement and translate the guidance into their rules with respect to a particular data field consistently (and even identically, if possible). To have to deal with inconsistent national implementation of global recommendations for the same required data field would be inefficient, challenging and could undermine the availability of globally consistent data for each derivative transaction and the ability of the derivatives industry to report and comply with jurisdictional requirements in a uniform and efficient manner.

Beyond OTC Derivatives

Although this Consultative Report is specific to OTC derivatives, the principles of harmonizing data standards have broader industry application, including in Exchange Traded Derivatives (“ETD”) and securities financing transactions. Although key principles and benefits may align (and, as referenced above, are supported broadly by the industry), the solutions recommended by the Harmonisation Group with respect to OTC derivatives may not be appropriate for other areas of the financial industry and must be subject to separate consideration by regulators and market participants. Even if certain data elements seem to overlap, the market practices, technical standards, market infrastructure and implications of the data representation may be different. Extending solutions designed for improving data quality for OTC derivatives onto other areas of the market could be counterproductive, undermining the quality of data in those areas by artificially forcing it to look or act like OTC derivatives data.

We request that the Harmonisation Group provide explicit direction in its guidance on key data elements that its recommendations are intended for OTC derivatives and provide that regulators should not extend the principles and solutions to ETD, secured financing transactions or other segments of the financial industry without separate analysis and industry consultation regarding solutions that may be more appropriate. If a single method can be satisfactorily applied to various segments of the market, we are in support of such harmonisation. But harmonisation should not be achieved at the cost of misrepresenting or underserving any particular segment by not considering its unique purposes, challenges and market standards.

2 Responses to Consultation Questions

I. List 1: OTC derivatives' basic economic terms

A. Effective Date §3.1.1

Alternative 1 vs. Alternative 2

We support Alternative 1 and oppose Alternative 2. A timestamp is not agreed, nor is one generally relevant, between market participants on a transactional basis in respect of either the Effective Date or the End Date of an OTC derivatives transaction. Any relevant time and any applicable time zone which may be necessary to determine when the obligations under a contract either come into effect or cease to be effective are contractually defined by the associated product definitions that govern the transaction.

Such timing is important for Credit Derivative Transactions, but this is addressed in Section 1.49 of the 2014 Credit Derivatives Definitions which specifies that (except for certain specified times such as notices and payment timing) in order to determine the day on which a credit event occurs for purposes of the definitions, the demarcation of days shall be made by reference to Greenwich Mean Time (or, if the Transaction type of the Reference Entity relates to Japan, Tokyo time), irrespective of the time zone in which such event occurred. Any event occurring at midnight shall be deemed to have occurred immediately prior to midnight.

For other transaction types, the applicable definitions set out the relevant times, if any, for calculation purposes. If the effective date and end date are used to determine any periodic or settlement payments, such payments are calculated purely based on the number of days in the relevant period, adjusted in accordance with any applicable business days and the business day convention.

As a timestamp for effective dates and end dates is not negotiated between the parties on a transactional basis, is not specified in the relevant confirm, and is not available in any trade capture systems, it would be inappropriate and contrary to market practice to require parties to report a timestamp as a component of either the effective date or the end date. Implementing the capacity to capture a timestamp in these cases would be extremely invasive and expensive. Since there is no negotiated value to capture, we anticipate that if forced to provide a timestamp firms would likely end up using a default time such as 00:00:01, providing no additional value or transparency with respect to the rights or obligations of the parties.

With Alternative 2, the Harmonisation Group is proposing to solve an issue that does not exist; meaning there are not currently disputes relating to the time at which a party's obligations begin and end. As such, we strongly suggest the adoption of Alternative 1 as the cost and effort of complying with Alternative 2 cannot be justified and instead could lead to ambiguity in the event a reported timestamp deviates from a relevant time in the associated definitions. However, we agree with the use of the existing industry standard of ISO8601 for the date format of YYYY-MM-DD.

Definition

In addition to providing guidance on the allowable values, it is important that the definition of Effective Date include clear guidance that is in accordance with current market practice regarding the determination of the date that should be reported as the effective date with respect to reporting of lifecycle events. These examples can be tied out with the lifecycle table in section 8 of the CPMI-IOSCO Consultative report *Harmonization of the Unique Transaction Identifier* (the “UTI Consultation”) such that in some of the instances in which a lifecycle event results in a new transaction(s) with new UTI(s), guidance is valuable as to whether such transaction may also have its own effective date or retains the effective date of the preceding transaction. Such guidance would promote consistent requirements and expectations by regulators that are based on current market practice and provide clarity to market participants for the consistency of the reported values.

Credit Derivative Transactions may be subject to either (i) a succession event on a reference entity for which there is more than one successor or (ii) the partial triggering of a restructuring credit event. In practical application, such events result in the cancellation of the original transaction and the booking of two (or more, as applicable) new transactions which reflect the relevant reference entity and the applicable portion of the notional attributed to each new transaction. The new transactions each have an effective date that is equal to the effective date of the preceding transaction.

For other lifecycle events that result in a new transaction(s), the effective date for the predecessor transaction(s) is superseded by an effective date for the successor transaction that is (i) relevant to the parties to such transaction(s) and (ii) available to both parties to the successor transaction(s). A discussion of particular events is as follows:

- Compressions. In the credit and foreign exchange asset classes, “replacement” trades may result from a compression cycle. The effective date(s) of the transactions which are subject to the compression cycle are no longer relevant to the replacement transaction(s) which result from the compression exercise. In the credit asset class, the replacement transactions are assigned a trade date that is equal to the date on which the compression cycle becomes legally binding and an effective date that is equal to the trade date plus one good business day. In the foreign exchange (FX) asset class, the trade date of any replacement transactions is also equal to the date on which the compression cycle becomes legally binding and the effective date is equal to the trade date.
- Novation Transactions³. The effective date for reporting a Novation Transaction should be the date on which the Transferee and Remaining Party (or Transferee 1 and Transferee 2) assume the mutual rights and obligations of the New Transaction, rather than the effective date of the Old Transaction.

A bunched order is allocated to a number of counterparties which each assume the rights and obligations for a portion of its notional. Although the bunched order is viewed as a new execution, the resulting allocations may be new transactions, lifecycle events on existing

³ All capitalized terms in this paragraph are as defined in the ISDA 2004 Novation Definitions (<http://www.isda.org/publications/pdf/2004-Novation-Definitions.pdf>)

transactions or some combination thereof. Any allocation for a new transaction would have a new UTI and the same effective date as the bunched order. Lifecycle event reporting on allocated trades follow the general rules: (i) if there is no new trade due to the lifecycle event, the original UTI would persist and the associated effective date would be retained; and (ii) if such lifecycle event results in a separate new transaction (e.g. a Novation Transaction), a new UTI and new effective date may be assigned.

Existing industry standard and Format

We agree with use of ISO8601, but only for purposes of applying the date format specified in Alternative 1 of YYYY-MM-DD.

B. End Date §3.1.2

Alternative 1 vs. Alternative 2

The approach to both effective date and end date should be uniformly adopted in accordance with Alternative 1, in each case. Please see our response to section Effective Date §3.1.1 above for further discussion on the current market standard.

Definition

We agree with the definition for Alternative 1.

Existing industry standard and Format

We agree with use of ISO8601, but only for purposes of applying the date format specified in Alternative 1 of YYYY-MM-DD.

C. Cleared §3.1.3

Alternative 1 vs. Alternative 2

We appreciate that in Alternative 1, the Consultative Report is acknowledging a practical need to be able to distinguish transactions which are part of an associated group of clearing transactions (together, a “clearing transaction”) which are distinct in number and counterparty pairing based on whether clearing took place via the principal or agency model. The Associations have previously expressed concern with the lack of specificity or the contrary reporting requirements for clearing transactions among global reporting regulations.

There are a myriad of both simple and complex clearing flows under both models⁴, and each transaction that makes up a group of clearing transactions must be reported accurately and consistently across borders to reflect the legal counterparties to each separate but related transaction against a distinct UTI in order to preserve the integrity of the reported data and

⁴ ISDA, *Unique Trade Identifier (UTI): Generation, Communication and Matching* (July 20, 2015), §5.3. (http://www2.isda.org/attachment/NzczMg==/2015%20July%2020%20UTI%20Best%20Practice%20v11.6_final.pdf).

ensure it accurately reflects the risk of the associated parties. See the comments in the response⁵ from ISDA, the Securities Industry and Financial Markets Association, Institute of International Finance, and IA to the UTI Consultation submitted on September 30, 2015 for further discussion on this important matter.

Not all the transactions that are part of a clearing transaction include a clearing agency (CCP) as a counterparty. Under the principal model, each Clearing Member (CM) faces the CCP and has an off-setting transaction with their client. Alternative 1 acknowledges this by suggesting use of both a “Cleared, principal model, Client – Clearing member trade” and a “Cleared, principal model, Clearing member – CCP trade” value. However, the list of suggested values falls short since there are more complex indirect clearing flows for which the risk of the clearing transaction is ultimately entered into on behalf of additional clients which could not be accurately reflected via either of these values. For instance, some clearing transactions involve omnibus accounts which hold transactions with the client which in aggregate off-set the transaction between the CM and its client. Each one of these transactions is part of a clearing transaction, and needs to be able to be denoted as such in reported data so that it is clear to regulators that any applicable clearing mandates have been adhered to and the need to specify an exception to such mandates does not apply. Further, denoting all transactions that are components of a clearing transaction as “cleared”, allows for a more accurate representation of the associated risk and exposures.

However, we believe that developing a list of acceptable values that can cover each component transaction of a clearing transaction and be future-proofed for innovation in clearing would be difficult to agree and challenging to implement. Alternative 2 offers a more simplified approach to identifying clearing transactions, however it may be over-simplified and would require clear and consistent guidance for whether “Yes” or “No” should be reported for each component transaction in a clearing flow. For instance, should a bilateral alpha trade be reported as “No” since it precedes clearing acceptance? If so, it may be unclear in the reported data that such trade has been or will be submitted to clearing absent any linkage to the associated UTI of the cleared transactions. Many regulators currently require, or propose to require, an “intent to clear” indicator for alpha transactions. In addition, we believe it would be appropriate and necessary for consistent regulatory guidance that all transactions that are part of a clearing flow be reported as “cleared” even though they do not face the CCP to make clear to observers that such transactions have already been subjected to clearing.

Alternative 3

Based on the above discussion, we propose the following values for Alternative 3, as follows:

- Not cleared
- Intent to clear
- Cleared (Principal)
- Cleared (Agency)

⁵ http://www2.isda.org/attachment/NzlxMA==/CPMI-IOSCO_UTI_Response_Sep%2030%202015_FINAL.pdf at pages 9, 11, 12.

The associated guidance should make clear the following consistent application of the above values:

- “Not cleared” applies to a transaction that is not intended for clearing whether because it is ineligible for clearing, is not subject to a clearing mandate, or at the time of reporting the parties do not intend to voluntarily submit the transaction to clearing.
- “Intent to clear” would apply to any transaction for which, at the point of reporting, the parties intend to submit such transaction for clearing, regardless of whether the trade is subject to mandatory clearing or submitted voluntarily. This may apply to a single trade in a clearing transaction or multiple in the event of allocation prior to clearing submission. The reported value for an alpha would not be updated to either “Cleared (Principal)” or “Cleared (Agency)” upon clearing acceptance, but would persist as originally reported. If a transaction was reported as “Intent to clear” but was not accepted for clearing and will remain a bilateral transaction, then the value should be updated in reporting to “Not cleared”.
- “Cleared (Principal)” should be the reported value for any component transaction of a clearing transaction enacted via the principal model, besides the alpha(s), regardless of whether the CCP is a counterparty to such transaction.
- “Cleared (Agency)” should be the reported value for any component transaction of an agency style clearing transaction, besides any alpha(s), regardless of whether the CCP is a counterparty to such transaction.

We believe that Alternative 3 is the best compromise between Alternative 1 and Alternative 2 as it provides the additional specificity for observers to understand that transactions which do not have a CCP as a counterparty are part of a clearing transaction and which clearing model⁶ was applied without over-complicating the implementation and application of the values to reported data. Please see the diagrams in the Appendix which illustrate how the proposed values in Alternative 3 would be assigned to each UTI in a representative set of clearing flows from ISDA’s UTI doc, thus substantiating both the comprehensive coverage and relative ease and clarity of using Alternative 3.

Definition

In addition to Alternative 3, above, we suggest that the definition of CLEARED be revised from “Whether the transaction has been cleared by a central counterparty” to “Whether the transaction has been, or is intended to be, cleared” to account for component transactions of a clearing transaction for which the CCP is not a counterparty.

⁶ If the Harmonisation Group is aware of alternative clearing methods that may be used in any regions, a value of “Cleared (Other)” could be included in the list of allowable values.

D. Settlement Method §3.1.4

Allowable values

The Associations agree with the specified allowable values of C=Cash and P=Physical. However, we suggest that the third allowable value be E=Election rather than O=Other. Election, which refers to the right to select the settlement method, is an industry standard value so should be the value reported rather than necessitating a mapping to “Other”.

Definition

The specific terms for settlement methods are defined in the relevant asset class definitions that govern each OTC Derivatives transaction. For interest rates, credit, equity and commodity derivatives, the defined terms are “Cash Settlement” and “Physical Settlement”⁷. For FX the defined terms are “Non-Deliverable” and “Deliverable”⁸, where “Non-Deliverable” is equivalent to “Cash Settlement”, and “Deliverable” is equivalent to “Physical Settlement”. As part of the definition of Settlement Method, we suggest the CPMI-IOSCO guidance should acknowledge the industry standard terms and definitions that apply to OTC derivatives transactions and provide additional clarity by including the following:

- Cash refers to either “Cash Settlement”, as defined in the relevant product definitions published by the International Swaps and Derivatives Association, Inc. (“ISDA”), or “Non-Deliverable” as defined in the relevant product definitions published by ISDA, the Emerging Markets Traders Association and The Foreign Exchange Committee (the “FX Definitions”).
- Physical refers to either “Physical Settlement”, as defined in the relevant product definitions published by ISDA, or “Deliverable”, as defined in the FX Definitions.
- Election refers to the right for a party to select either Cash or Physical settlement, as defined above.

E. ID of Primary Obligor §3.1.5

Definition

We do not agree with the Harmonisation Group's decision to classify the ID for an “Obligor” as a key data element worthy of inclusion in this first consultation. The term “obligor” and the concept of an obligor is not a part a standard OTC derivatives terminology, definitions or confirmations, and therefore should not be a separately reported data field. Indeed the term “obligor” is not defined any ISDA product definitions. With respect to Credit Derivatives Transactions, the term “primary obligor” may be used to refer to the primary entity to a reference obligation associated with the underlying reference entity; but such primary obligor is not a party to the derivatives transaction. Instead “counterparty” is the market standard term for each party which is subject to the rights and obligations of a derivatives transaction.

⁷ Defined in the 2006 ISDA Definitions, 2014 ISDA Credit Derivatives Definitions, 1996 Equity Derivatives Definitions and the 2005 ISDA Commodity Definitions, respectively.

⁸ Defined in the 1998 FX and Currency Option Definitions.

We are unaware of cases in which an obligor which has rights and obligations under the derivatives contract would be agreed on the confirmation for the transaction separate from the counterparty. We are also unaware of an existing reporting requirement to report the obligor(s). The Monetary Authority of Singapore (MAS) requires reporting of a beneficiary ID to identify, for instance, a trust which may be subject to the reporting requirements. However, it is not clear to us that an obligor, as defined in the Consultative Report, is the same as a beneficiary and whether the Obligor ID is meant to satisfy the beneficiary ID or some other data field in existing reporting regulations. Therefore, the Consultative Report is introducing a new reportable data element for which the value and purpose is unclear, rather than seeking to harmonize existing key data requirements which are “common to multiple jurisdictions” in accordance with the stated intentions.

If an obligor is akin to a beneficiary, then such beneficiary may not be known to both parties and instead may only be known and only capable of being reported by the side of the transaction to which such party is the relevant beneficiary. If the party responsible to report in a jurisdiction is not on the same side of the transaction as such beneficiary, then the reporting party would not be able to report this data.

In response to questions 3(a) and 3(b), it is unclear when an “obligor”, as opposed to a “counterparty”, would be a party to either an original trade or a cleared trade under either clearing model. It is unclear to us under what OTC derivatives transaction scenarios the Harmonisation Group believes an obligor would be required to be separately reported from the counterparty, for instance, in the case of trusts or collective investment vehicles.

If there is a valid case to be made for reporting both an obligor and a counterparty then these data elements ought to have been considered in the same consultation in order to ensure that the distinction is made absolutely clear. To ensure consistent adoption and use, any guidance would need to be explicit as to when the counterparty is also the obligor and when it is not.

Existing standard and allowable values

In some cases a number of parties enter into a derivatives transaction as “joint and several counterparties”. Joint and several counterparties are not eligible to obtain a collective LEI; instead each of the parties will have its own LEI.

Although we understand joint and several counterparties to be “counterparties” to a derivatives transaction rather than an “obligors”, we believe it is worth advising that there is no clear regulatory guidance for reporting joint and several counterparties and all TRs are not currently equipped to fully represent multiple counterparties to single transaction.

Using Financial Products Markup Language (“FpML”) it is possible to report for a transaction each party that makes up the joint and several counterparties and identify the relevant transaction as one which has joint and several counterparties. A recommendation was developed by the FpML Reporting Working Group which is supported in FpML version 5.7 and uses a distinctive flag (i.e. a “groupType”) of “JointAndSeveralLiability”.

However, the capability to display the identity of multiple counterparties reported via this method and provide such data to regulators has not been developed by all TRs for all messaging types⁹. In order to address the known limitations for reporting these transactions and to provide a consistent roadmap for regulatory adoption of a uniform approach, the Harmonisation Group should recommend a standard approach to reporting joint and several counterparties that can be supported by existing industry standards, such as FpML.

Format

The Format specified throughout the Consultative Report for LEI is Varchar(30) despite the fact that an LEI is a 20 character value.

F. Notional Amount §3.1.6

Leg distinction

With reference to reporting of 'leg 1' and 'leg 2', we contend there is no necessity to ensure that parties systematically book and report the legs of a transaction in the same order since the order or labeling of the legs has no economic impact on the transaction. When multi-leg transactions are confirmed, the parties tie out the respective rate and payment flows without regard or need to number the legs. Likewise, electronic confirmation and affirmation platforms have matching mechanisms that reconcile payment streams and do not require the parties to label the legs in a specified manner. In portfolio reconciliation and compression exercises cross-matching logic is also used to pair transactions based on the payment flows.

Since it is not otherwise market practice and not pertinent to the economics of the transaction, and since there is no benefit to the parties to be had by trying to alter their booking methods and/or reporting architectures to synchronize labeling of the legs, we recommend that with respect to reporting the Harmonisation Group recommend flexibility as to which component is reported as 'leg 1' and which is reported as 'leg 2', etc. Reporting should instead be consistent with the payment streams on the particular transaction. In the limited cases where dual reporting and matching are required and in the case of any globally aggregated data, TRs or any aggregator of reported data should have logic to match the transaction based on a comparison of the legs reported by each party in accordance with market practice. As long as the same payment flows are reported, the transaction should be considered matched.

Requiring counterparties to book or label the legs of a transaction in identical order would be extremely challenging, especially for structured transactions that may involve multiple legs. Since a desire to label the legs stems from regulatory convenience and is not relevant to the economics and settlement of the transaction nor necessary for the parties to confirm the transaction, reconcile or compress the transaction, parties should not have to make costly changes to their systems to try and implement an agreed approach. The complexity of trying to force an artificial labeling of legs is likely to lead to errors which would result in cancellation and corrections to both system bookings and the related reporting.

⁹ We note that the TRs operated by the Depository Trust and Clearing Corporation are capable of supporting via their CSV input.

FX swaps

In accordance with both the aforementioned response and the response of GFXD to the UTI Consultation, we agree that a foreign exchange swap should be represented as separate transactions. However, we believe the related transactions should each be reported as an FX forward rather than as a spot and a forward, regardless of the tenor of each transaction. Each transaction should have its own UTI, and the related transactions should be identified by the inclusion of the same Link ID in the report for each transaction.

Commodity derivatives

We are happy to consider in a further consultation the Harmonisation Group's proposals for reporting the notional amount of commodities transactions. In response to the request for initial input on the matter, we advise that commodity derivatives are executed, booked and confirmed based on units of measure, such as metric tons, and not in currencies. A currency notional amount is not a meaningful representation of the size of a trade in these markets. This import market standard should be respected and, as such, we recommend that a commodity derivative transaction should be reported based on the units of measure executed between the counterparties.

Notional Amount vs. Original Notional Amount

We appreciate the Harmonisation Group's effort to distinguish the current notional of a reported transaction from the original notional amount. This data field has been a problematic one in most jurisdictions, since one notional amount field is specified and there is a lack of clarity in the regulations as to what value is expected. Specifically it is generally unclear whether the initially reported notional value should persist or whether, and under what circumstances, the reported notional amount should be updated to reflect a change in the notional due to a lifecycle event.

The approach to reporting notional should be aligned with the approach for UTI. By that we mean that the same cases in which it is appropriate to assign a new UTI, are the cases in which it is appropriate to assign a UTI-specific "Original notional amount". For example:

- If there a succession event on a reference entity whereby a Credit Derivative Transaction of USD 1 million splits into 2 new transactions for USD 500,000 each, then the notional amount reported for each new UTI would be USD 500,000.
- For a Novation Transaction, the notional amount reported would be equal to the portion of the notional that was novated for the New Transaction.

Lifecycle events that do not result in a new UTI but affect the notional amount (e.g. a partial unwind) should be reported as an amendment to the notional amount in order to reflect the "current notional amount".

A TR could either (i) maintain a separate field for the original notional in order to persist the value originally reported *and* provide a separate field for reporting current notional or (ii) provide a single data field that is amended through the life of the transaction to reflect the current notional. It would be difficult for market participants to separately report both the original notional and the current notional amount (if different) for a transaction since their trade

capture systems will only reflect the current notional. Therefore, any regulatory access to the original notional value throughout the life of the transaction would have to be met by TR functionality to either persist the originally reported notional value or make such value available to regulators via a portal query. Reporting parties should not be required to separately report and maintain a distinct original notional amount through the life of the transaction.

G. Notional Currency §3.1.7

Alternative 1 vs. Alternative 2

As noted in the Consultative Report, there are pros and cons to both Alternative 1 and Alternative 2. A discussion of those considerations follows.

Alternative 1 (ISO values only e.g. onshore):

- A positive aspect of this alternative is that there is a known, defined set of allowable values governed by ISO for market participants and TRs to build to.
- On the downside, if a trade is executed on a non-ISO currency, then market participants will have to build and maintain a mapping table in their systems to report only the allowable values. In some cases this work has already been done since the validations of some market infrastructure providers (e.g. SWIFT) and TRs restrict reportable currencies those officially listed under ISO 4217 (in part due to the prescription in the Level 2 validations for reporting requirements of the European Market Infrastructure Regulation).
- A further consideration is that market participants' internal trade reconciliation may be impeded, as post-trade currency mapping will result in mismatches between the trade currency in a transaction booking vs. the trade currency in reported data.
- The economic impact of executing a transaction on an off-shore currency as opposed to an on-shore one will be reflected in the pricing of the transaction as well as the settlement method. Therefore a strict reporting of the execution currency is not essential to distinguish between the economics of a transaction on an ISO currency vs. one on its non-ISO equivalent.

Alternative 2 (ISO e.g. onshore + offshore values)

- Alternative 2 offers more flexibility and the ability to align reported data with transaction execution and booking, however, governance is an issue because of the introduction of currencies outside of the defined ISO 4217 list which would require separate maintenance. Market participants, including market infrastructure providers and TRs, will have to track those currencies outside of the ISO currencies, potentially requiring changes to existing reporting builds.
- Including non-ISO currencies carries a control risk. It would be extremely difficult to standardize across the industry; and even within firms there could be impactful variations (e.g. to straight-through processing).
- If Alternative 2 is mandated, we request clarification with respect to the criteria and process that is utilized to assess when and how a currency is permitted to be added to

ISO 4217, and the process and conditions under which certain currencies are not permitted to be added to the ISO.

Taking into consideration the pros and cons of each approach, we believe the Harmonisation Group should recommend use of Alternative 1, as we believe it aligns more closely with current market practice.

H. Valuation §3.1.8

Valuation Amount

Derivatives transactions are subject to a variety of regulatory requirements within and across jurisdictions. The approach to representing transactional data should be harmonized across such requirements to promote efficient and consistent regulatory application of data. The approach to determining the valuation amount should mirror current market practices and be aligned with portfolio reconciliation processes.

The valuations for portfolio reconciliations are mid-market fair values for OTC derivatives calculated under such approaches as defined in global accounting principles (such as the International Financial Reporting Standards (IFRS)). The current market practice aligns with Alternative 1, regardless of asset class, with no expression of positive or negative numbers.

If a trade is noted as long or short, a positive or negative expression is not necessary for valuations reported as replacement cost (Alternative 1). The positive or negative number may be more appropriate for valuations reported as variation versus the start of the contract (Alternative 2), such as what is done for ETD. There are known differences in the method of valuations for the listed space versus OTC. For the same trade, ETD would provide the variation (move in the price, as opposed to from the start date) while OTC would report the replacement cost as valuation. Since the Consultative Report is intended for OTC derivatives, then Alternative 1 should be recommended. As indicated in our preface, an alternative approach may be more appropriate for ETD and other financial sectors and should be considered separately.

In addition, it is important for regulators to acknowledge that the counterparties to a trade may arrive at different valuations since they may adhere to different valuation methods, or valuation method requirements.

Valuation Currency

The approach recommended for reporting Valuation Currency should align with the approach for reporting Notional Currency. We support the Alternative 1 approach in both cases. See our comments pertaining to Notional Currency for our full discussion on the matter.

Valuation Date and Time

Existing industry standard and format

Where the Valuation Date and Time are already required to be reported in a jurisdiction, the Associations agree with the proposal for reporting the date and timestamp for the reported valuation in accordance with ISO8601/UTC; this is in accordance with current market practice.

Valuation Method and Source

We do not support a requirement to separately report the valuation method and valuation source.

Valuation Method

The allowable values for Alternative 2 of “Mark-to-market” and “Mark-to-model” align with the requirements of some current reporting regulations and therefore are already supported by market participants and TRs in their architectures. However, if the ability to distinguish a valuation which is determined by the CCP is required as envisioned in Alternative 2, an additional value will need to be added to existing standards and such value would require changes to existing builds by TRs and market participants. This obligation would be especially relevant to CCPs, which are responsible for reporting clearing transactions in most jurisdictions.

We concur with the disadvantage of Alternative 1 noted in the Consultative Report that a reporting counterparty may not know the method used by the CCP, and developing technical mechanisms to obtain such information may be both costly and challenging.

Valuation Source

Valuation source is not currently required to be reported in most jurisdictions, and therefore the Alternative 1 approach would require changes to reporting builds across the industry by reporting entities, market infrastructure providers and TRs. Instead, given the proposed choices, we would prefer Alternative 2.

II. List 2: Additional data elements desirable to appropriately capture basic terms of economic activity

I. Early Termination Timestamp §3.2.1

Definition

In accordance with our comments on Effective Date and End Date, a timestamp is not agreed, booked or confirmed between the parties for an early termination. Only the date should be required to be reported for “Early Termination Date” (as opposed to “Early Termination Timestamp”). See our response on Effective Date for further discussion on this.

Existing industry standard, format and allowable values

With respect to the date reported for an early termination, we agree with the use of ISO 8601 format of YYYY-MM-DD, but without the timestamp.

J. Direction §3.2.2

Alternative 1 vs. Alternative 2

With regards to Alternative 1, the identification of a buyer and seller is problematic as it does not apply to all trade types. While for Credit Derivatives Transactions and options it is possible to identify a buyer and seller, there is not a distinct or single buyer and seller to many swap transactions. Therefore, we do not recommend the strict use of Alternative 1, which relies upon the identification of the buyer or seller in all cases, as it would cause confusion and errors in reporting the direction based on the counterparty. Although it may be convenient for regulators to try and force the role of participants to derivatives transactions into a “buy vs. sell” classification in all cases, it does not respect the divergent nature of these products and demands that for certain products firms report contrary to the way they execute, book and confirm their transactions.

Instead, we support a hybrid of Alternative 1 and Alternative 2 (DIR_PAYER) which would allow parties to (i) continue to identify the direction of a transaction via “buyer” or “seller” in cases where it is current market practice to do so and (ii) in cases where the direction of the trade is not booked or confirmed via identification of a buyer and seller, then the direction of the trade would be determined by identifying the party that is responsible for the relevant payment leg.

Feedback on “buyer” proposals

The table below provides our feedback to the Harmonisation Group’s proposed approach to assigning a “buyer” to various product types, as informed by market practice and industry standard views of these products. Although in some cases it may be possible to artificially create a distinction (e.g. for FX), we do not support this approach since it is not reflective of the real transactional situation.

| CPMI-IOSCO Harmonisation Proposal | The Associations' feedback on the proposed wording |
|---|--|
| For futures and forwards other than FX: buyer is buyer of the instrument. | The buyer in relation to a forward is the party that will receive the underlying. |
| For options and swaptions: buyer is the party that holds the right to exercise the option. | We agree. |
| For credit derivatives (except options and swaptions): buyer is the buyer of credit protection. | We agree. |
| For equity swaps: buyer is the counterparty that takes the risk of the price movement of the underlying paying the fixed rate and receiving the equity equivalent amount. | The buyer is the party paying the Fixed Amount and receiving the upside on the equity (although its not usual to refer to buyer/seller in equity swaps) In some cases when the buyer or seller changes according to the result of the payoff (eg. if the fixed amount is positive, the bank is buyer and if negative, the counterparty buys during the whole life of the trade). We would also face issues to determine who is the buyer or the seller for MIFIR. |
| For dividend swaps: the buyer is the counterparty receiving the equivalent actual dividend payments and paying the fixed rate | We agree. |
| For IRS: buyer is the counterparty paying the fixed rate. In case of basis swaps (float-to-float), the buyer is the counterparty that pays the spread | We agree. |
| For debt swaps: the buyer is the counterparty that takes the risk of the price movement of the bond and pays the fixed rate. | We agree. |
| For FX swaps and forwards and cross-currency swaps: the buyer is the counterparty receiving the first currency in alphabetical order when sorted alphabetically by the ISO 4217 standard. | For non-deliverable forwards (NDFs), FX swaps, or FX forwards, buyer and seller are not practicable since counterparties are exchanging currencies and therefore either party could be viewed as a buyer or a seller for the same transaction. |

3 Closing

The Associations and their members recognize the importance of the efforts of the Harmonisation Group towards global data harmonization, and strongly support initiatives to increase harmonization. We feel strongly that the recommendations issued as a result of this and any associated Consultative Reports on ODE (and as further adopted by global regulators) should reflect current market practice, existing industry standards and respect the unique features of OTC derivatives transactions, including the distinctions between asset classes and products. Further, we encourage a focus on providing recommendations for the consistent treatment of data requirements common to existing final and proposed reporting regulations. Reporting requirements should be refined and improved as a result of the CPMI-IOSCO recommendations, rather than being redeveloped via the inclusion of new data fields and new terminology that are not relevant to the OTC derivatives market.

We would like to reiterate our appreciation for the opportunity provided by CPMI and IOSCO to respond to the Consultative Report with our feedback and proposals. We are happy to discuss our responses and to provide any additional information that may assist with your consideration. We look forward to the formal recommendations which CPMI-IOSCO will make as a result of the Consultative Report.

Thank you for your consideration of these very important issues to market participants. Please contact ISDA staff if you have any questions or concerns.

Sincerely,



Scott O'Malia
Chief Executive Officer
International Swaps and Derivatives Association, Inc.



James Kemp
Managing Director
Global Foreign Exchange Division, GFMA



Richard Metcalfe
Director, Regulatory Affairs
The Investment Association

ABOUT THE ASSOCIATIONS

The International Swaps and Derivatives Association

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 800 member institutions from 68 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's web site: www.isda.org.

The Global Foreign Exchange Division of the Global Financial Markets Association

The Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association (GFMA) was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 24 global FX market participants, collectively representing more than 90% of the FX inter-dealer market. Both the GFXD and its members are committed to ensuring a robust, open and fair marketplace and welcome the opportunity for continued dialogue with global regulators. More information is available at: [www.gfma.org/initiatives/Foreign-Exchange-\(FX\)/Foreign-Exchange-\(FX\)/](http://www.gfma.org/initiatives/Foreign-Exchange-(FX)/Foreign-Exchange-(FX)/)

The Investment Association

The Investment Association is the trade body that represents UK investment managers, whose members collectively manage over £5.5 trillion on behalf of clients.

Our mission is to make investment better. Better for clients, so they achieve their financial goals. Better for companies, so they get the capital they need to grow. And better for the economy, so that everyone prospers.

Our purpose is to ensure investment managers are in the best possible position to:

- o Build people's resilience to financial adversity
- o Help people achieve their financial aspirations
- o Enable people to maintain a decent standard of living as they grow older
- o Contribute to economic growth through the efficient allocation of capital

The money our members manage is in a wide variety of investment vehicles including authorised investment funds, pension funds and stocks & shares ISAs.

The UK is the second largest investment management centre in the world, after the US and manages 37% of all the assets managed in Europe.

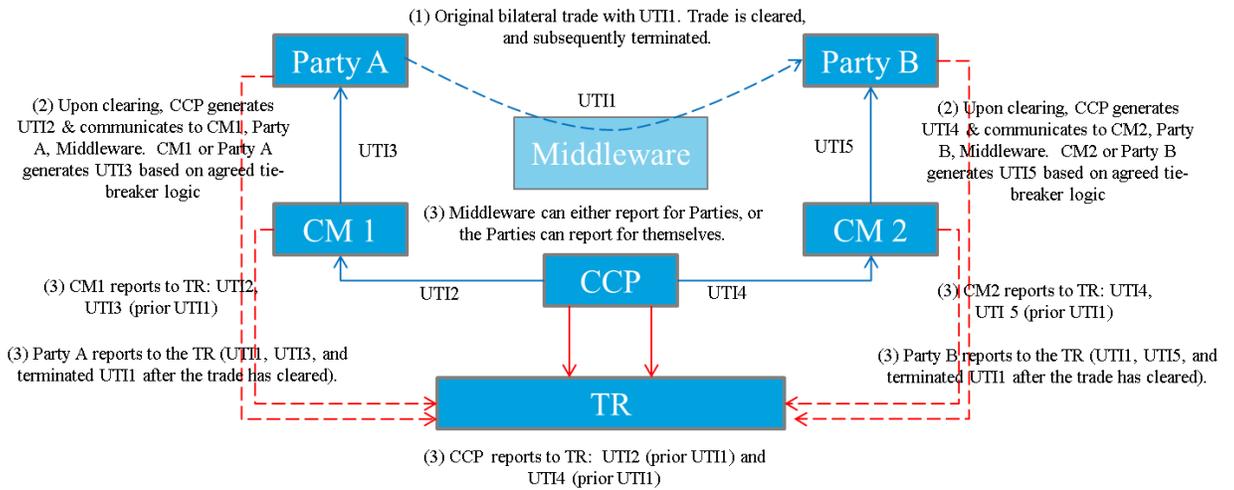
Our [website](#) includes an [area for consumers](#) which explains why it's important to invest and how you can invest in a fund.

More information can be viewed on our [website](#).

4 Appendix

Examples of proposed allowable values for of Alternative 3 for “Cleared”

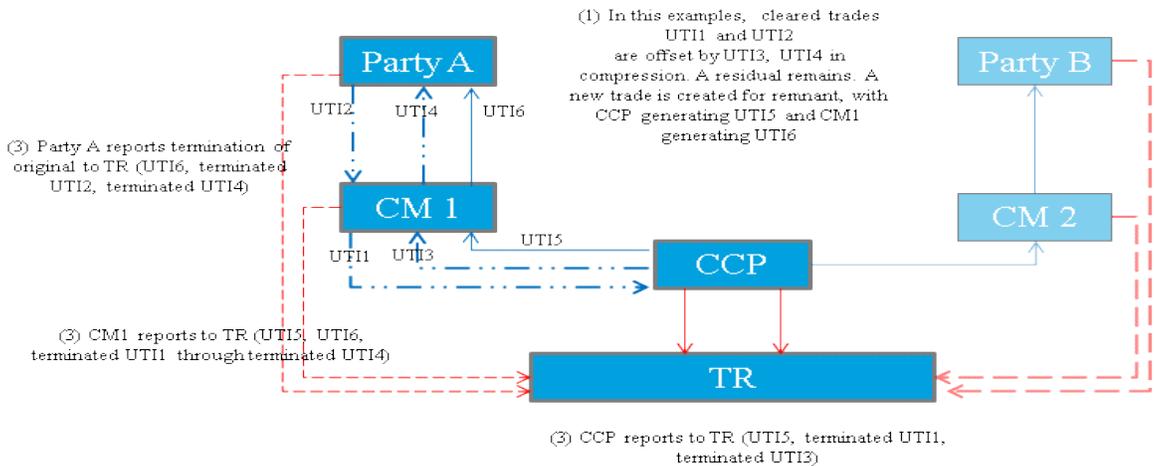
1) Principal Model (unlinked) - New Trade :



For: Alternative 3

| | |
|------|---------------------|
| UTI1 | Intent to Clear |
| UTI2 | Cleared (Principal) |
| UTI3 | Cleared (Principal) |
| UTI4 | Cleared (Principal) |
| UTI5 | Cleared (Principal) |

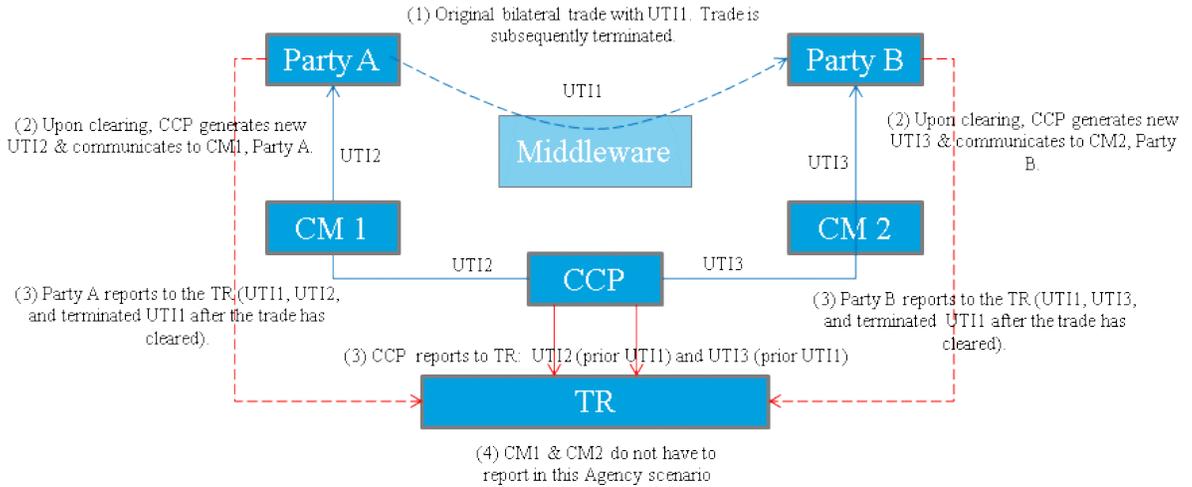
2) Principal Model (unlinked) - Compressions:



For: Alternative 3

| | |
|------|---------------------|
| UTI1 | Cleared (Principal) |
| UTI2 | Cleared (Principal) |
| UTI3 | Cleared (Principal) |
| UTI4 | Cleared (Principal) |
| UTI5 | Cleared (Principal) |

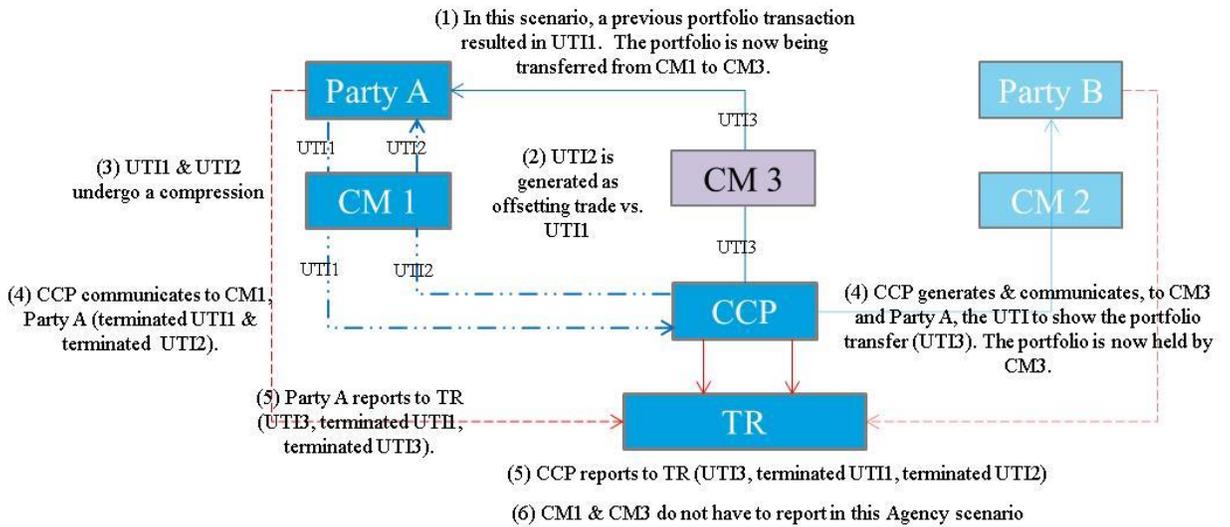
3) Agency Model (unlinked) - New Trades:



For: Alternative 3

| | |
|------|------------------|
| UT11 | Intent to Clear |
| UT12 | Cleared (Agency) |
| UT13 | Cleared (Agency) |

4) Agency Model (unlinked) - Portfolio Transfers:



For: Alternative 3

| | |
|------|------------------|
| UT11 | Cleared (Agency) |
| UT12 | Cleared (Agency) |
| UT13 | Cleared (Agency) |