ISDA® Safe, Efficient Markets

UK FINANCE

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Market Conduct and Post-Trade Policy Team
Financial Conduct Authority
12 Endeavour Square
London
E20 1JN

Re: Consultation response to 'Changes to reporting requirements, procedures for data quality and registration of Trade Repositories under UK EMIR'

The International Swaps and Derivatives Association, Inc. ("**ISDA**") and UK Finance ("**UKF**") (together "**we**") and their members "the Industry" appreciates the opportunity to provide comments to the Financial Conduct Authority ("**FCA**") and Bank of England ("**Bank**") Consultation Paper 'Changes to reporting requirements, procedures for data quality and registration of Trade Repositories under UK EMIR' ("Consultation Paper" or "CP").

We support the FCA's and Bank's proposals to harmonise UK EMIR with global CPMI-IOSCO reporting data elements and to align with the EU-EMIR Refit rules (as proposed by the European Securities and Markets Authority ("**ESMA**")) where appropriate to do so. We believe the overall impact of the proposals within this Consultation Paper will support streamlined reporting, lead to improved data quality, accuracy and completeness of trade data reported under UK EMIR. However, we would like to take this opportunity to highlight changes we think will complement the proposals in this consultation paper and further improve the quality of reported data, and hope the FCA and Bank will consider adopting these suggested changes prior to submitting the relevant updated technical standards to the HM Treasury for approval.

Executive Summary

Mandatory delegated reporting

The mandatory delegated reporting requirements are designed to reduce the reporting burden on NFC-entities, but we believe that the current requirements will still require such entities to perform checks and reconciliations. We argue that these reporting related obligations can be alleviated from NFC-entities, while still ensuring UK regulators receive full and accurate trade information, by mandatory delegated reporting being a single-sided reporting requirement with the FC only needing to report on behalf of itself. While it is appreciated that introducing single-sided reporting for mandatory delegated reporting is outside of the remit of this consultation on the technical standards, and would require a change to the primary legislation itself, we still encourage the FCA, Bank of England and HMT to consider such a change to the mandatory delegated reporting obligations in the medium to long term.

Digitisation and Single-sided reporting

EMIR reporting has been a dual-sided reporting regime since its inception with one of the core reasons for this being to preserve the accuracy and integrity of reports. However, due to divergent understanding amongst market participants of how to populate various EMIR reporting fields, reconciliation breaks remain common. Without an industry standard for representing trade components, lifecycle events and reporting requirements, ambiguities in the reporting obligations will remain, with the potential for the two counterparties to a trade reporting different values for the same underlying data. This can be addressed if regulators and the industry work together towards establishing a model that standardises how derivative trades and lifecycle events are represented, allowing for a harmonised interpretation and implementation of reporting requirements amongst market participants. This has the potential for the UK EMIR requirements to be represented as machine readable and executable rules. We encourage UK regulators to consider how standardisation and digitisation of reporting requirements can enable improved reporting accuracy and provide a pathway to UK EMIR becoming a single-sided reporting regime.

UPIs, ISINs and CFI Codes

We fully support the introduction of UPIs for the reporting of OTC derivatives, but believe this should be instead of, not in addition to, reporting OTC ISINs and CFI Codes. OTC ISINs have been designed to be an instrument identification and are arguably not best suited as a product identifier for trade reporting as multiple ISINs will be assigned for economically comparable products. The information available from CFI Codes can be derived from the UPI, so reporting a CFI Code in addition to the UPI would not appear to be necessary. Finally, the UPI has been developed specifically to fulfil the need for a global standard of product identifier, so for UK EMIR to remain consistent with comparable global reporting regimes, we argue that the UPI should be reported as the only product identifier for all OTC derivative contracts.

Format of TR reports

The consultation proposed TRs must produce all reports in the XML schema. We agree with this proposal, but believe this does not limit TRs to only producing reports in this format. The requirement to develop systems and processes to consume XML schema reports will be challenging and costly to all market participants, but particularly the less sophisticated firms that do not report to TRs directly, for example, firms that rely on a delegated reporting service. Therefore, we request that TRs are permitted to produce reports in a non-XML schema, in addition to the XML schema report, to assist all market participant consume the data in a controlled and cost-effective way.

Validation rules and reconciliations

The validation rules, reconciliations and tolerance levels are a significant factor in understanding the requirements and market participants rely on them when developing their reporting processes. The validation rules clarify whether a field is mandatory, conditional or optional, and help to ensure there are no ambiguities or potential data quality issues in the requirements. Similarly, the reconciliations and tolerance levels assist with developing sufficient control processes. We understand that the validation rules and reconciliation details will be provided in a subsequent consultation, but in their absence we want to highlight that it is difficult to provide a full and complete response to some of the questions.

Futures and options executed on third country markets

The EMIR definition of OTC derivative contracts is such that futures and options executed on a non-equivalent third country exchange would be considered an OTC derivative rather than an ETD. Due to the differing nature of ETDs and OTC derivatives, reporting an ETD using an OTC derivative template may lead to some trade data being omitted, misreported or reported inconsistently across market participants. To avoid regulators receiving poor data, we request UK regulators provide clear guidance of how futures and options executed on a non-equivalent third country exchange are to be reported using OTC derivative terms. As a longer-term solution, we encourage HMT to amend the primary legislation to allow for such trades to be reported as an ETD as this will provide regulators with more meaningful data.

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 970 member institutions from 77 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 website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.

About UK Finance

UK Finance is the collective voice for the banking and finance industry. Representing more than 300 firms, we act to enhance competitiveness, support customers and facilitate innovation.

Q1: Do you expect the proposed 18-month implementation period for counterparties and TRs to implement the proposals as detailed in this CP to pose any challenges? If yes, please provide as much detail as possible on the expected challenges and any views you have on how those challenges could be mitigated.

We welcome an 18-month period for the implementation of the new reporting requirements. However, we also urge caution that in order for market participants to fully prepare to meet UK EMIR reporting obligations, the XML schema for reporting should be finalised and the validation rules published prior to the start of the 18-month period.

Additionally, the implementation date for the new UK EMIR rules should (i) avoid year-end when the majority of market participants have code freezes in place, and (ii) fall on a Monday so that market participants have the prior weekend to move the new reporting requirements into the production environment(s).

Q2: In relation to the amendments to the table of reportable fields, do you expect the proposed 6-month period for counterparties to update their outstanding derivative reports in line with the new requirements to pose any challenges? If yes, please provide as much detail as possible on the expected challenges and any views you have on how those challenges could be mitigated.

We agree with a 6-month period for counterparties to update outstanding derivatives to be in line with the new requirements. This is a sizable task however and should not be underestimated. Most notably, all existing contracts without an OTC ISIN (i.e. all open non-trading venue or non-SI contracts) will require a UPI to be assigned to them. While the infrastructure to assign the UPIs should be in place prior to the start of reporting, ensuring the accurate enrichment of existing contracts with this data, along with including the other new reportable values required under the UK EMIR re-write, will require an orderly and controlled process.

As well as the work involved, market participants can update existing contracts at any point during the first 6 months after the start of reporting. This could lead to a notable increase in matching breaks where one counterparty has updated their transaction details to the new technical standards while the other counterparty is yet to do so.

We therefore encourage additional flexibility and understanding with the validation and reconciliation of outstanding derivative trades during this 6-month period.

Q3: Do you agree with our proposal to align the table of reportable fields under UK EMIR with the CDE guidance issued by CPMI-IOSCO to the extent that it is applicable in the UK? If no, please explain the rationale for your answer.

The adoption of CDE field guidance is welcomed and where possible, the CPMI-IOSCO definitions for CDE fields should be adopted without alteration, as applying a different definition to a CDE field goes against the principles and benefits of adopting CDE standards.

However, there will be some fields where it is preferable to adjust the CDE definition in order to achieve more reliable or accurate data. An example of this is the CDE definition for 'Execution Timestamp' which does not take into consideration position level reporting. However, any such changes should be approached with caution and on a case-by-case basis,

with consideration given to how the same or similar fields are to be reported to other global reporting regimes, e.g. under EU-EMIR Refit or the CFTC re-write.

Q4: Do you agree with our proposal to align the technical standards on reporting under Article 9 UK EMIR, including the table of reportable fields, with ESMA's approach to the extent that it is applicable in the UK? If no, please explain the rationale for your answer

The UK EMIR reporting requirements are most closely aligned with EU-EMIR Refit rules and therefore in many cases it is logical to align the technical standards with ESMAs approach. However, regulatory reporting is global and therefore we encourage the UK to consider the global adoption and application of reporting standards, and not to only align with EU-EMIR rules and standards.

Additionally, we suggest that the UK take the opportunity to reconsider whether some of the current and proposed EU-EMIR reporting requirements can be improved upon. For example:

- Using the Revive action type should not be limited to 30 days after the trade was errored, and there should not be a requirement to generate a new UTI if a trade has been at a non-outstanding status for over 30 days. This should not be considered a lifecycle event that requires a new UTI, regardless of how long the trade has been non-outstanding.
- The recent ESMA consultation on the guidelines on reporting under EMIR proposed package trade are to be reported in their entirety, including any elements that would otherwise be non-reportable under EMIR. Although this is not stipulated within the UK EMIR consultation paper, many of the proposals put forward by ESMA are being implemented into the UK requirements and we are concerned that if UK EMIR were to propose the above for package reporting, it would result in non-derivative products coming into scope for EMIR. Instead, we propose that only the components of package trades that would ordinarily be in scope for UK EMIR (were they executed as a standalone trade) are to be reported as part of a package.

There are also some longer-term deviations from EU-EMIR that would improve UK EMIR reporting, but may require changes to the primary legislation, such as:

- Under the mandatory delegated reporting requirement, an FC would report on behalf of itself and its NFC- client. We believe that reporting on behalf of the NFC- adds minimal value and that single-sided reporting could be applied in this instance.
- Futures and options executed on third country markets should be reported as ETDs, even if the third country market is not recognised as being equivalent.
- Reference data identifiers can be simplified by only requiring UPIs to be reported, and for OTC derivative ISINs and CFI Codes to no longer to be included within the UK EMIR messages.

Q5: Do you agree with our proposal relating to the 'execution timestamp' field? If no, please explain the rationale for your answer

We agree with the additional wording for the field 'Execution Timestamp' to reflect position reporting and also support the response made by the Futures Industry Association ("FIA") that more guidance is required on the FCA's and Bank's expectations for the accurate reporting of this field.

Q6: Do you agree with our proposal not to include the 'intent to clear' option when populating the 'cleared' field? If no, please explain the rationale for your answer

The value 'Intent to clear' is seldom reported as it is only required when an alpha trade does not clear on the trade date, so omitting this as an option for the 'cleared' field should have little impact. This approach will also align with the EU-EMIR Refit proposals for the 'cleared' field. Therefore, we agree with this proposal.

Q7: Do you agree with our proposal not to include the 'settlement location' field? If no, please explain the rationale for your answer.

We agree that the field 'settlement location' can be omitted from UK EMIR. This data can be derived from other reportable fields.

Q8: Do you agree with our proposal to amend the definition of the 'venue of execution' field? If no, please explain the rationale for your answer.

We agree with the proposal made to amend the definition of 'venue of execution'.

Q9: Do you agree with our proposal not to include the 'CP rating trigger indicator' and 'CP rating threshold indicator' fields? If no, please explain the rationale for your answer.

We agree that these fields should be omitted from the UK EMIR reporting rules. ISDA previously argued against the inclusion of 'Counterparty rating trigger indicator' and 'Counterparty rating threshold indicator' as CDE fields as we believe these fields will be difficult for parties to populate accurately and will not provide meaningful information to the authorities. It is logical in this scenario for UK EMIR to diverge from CDE fields.

Q10: Do you agree with our approach to clarify that the 'confirmation timestamp' and 'confirmed' fields are only applicable for OTC non-cleared derivatives? If no, please explain the rationale for your answer.

We agree with the additional clarification that these fields are applicable to OTC non-cleared derivatives only.

Q11: Do you agree with our proposal to remove the 'beneficiary ID' and 'trading capacity' fields? If no, please explain the rationale for your answer.

We agree with the removal of these fields for the UK EMIR rewrite.

Q12: Do you agree with our proposal to add new fields relating to PTRR, including the 'PTRR ID' and 'type of PTRR technique' fields? If no, please explain the rationale for your answer.

We agree with the addition of the PTRR fields and welcome the alignment with EU-EMIR for the reporting requirements of these fields. We also welcome the different types of PTRR services provided within the Technical Standards, although as these are data points not currently reportable, additional clarification with worked examples on the FCAs and Banks reporting expectations for the various PTRR event scenarios would be required to ensure accurate and consistent reporting.

Q13: Do you agree with our proposal to introduce a new 'Position UTI' field? If no, please explain the rationale for your answer.

We do not have an objection to this, with it being our understanding that Position UTIs will apply to ETD contracts only and not OTC derivative contracts, as OTC derivatives are to be reported at trade level only.

Leading on from this understanding that Position UTI applies to ETD only, we wish to express our view that Contracts for Difference (CfD) are OTC products and therefore would only be reported at trade level.

Under current EMIR reporting, the majority of CfD trades are reported at trade level, but a number of market participants do report these products at position level which creates reconciliation breaks. In order to establish an industry standard for reporting CfDs, we propose that the technical standards (or subsequent guidance) specify that CfDs are only to be reported at trade level, which will be in line with all other OTC derivative products.

Q14: Do you agree with our proposal to include the new 'Derivative based on cryptoasset' field? If no, please explain the rationale for your answer

We agree with the inclusion of this new field to identify derivatives based on cryptoassets. With this being a new data point to be reported, we ask that further guidance is provided to clearly establish when a derivative contract is considered as based on a cryptoasset and how such contracts are to be reported beyond simply populating this field with 'True' or 'False'.

As a general observation, when a new field is created for a specific jurisdiction(s) we encourage such fields to be developed and implemented as a CPMI IOSCO standard. In the case of 'Derivatives based on cryptoassets', we suggest this should be included as a reference data attribute of UPIs. This would assist with a consistent global definition and interpretation of the field. Therefore, we suggest that UK regulators, along with other global regulators, should consider establishing 'Derivatives based on cryptoasset' as a future UPI attribute.

Q15: Do you agree with our proposal to amend the way in which the 'intragroup' field is populated for the purposes of reporting under Article 9 of UK EMIR only? If no, please explain the rationale for your answer

We agree with this proposal. The additional clarification beyond the EU-EMIR RTS definition is a logical addition.

Q16: Do you agree with our proposals relating to the reporting of lifecycle events? If no, please explain the rationale for your answer.

We agree with the proposed changes to the field 'Action type' and the addition of the field 'Event type'. We await the additional guidance for the application and combinations of these fields to ensure the correct application of the lifecycle values.

Q17: Do you agree with our proposal to add an additional table of reportable fields to include fields relating to margin and collateral? If no, please explain the rationale for your answer

We support the creation of a separate Table for margin and collateral fields. Transferring some of the data elements that are currently in Table 2 to the new Table 3 is a positive change and in line with other similar reporting regimes.

We propose however, that a second Collateral Portfolio Code is permitted to be reported if applicable. There are scenarios where Initial Margin (IM) and Variation Margin (VM) will be calculated from different portfolios of trades, and this should be identified via separate IDs. If only one collateral portfolio code is permitted, it could lead to misinformation being reported and therefore we encourage the FCA and Bank to allow for two portfolio codes to be reported. As this would not be required in all cases though, this should be optional and not a mandatory requirement.

Q18: Do you agree with our proposal to add the above codes to the options for the 'Indicator of the floating rate of leg 1' and 'Indicator of the floating rate of leg 2' fields? If no, please explain the rationale for your answer.

We agree with adding the codes for the Sterling Overnight Indexed Average (SONIA), the Secured Oversight Financing Rate (SOFR), the Euro Short-Term Rate (€STR) and the Tokyo Overnight Average (TONA) to the FROs listed within the ITS. It is logical to report the 4-letter ISO 20022 Benchmark Name Curve Code where such codes are available.

However, 'TONA' is not listed as one of the FROs within the Benchmark Curve Name version 2, (the version used for the report of FRO 4-letter codes). While this should not prevent market participants from reporting a value of "TONA", it should be noted that the value would have to be reported as text, i.e. as though reporting free format text.

Q19: Do you agree with our proposal for counterparties to notify the Bank or FCA (as applicable) of any material errors or omissions relating to their UK EMIR reporting? If no, please explain the rationale for your answer.

We agree and believe this is consistent with the requirements for the notification of errors or omissions within other similar UK regulations, and that the relevant regulator only needs to be notified of 'material' errors or omissions. Furthermore, we are in favour of market participants self-identifying what constitutes 'material' errors or omissions as opposed to a defined material 'threshold' level set by regulators as it would be challenging to establish and manage such a threshold definition across all potential scenarios.

Q20: Do you agree with our proposal for counterparties to have arrangements in place for the remediation of any reconciliation breaks? Do you think there is a need for further guidance specifying the process and timeframes for remediation?

It is reasonable to expect market participants to have sufficient arrangements in place to identify and resolve reconciliation breaks as soon as possible. For the avoidance of doubt, it is our understanding this relates to the internal arrangements each market participant will have in place, as opposed to documenting the arrangements with each counterparty.

It should be noted however, that across all reporting regimes (both within the UK and globally), there are examples of ambiguity within the rules as to how a field should be reported. As such, the two counterparties to a trade may report different values for a field, but where both sets of data complies with the technical standards and validation rules. In such instances, while it is reasonable to expect that the two counterparties work towards resolving the reconciliation breaks, the successful reconciliation of the derivative contract may take longer than normal to achieve. We therefore request that the Bank of England and FCA take this into account when considering whether reconciliation breaks are resolved as soon as 'practicably possible'.

To attain consistent reporting of data amongst market participants, we suggest that rules are presented in a manner that allows only one way they can be interpreted. For example, if the technical standards were to be presented in a machine readable / machine executable format (as well as being written in natural language), there would only be a single way they can be interpreted and implemented. The Bank of England and FCA are already considering this concept as part of the Transforming Data project. We encourage the continued exploration of this initiative and welcome industry participation towards a solution to digital regulatory reporting within UK EMIR and beyond.

Q21: Do you agree with our proposals relating to the mandatory delegated reporting requirements between an FC and an NFC-? If no, please explain the rationale for your answer.

The mandatory delegated reporting requirements have been designed to reduce, or even remove, reporting burdens from NFC- entities, however the proposals require NFC- entities to retain some responsibilities for the data being reported. This will implicitly mean NFC- entities needs to remain informed of UK EMIR reporting obligations in order to understand and accurately assess such reports. We believe that the mandatory delegated reporting

requirements can be improved upon and alleviate much of the reporting burdens of NFC- entities, by implementing a single-sided mandatory delegated reporting obligation.

When an FC reports on behalf of itself and an NFC- client, the data populated in both these reports will originate from the same sources, i.e. the FCs trade booking/risk system(s). As such, the trade data for both submitted messages will be the same, (noting that some information, such as the direction, would be the mirror value). Additionally, the updated UK EMIR rules mean an FC would need to include additional NFC- entity data such as 'Nature of the counterparty 2', 'Corporate sector of the counterparty 2' and 'Clearing threshold of counterparty 2'. The only NFC- entity information that would not be included on the FCs transaction report is the field 'Directly linked to commercial activity or treasury financing'. It is arguably easier for FCs and less burdensome for NFC- entities for this information to be added to the transaction report the FC submits on behalf of itself, thereby capturing all the information that would otherwise be available from NFC- entity submission.

A single-sided reporting solution to replace mandatory delegated reporting is not without complexities, for example how contracts are to be reported if the status of a non-financial entity changes (from NFC- to NFC+ or vice versa) during the life of a trade. However, these are considerations that exist with the current mandatory delegated reporting requirements and would not in themselves prevent the introduction of single-sided reporting.

Taking the above into consideration, it is debatable whether the information reported by an FC on behalf of an NFC- client will provide any additional market transparency to regulators. Therefore, we propose that when an FC trades with an NFC- client, single-sided reporting should be sufficient with only the FC required to submit a trade message.

Where UK regulators still require both sides of the trade to be reflected within reports, we recommend TRs are permitted to accept a single submission from the FC and then create a 'mirrored' trade for the NFC- entity. This will provide dual-sided reporting, remove the risk of reconciliation breaks and reduce operational burden.

We note that enabling single-sided reporting requires a change to the primary legislation itself and so would not be within the gift of this consultation on the reporting technical standards, but we encourage the FCA and Bank of England to bear this in mind when the Level 1 text is reviewed by the Treasury.

As UK regulators cannot implement a single-sided mandatory delegated reporting model in the immediate future, we agree that it is logical to align these mandatory delegated reporting requirements with EU-EMIR.

We welcome the confirmation that FCs can agree default field values with their NFC- clients. This will enable more efficient reporting and be less of a burden to both FC and NFC- entities. Also welcomed is the proposal for FCs and NFCs- to have in place arrangements that will identify the expectations of NFC- entities for notifying the FC should its legal obligations change and/or should it start or cease to report on behalf of itself.

Section 3.56 says that the FC should have in place arrangements for the NFC- to renew its LEI. While an FC needs to maintain a number of reference data points of its clients, there is generally no current expectation for the monitoring of whether clients are fulfilling their own reference data liabilities, such as the renewal of its LEI. Each entity should be responsible for the renewal of its own LEI and therefore we do not believe FCs should be liable to perform additional monitoring of their clients LEIs.

Although not specifically stated within the Consultation Paper, we make the assumption that under the mandatory delegated reporting requirements, once an FC has reported on behalf of its NFC- client, it does not have any further obligations to inform the NFC- of what contracts have been reported and what contracts remain outstanding at the TR. Given the NFC- will have no legal obligations for what is reported – beyond providing certain details that the FC would otherwise be unaware of – any requirement for the FC to send them regular reports is arguably an unnecessary additional burden for NFC- firms to consume and review, and would introduce avoidable operational steps and costs to FC firms.

Q22: Do you agree with our proposal relating to the use of standardised XML schemas based on the end-to-end reporting solutions in the ISO 20022 standards? If no, please explain the rationale for your answer.

We acknowledge there is a growing preference globally to mandate the use of standardised XML schemas based on the ISO 20022 standards. It is also appreciated that ISO 20022 is a useful data dictionary, but this does not in itself translate into a universal single language message set across all jurisdictions and regulators, as single data elements may have multiple definitions based on the user build. Implementing ISO 20022 for a particular purpose (e.g. for reporting to a particular regime), does not provide a firm with a ready-made "drop-in" solution that can be easily repurposed for other regulatory obligations.

Ideally there would be flexibility as to the format market participants are permitted to report to Trade Repositories. This could include an XML schema, but also permit other formats. This approach of allowing other message formats will be of particular benefit to smaller market participants with less sophisticated reporting processes and systems.

If there cannot be flexibility however and the XML schemas are mandated, we appreciate the intention to publish the XML schemas alongside the final UK EMIR technical standards. As mentioned in the answer to Question 1, it is important that the XML schemas are finalised by the start of the implementation period to allow market participants to fully develop and implement their reporting infrastructures.

Q23: Do you agree with our proposal to relating to the use of LEIs and framework for updating LEIs? If no, please explain the rationale for your answer.

We agree that counterparties should be held liable to renew and maintain a valid LEI.

30 days is a reasonable timeframe for counterparties to notify TRs prior to a corporate event. As a longer-term solution though, we suggest that the GLEIF could become the primary source for identifying and consuming changes to LEIs. The GLEIF maintains the centralised industry record of LEI data and this database is updated each time an LEI changes. Therefore, it would arguably be quicker and more efficient if market participants consume LEI changes directly from the GLEIF rather than from TRs, enabling such updates to be reflected almost immediately for open positions whilst utilise pre-existing and commonly used data feeds.

Any such move towards a GLEIF driven process for communicating and consuming changes to LEIs would require global coordination and subsequent changes to controls. The legal structure would also need to be considered. This is therefore not an initiative that can be achieved for UK EMIR alone, but would be a long term process carried out across global

reporting jurisdictions. Until any such global approach is agreed, the current proposals should be maintained.

Q24: Do you agree with our proposals relating to the use of UTIs? If no, please explain the rationale for your answer.

We agree with UK EMIR adoption of the global UTI standards. The effectiveness of these guidelines will only be fully realised if regulations globally apply the same definitions and steps and so it is important for global regulations to be aligned as closely as possible to achieve a single global UTI.

There are however, some elements of the UTI generation and communication process that will be problematic to implement. As a global industry, market participants are assessing potential solutions to overcome some of the more challenging elements of the UTI process; some of the details of which are provided below. Bearing in mind that changes to the CPMI IOSCO UTI standards may be proposed in order to make the generation and consumption of UTIs a more workable process, we advocate for the FCA and Bank to retain the flexibility to update the UTI generation waterfall steps and allow for changes to be made that will result in a more reliable and effective process.

Some of the challenges with the UTI generation process, along with other related comments we want to highlight in regards to UTI generation are:

1. The first item in the UTI generation waterfall logic is for 'cleared derivatives'. For the avoidance of doubt, can you provide clarification whether the transaction can be cleared within any jurisdictions or only cleared within the UK?

2. The second step of the UTI generation is for centrally-executed derivatives where the venue of execution will generate the UTI. The CPMI-IOSCO UTI standard refers to 'trading platform'. We believe 'trading platform' amounts to the same meaning implied under UK EMIR, (and so trading platforms not considered UK venues would be able to generate the UTI), but it would be beneficial to have this clarified.

3. Step three is for derivatives with cross-jurisdictional reporting requirements. This is in line with the CPMI-IOSCO UTI standard and we are supportive of it remaining as one of the UTI generation steps for UK EMIR. However, there are known problems with this step as it is challenging for a counterparty to know what jurisdictions the other counterparty is in scope to report for. While it is perhaps reasonable to expect market participants to know the country in which clients are register, there are several other factors that can determine eligibility. For example, the 'nexus' reporting requirements in APAC jurisdictions – where reporting eligibility is determined by the location or the trader and/or sales person – means a contract can be in scope for a jurisdiction outside of where the entity is registered. Furthermore, entities not based in North America may still have a reporting obligation to a North America regime by virtue of their registered status or their relationship to a registered entity. This makes the determining the cross-jurisdiction reporting obligations of a client almost impossible to determine.

Therefore, while it is sensible to keep UTI generation for UK EMIR in line with CPMI-IOSCO and other global jurisdictions, this step will arguably not work as intended until a solution is found for identifying a clients jurisdictional scope in an easy and timely way. Reaching any such solution would need to be a cross-industry effort, including input from regulators.

4. The penultimate paragraph within Article 8 2.(a) for the UTI generation says under certain circumstances a trade repository would generate the UTI. This is also reflected within the CPMI-IOSCO UTI standards. However, the primary purpose of TRs is to consume, validate and reconcile trade data, as opposed to generating data themselves which is then to be consumed by their users. It would also require counterparties to know which TR the other counterparty reports to, which would require additional reference data to be setup and maintained by the submitting parties. As such, we recommend that TRs should not be identified as UTI generators.

Paragraph 3.74 states that the "UTI should remain the same throughout the lifetime of the trade". This is one of the core principles of the global UTI and we fully agree with this statement. With this in mind, we caution again any requirements to generate a new UTI if a trade has been moved to a non-outstanding status in error and is not revived until after 30 days have elapsed. An error in reporting that results in a trade being put to a non-outstanding status should not be considered a lifecycle event that requires a new UTI, regardless of how long the trade has been non-outstanding.

Q25: Do you agree with our proposals relating to the use of UPIs and ISINs? If no, please explain the rationale for your answer.

We support the introduction of UPIs for UK EMIR reporting, but we also believe the proposed mix of ISINs (when traded on a trading venue) and UPI (for all other contacts) could be simplified, and the UPI alone would be sufficient as a product identifier.

Paragraph 3.76 identifies that OTC ISINs are in use under UK MiFIR. However, they have been designed as instrument identification and are not necessarily best suited for product identification. Multiple ISINs will be assigned for economically comparable products, resulting in many more unique identifications being represented on reports than there are products being executed. Furthermore, while incorporating OTC ISINs would bring alignment between EMIR and MiFIR (both for UK and EU reporting), there is arguably more value to be gained if UK EMIR is consistent with the global approach of the UPI being the only global product identifier.

We also question whether CFI Codes are required within UK EMIR reports given that the reference data captured by a CFI code can be derived from the UPI, (and indeed from the ISIN). Essentially, the CFI code would not provide additional information if the UPI (or ISIN) is reported.

Therefore, for OTC derivative contacts, our preference is for only the UPI to be reported, with neither ISINs or CFI Codes to be reported. This will reduce risk of conflict between UPI, ISIN and/or CFI, provide the key product information required for reporting, and avoid duplicative information being included within the EMIR reports.

It is logical that once the UPI system is fully in place, there should be no need to populate UK EMIR fields where the data is otherwise captured within the UPI reference data. If OTC ISINs are to be reported instead of UPIs (when the OTC ISIN is available), it should be permitted that the same UK EMIR fields can be left blank as the same reference data can be derived from the OTC ISIN as it would be from the UPI.

Q26: Do you agree with our proposal to amend the TR registration framework under UK EMIR, including to align with the registration framework under UK SFTR? If no, please explain the rationale for your answer.

We agree with this proposal. Alignment with other UK reporting regimes should make the TR registration framework more efficient.

Q27: Do you agree with our proposals relating to the process for TRs updating LEIs in the event of a corporate restructuring? If no, please explain the rationale for your answer.

We agree with the proposals and believe that 30 days is a reasonable timeframe for TRs to provide the relevant updates. However, please also see the answer to question 23 where we propose a longer-term solution for the updating and management of LEIs.

In addition to the proposals for TRs updating LEIs, we also want to voice our agreement with the intention to not prescribe the field reconciliation and tolerance levels within the UK EMIR rules, but instead to include them within the validation rules. As expressed in paragraph 3.86, this will provide the UK regulators with the flexibility to more easily and quickly adjust the reconciliation and tolerance levels as required.

Under Proposal 1, the final bullet point of paragraph 3.89 which states that TRs are to provide submitting entities with information on rejections in XML format. Please see our answer to question 29 for our proposal that reports should not be limited to XML format only.

Paragraph 3.91 states the TRs are to update details as provided by the report submitting entities. However, Article 9 of the ITS states that not only can report submitting entities notify TRs, but also the reporting counterparty and the entity responsible for reporting. We request that clarification is provided as to which entities can provide TRs with the relevant details.

Q28: Do you agree our proposals provide an effective process for inter-TR reconciliation? Please provide any additional views, if applicable.

We agree with the proposals for the inter-TR reconciliations. As mentioned elsewhere in the consultation response, we agree with not specifying the reconciliations and tolerance levels in the technical standards, but rather as part of the validation rules.

We make the following observations in relation to paragraph 3.94:

- The final bullet point says a TR shall provide the results of the reconciliation to the report submitting entities. This aligns with EMIRR 2.3.5R of the FCA Handbook, but EMIRR 2.3.2R suggests that TRs would also provide information about the values of

fields subject to reconciliation to reporting counterparties and entities responsible for reporting, in addition to report submitting entities.
We request clarification on whether TRs are to provide the results of reconciliations to the report submitting entities only, or also to reporting counterparties and entities responsible for reporting.

- The final bullet point also identifies that TRs are to provide report submitting entities with the results of reconciliations in XML format. Please see our answer to question 29 for our proposal that reports should not be limited to XML format only

Additionally, we believe there is currently a gap in the overall reconciliation process whereby counterparties do not have visibility of trades that have been alleged against them. For example, 'Firm A' will currently receive reports for trades it has reported and remain unpaired, but it will not have visibility of unpaired trades that have alleged against it, i.e. trades that have been submitted by another entity to a different TR and have identified 'Firm A' as 'Counterparty 2'. An 'alleged trade' report would alert market participants, ('Firm A' in the above example) of where other entities believe they have executed trades against it, but the market participant itself does not recognise. Such a report would only need to provide limited transaction attributes of the alleged trade rather than full trade details. The exact details to be included on the report can be defined at a later stage, but it may only require information such as the UTI, UPI/ISIN, Trade Date and/or Notional amount of leg 1.

We acknowledge that the logistics for TRs to provide such a report is complex, but it would increase the level of oversight of data that counterparties have.

Q29: Do you agree with our proposal to implement a standardised framework for TRs relating to common response messages? Please provide any additional views, if applicable.

We agree with the majority of the proposals for implementing a standardised framework for common response messages, but want to make the following comments and suggestions:

Paragraph 3.100

Similar to the points we make under question 27 and 28, this paragraph states that TRs are to provide report submitting entities with the results of the reconciliation process, but the ITS and/or EMIR Rules state TRs are to also provide this information to reporting counterparties and entities responsible for reporting. Please provide clarification to whom TRs are required to provide the results of the reconciliation processes.

XML format

The proposal is that rejection, reconciliation and end-of-day responses, (or any other reports or responses from TRs), can only be in XML format. While we agree that TRs should produce responses in XML format, we believe that TRs should be permitted to also produce reports in other formats. The requirement to develop systems and processes to consume XML schema reports will be challenging and costly to all market participants, and particularly to market participants that do not report to TRs directly, e.g. firms that rely on a delegated reporting service, (which tend to be smaller firms).

Therefore, while we agree that TR reports should be produced in the XML schema, we request that TRs are permitted to also produce reports in a non-XML schema to assist all market participant consume data in a controlled and cost-effective way.

Valuation and Margin reports

Paragraph 3.102 identifies that TRs are to provide information of derivatives for which "no [valuation / margin] has been reported, or the [valuation / margin information] that was reported is dated more than 14 calendar days earlier than the day for which the report is generated".

We agree with this information being provided by TRs, but request that these reports will differentiate between whether the valuation / margin has never been reported ('missing' valuation / margin) or whether the valuation / margin has not been reported for at least fourteen days ('stale' valuation / margin). Making this information available within reports will provide additional transparency and assist market participants with resolving the missing data.