ISDA Safe, Efficient Markets

ISDA Feedback on ESMA Draft Guidance on Identifying Reference Data for OTC Derivatives Subject to Transparency

Introduction

ISDA welcomes ESMA's note containing draft guidance on the interaction of the revised RTS 2 (as adopted by the European Commission on 13 July 2026) with Commission Delegated Regulation (EU) 2025/1003 and is grateful for the opportunity to provide feedback to the questions posed by ESMA in that note.

We welcome further the note's confirmation that the new identifying reference data specified in CDR (EU) 2025/1003 is expected to be disseminated from 1 March 2027, in coordination with the date of application of the revised RTS 2. However, we would observe that ESMA's note does not itself constitute guidance, so would be grateful if this was reiterated in the final guidance, with an indication to national competent authorities that they should adopt a proportionate supervisory approach to the unavoidable inability of market participants to strictly comply with CDR (EU) 2025/1003 until 1 March 2027.

We note also that as outlined in paragraph 27 of the note, the final guidance should only be published after the publication of the Regulation amending RTS 2 and the RTS on input/output data for the derivatives consolidated tape in the Official Journal of the EU, and that this is not anticipated until after the application date specified in CDR (EU) 2025/1003. Paragraph 27 therefore contemplates the publication of draft guidance as soon as possible after ESMA concludes its internal approval process. We would again be grateful if any such draft guidance could also reiterate that the new identifying reference data for OTC derivatives should be disseminated from 1 March 2027.

We provide our responses to the various proposals below, but prior to that have identified a critical issue that has not previously been addressed.

CDS tenor

As the UPIs for both index and single name credit default swaps correctly contain neither the end date of the contract nor the instrument tenor (in common with other asset classes), it is necessary to provide the end date of the contract on the RTS 2 report to calculate the tenor. This is essential both for price formation, and to determine what transaction size thresholds and deferral periods should apply to a given transaction.

ISDA considers that the simplest means to achieve this is for ESMA to provide guidance in the Manual on Transparency under MiFID II/MiFIR (as intended for the existing proposals in ESMA's note) that field 2b of the RTS 2 report (Expiry date) should be applicable for all OTC derivatives. In the context of credit default swaps, the value that should be published in field 2b is the scheduled termination date. The tenor can then be calculated from Trading date and time (field 1) and Expiry date (field 2b).

For the avoidance of doubt, effective date is not relevant for credit default swaps in the context of transparency. It is typically the fixed rate payment date prior to the trade date, which is used to calculate accruals and to provide a full first period to allow the credit default swap to be fungible for clearing.

Proposal 1 – UPI as instrument identifier

ISDA fully supports Proposal 1 in ESMA's note that on the RTS 2 report, the field "Instrument identification code" (Field 2 of Table 2 of Annex II of RTS 2) shall be populated with the UPI, which is ISDA's long standing position. We consider that there is no viable alternative to the UPI.

We reiterate our long-held view that the UPI is the correct instrument identifier for both transparency and financial transaction reporting. We believe strongly that the eventual revision of RTS 22 and RTS 23 should result in the UPI becoming the identifier for MiFIR Article 26 reporting as well, and that the analysis that will be necessary to implement the recommendations contained in ESMA's Final Report on the Call for Evidence on a comprehensive approach for the simplification of financial transaction reporting should encompass a thorough assessment of the appropriate instrument identifier for OTC derivatives and associated identifying reference data.

However, regardless of whatever transpires in respect of the instrument identifier for MiFIR Article 26 reporting, we stress that the use of the UPI for RTS 2 should not be subject to future change. To subsequently move away from the UPI would add to costs across the spectrum of investment firms, trading venues, APAs and the CTP without any benefit, running counter to ESMA's simplification and burden reduction agenda. Additionally, we would observe that the UPI has been successfully used as the instrument identifier for transparency in the UK since the beginning of December 2025, demonstrating its suitability for this purpose.

Proposal 2 - Fields embedded in the UPI

In respect of the 7 fields embedded in the UPI discussed in section 3.1 of ESMA's note, ISDA does not consider that investment firms, trading venues or APAs should be responsible for retrieving these data elements from the UPI reference data library, populating the submitted report or including them in the published report. Instead, we recommend a variant of Option 2.

We propose that the OTC derivatives CTP is tasked with retrieving these data elements and disseminating them when the trade is published on the consolidated tape. We believe that the selected CTP is a subscriber to the UPI reference data service, and so will face no additional costs in retrieving these data elements from the UPI reference data library. Accordingly, we would not expect either providers of data to, or users of, the consolidated tape to incur any additional costs.

Should investment firms, trading venues or APAs be required to populate these values on the RTS 2 report, the CTP would undoubtedly have to validate them in any case. As such, the CTP is in a unique position to perform this as a centralised activity, rather than multiple parties performing what is essentially the same activity. This approach would also ensure that the burden falls neither on data contributors nor on data consumers and would therefore align with ESMA's simplification and burden reduction agenda.

Should that for any reason prove impossible, ISDA would support Option 2 as presented in ESMA's note, with data consumers retrieving the data elements from the UPI reference data library. We believe that the regulatory obligation on reporting entities to report this data has been met through their reporting of the UPI. We note also that trading in OTC derivatives is overwhelmingly the province of wholesale market participants, and as such the large majority of data consumers will already subscribe to the UPI reference data service. We consider that the benefits of simplifying the reporting framework and avoiding the introduction of additional reconciliation requirements would outweigh the disadvantages of data consumers having to perform relatively simple lookups of the UPI reference data library and enriching the data. We note that at present data consumers must in any case retrieve data elements from the ISIN reference data library, notably (but not limited to) the expiry date of the contract.

Proposal 3 – Contractual term (for IRS only)

ISDA does not support ESMA's preferred Option 1 for this proposal, which would add a new field "Contractual term" to the RTS 2 report for reporting entities to populate with values such as 1Y, 2Y, etc.

While this value is often used as a shortcut at initial trade entry, it is typically not persisted in trade entry systems and hence is not flowed downstream to reporting systems. Instead, trade entry systems typically resolve the entered value into effective date and expiry date and persist these values. This means that many reporting entities would have to reverse-engineer the value for contractual term prior to submitting a report. Means of doing this are likely to be inconsistent across different reporting entities, potentially leading to different and flawed outcomes. For example, if an internal system calculates contractual term using weeks, a 2Y IMM swap may be represented as 105 weeks.

For this reason, as for Proposal 2, we recommend a variant of Option 2, with the CTP having the responsibility of calculating contractual term and disseminating it along with other reportable data. In the event that it is calculated incorrectly, it will be quickly noticed and will only have to be remediated in one place. Again, as for Proposal 2, this would align with ESMA's simplification and burden reduction agenda and would lead to better data quality.

If for any reason that is not deemed possible, then we would support Option 2 as presented in ESMA's note, with data consumers calculating contractual term from effective date, expiry date and roll convention. We note that as the trade has been reported, it must be a whole year tenor, simplifying the task of calculating the contractual term.

We note also that Option 2 is consistent with the UK approach, for which the calculation of contractual term is made more complicated by the inclusion of broken dated (i.e. non-whole year tenor) interest rate swaps in the scope of transparency, but is nonetheless operating without any apparent issues.

Proposal 4 – Effective date offset (for IRS only)

ISDA does not support ESMA's preferred Option 1 for this proposal, which would add a new field "Effective date offset" to the RTS 2 report for reporting entities to populate with either SPOT or FORW.

Instead, we support Option 2, with data consumers inferring whether the trade is spot or forward from the trade date, the effective date, the roll convention and the standard business terms.

We note that, as highlighted in our response to Proposal 2 above, the OTC derivatives market is overwhelmingly wholesale, and the task of inferring whether trade is spot or forward is facile for institutional investors. In fact, this task is made even simpler by the fact that apart from OIS referencing SONIA, all other in-scope instruments are spot starting two business days after execution date.

We note that as for Proposal 3, Option 2 is again consistent with the UK approach.

Should it be deemed that this value should nonetheless be available to data consumers without the need to infer it, we would again suggest that this be the responsibility of the CTP. This would align with ESMA's simplification and burden reduction agenda and would lead to better data quality.

Proposal 5 – Standard business terms (for IRS only)

N.B. – we note that this is repetitively identified as Proposal 4 in the table of proposals in section 4 of ESMA's note (Summary of proposals and request for feedback). We believe this to be a typographical error and have identified the proposal relating to standard business terms as Proposal 5 instead.

ISDA fully supports the proposal to add a field "Standard business terms" on the RTS 2 report, to be populated with TRUE or FALSE as based on Table 2 of the Annex of CDR (EU) 2025/1003.

This is essential, as only interest rate swaps with standard business terms ("standard swaps") are meaningful for price formation. This value cannot be derived from other reported values, and without a means to distinguish standard swaps from non-standard swaps, the value of the reported data, and consequently of the consolidated tape, would be irreparably compromised.

This would not need to be determined at the point of execution and persisted. It could be determined through a simple lookup against Table 2 of the Annex of CDR (EU) 2025/1003 at the point of determining reporting eligibility. We note that Table 2 of the Annex of CDR (EU) 2025/1003 will not change without significant notice, so it is entirely feasible for this to be stored as static data by reporting entities.

Proposal 6 – Roll convention (for IRS only)

ISDA fully supports the proposal to add a field "Roll convention", to be populated with IMMX (for IMM swaps) or STDX (for swaps with standard roll convention) **if** "Standard business terms" is populated with TRUE, and to not be populated if "Standard business terms" is populated with FALSE.

As for standard business terms, roll convention cannot be derived from reported values. An interest rate swap with standard business terms can have either an IMM roll convention or a standard roll convention (referred to as a calendar roll convention in Table 1 of the Annex to CDR (EU) 2025/1003). Trades in interest rate swaps with otherwise identical contract terms will be priced differently depending on the roll convention. While it is possible to infer whether a trade with standard business terms has a Standard or IMM roll convention in the majority of cases, there are a statistically significant number of trades for which it is not possible to infer which roll convention applies.

Therefore, it is essential that the roll convention be identified for interest rate swaps with standard business terms for the purposes of price formation.

Interest rate swaps with non-standard business terms will be excluded from price formation, so there is no need to identify the roll convention for these trades.

Interest rate swaps with any other roll convention are by definition non-standard (as correctly represented in Table 2 of the Annex to CDR (EU) 2025/1003).

Proposal 7 – Standard business terms for FedFunds OIS

ISDA agrees that the standard business terms for FedFunds OIS are accurately represented by those listed in Table 1 of ESMA's note and therefore supports Proposal 7.