

May 26, 2021

BY ELECTRONIC MAIL

The Regulatory Oversight Committee (ROC)
leiroc@bis.org

**Re: Harmonisation of critical OTC derivatives data elements (other than UTI and UPI)
Revised CDE Technical Guidance – Consultative Document**

Dear Regulatory Oversight Committee,

The International Swaps and Derivatives Association, Inc. (“ISDA”)¹ appreciates the opportunity to provide comments to the Regulatory Oversight Committee (“ROC”) as the International Governance Body (IGB) of the Unique Transaction Identifier (“UTI”), Unique Product Identifier (“UPI”), and Critical Data Elements (“CDE”) for its consultation on the revised CDE Technical Guidance.

ISDA and its members have provided responses to the ROC’s proposed changes, as well as comments on select CDE, on the following pages.

¹ Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 950 member institutions from 76 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.

A. Day count convention (2.22)

We agree with the correction in format to Char(4) to bring it in line with the data element's allowable values.

B. Payment frequency period (2.23)

We have no objections to the proposal to revise the CDE allowable value of TERM to EXPI as it would make it consistent with the code EXPI which already exists in the International Organization for Standardization ("ISO") 20022 schema for a payment made at term.

C. Payment frequency period multiplier (2.24)

No comment for this data element at this time.

D. Valuation method (2.28)

We agree with the proposal since the changes would align the CDE allowable values with the 4-letter codes used in the ISO 20022 schema for Valuation method.

E. Collateral portfolio indicator (2.29)

No comments at this time.

F. Collateralisation category (2.47)

The enumerated values existing in the ISO 20022 schema are not consistent with the allowable values in the CDE Technical Guidance for Collateralisation category – we therefore support the proposal to align the CDE allowable values with the ISO 20022 schema.

G. Delta (2.71)

No comments at this time.

H. Other payment type (2.84)

We have no objections to the proposal to amend the CDE allowable values to use the same 4-letter codes used in the existing ISO 20022 schema for Other payment type.

I. *Prior UTI (2.96)*

We support the update to include the reference to ISO 23897 as the existing industry standard for UTI.

A. *Counterparty 2 (2.7)*

Existing CDE 2.7 for Counterparty 2 (“CDE 2.7”) specifies that an identifier with a format of Varchar(72) can be used “for natural persons who are acting as private individuals (not business entities).”

The [*ROC Statement - Individuals Acting in a Business Capacity*](#) states that “individuals acting in a business capacity are eligible to obtain [Legal Entity Identifiers] LEIs, provided they conduct an independent business activity as evidenced by registration in a business registry.” However, it is unclear as to whether “business entities” as specified in CDE 2.7 includes or excludes the individuals per the ROC definition. Therefore, we believe that CDE 2.7 as currently drafted could result in inconsistent reporting of “natural persons who are acting as private individuals (not business entities).”

Accordingly, we respectfully request that the CDE for Counterparty 2 be clarified (or the process to clarify this data element be initiated) to “for natural persons who are acting as private individuals (not eligible for an LEI per the *ROC Statement - Individuals Acting in a Business Capacity*)” instead of “for natural persons who are acting as private individuals (not business entities).” Aligning it more directly with the LEI eligibility guidelines will eliminate the chance that Varchar(72) would be reported for a Counterparty 2 who is eligible for an LEI.

A. *Valuation Amount (2.25)*

ISDA and its members are raising awareness to the ROC as IGB that different regulators may be adopting different approaches to Valuation Amount. The European Securities and Markets Authority [European Markets Infrastructure Regulation \(EMIR\) refit](#) has adopted unadjusted “*Mark-to-market valuation of the contract, or mark-to-model valuation as referred to in Article 4 of the [RTS]. The CCP’s valuation to be used for a cleared trade.*” The Australian Securities & Investments Commission (ASIC) has proposed² to adopt the CDE definition “*Current value of the outstanding contract. Valuation amount is expressed as the exit cost of the contract or components of the contract, i.e., the price that would be received to sell the contract (in the market in an orderly transaction at the valuation date),*” which is being viewed as an adjusted Valuation Amount. The Commodity Futures Trading Commission (CFTC) [P43/P45 Technical Specifications](#) points to the CDE definition³.

² Consultation Paper 334. Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): First consultation, (November, 2020), <https://asic.gov.au/regulatory-resources/find-a-document/consultation-papers/cp-334-proposed-changes-to-simplify-the-asic-derivative-transaction-rules-reporting-first-consultation/>.

³ The CFTC §45.1 definition of “Valuation data” also refers to “the data elements necessary to report information about the daily mark...”, https://www.cftc.gov/sites/default/files/2020/11/2020-21569a.pdf?utm_source=govdelivery.

As more jurisdictions go-live with new or amended trade reporting rules, fragmented approaches to valuation data requirements will result in inconsistencies in reporting from jurisdiction to jurisdiction. The ability to effectively aggregate the related data for regulatory analysis will therefore be constrained. The industry will be compelled to build differently depending on each jurisdictional mandate. For market participants, the challenges of valuations reporting are exacerbated since the information to derive a valuation amount does not come from a single system or source – data needs to be pulled from multiple different sources via several different systems by an institution in order to calculate the valuation amount.

The ROC as IGB was allocated several CDE global governance functions designed to facilitate/promote a harmonized approach to trade reporting from jurisdiction to jurisdiction in order to reduce risk management challenges, enhance data quality, improve the ability of authorities to effectively analyze aggregated trade data, and meet the objectives of the G-20.⁴ A few examples of governance functions allocated to the IGB include “Monitoring the implementation of the CDE Technical Guidance at the global level and identifying implementation issues that may hinder a harmonised approach to OTC derivatives data reporting” and “Recommending how the CDE Technical Guidance should be implemented by Authorities, including possible levels of coordination.”

We respectfully request that the ROC as IGB resolve (or initiate the governance process to resolve) valuation data reporting (including for Valuation Amount) at the global level with its members who include regulators who have adopted, as well as regulators who plan to adopt requirements for Valuation data reporting, to help achieve consistent reporting by the industry in line with the objectives of the global OTC harmonization effort.

We would like to thank the ROC’s consideration of the comments provided in this letter. Please feel free to contact me if you have any questions.

Sincerely,



Eleanor Hsu
Director, Data and Reporting
International Swaps and Derivatives Association, Inc. (ISDA)

⁴ G20 Leaders Statement: The Pittsburgh Summit (September 24-25, 2009), <http://www.g20.utoronto.ca/2009/2009communique0925.html>.