ISDA Safe, Efficient Markets

# Fitness Check of supervisory reporting requirements

## Your opinion

GENERAL COMMENTS

1. In the longer term, utilising the appropriate standards or new technology, ISDA advocates a **'report once/permission access to data once'** regime: firms would produce a single dataset which the relevant regulators could 'cut' to suit their particular regulatory objectives.

2. ISDA advocates for increased engagement between the EU and international regulators to seek **alignment of reporting rules across jurisdictions** – this includes continued ISDA advocacy for single sided reporting globally.[1]

3. ISDA supports the work which the CPMI, IOSCO, and the FSB are conducting for the global harmonization of the **Unique Transaction Identifier (UTI), Unique Product Identifier (UPI), and Critical Data Elements ('CDE')** of OTC derivatives reported to Trade Repositories. This will be an important and key contributor to the consistency and efficiency of global regulatory reporting.

4. ISDA advocates that **EMIR reporting be aligned with similar regimes globally**, EMIR should establish a market-wide principle that derivatives transactions, which have been matched via confirmation and reconciliation processes, should only be reported once to supervisors, by one party, not twice.[2]

5. ISDA cautions against taking a *one-size-fits-all* approach in deciding on a standard which is to be used for many requirements across disparate product sets and by many different types of entities.[3]

Our response identifies ways to simplify and streamline both the development and operation of supervisory reporting, thereby striving to reduce costs. We point to increasing the amount of time given to firms to implement new reporting rules, phased implementation, and the early engagement

[1] In 2017, the Commodity Futures Trading Commission (CFTC) announced a Review of Swap Reporting Rules.[1] This includes a "Roadmap to Achieve High Quality Swaps Data" in which the CFTC will comprehensively review swap data reporting regulations found in Part 43, 45, and 49 of Commission Regulations. This would be an excellent opportunity for the European Commission/ESMA to discuss future alignment with the CFTC.
[2] This will dramatically reduce the burden and cost of reporting for corporate and end-user entities and improve the efficiency of the current supervisory framework for derivatives in the EEA.
[3] For example, the experience of implementing ISIN as the only identifier for derivatives under MiFID II has been problematic. This is due in part to a one-size-fits-all mandatory requirement, especially where the system did not cater for derivatives at the time of publication of the Regulatory Technical Standards.

of industry experts to work with policy makers to develop robust and feasible solutions. More specifically:

6. Regulators should set out their regulatory goals for a new regulation, and then approach the industry domain experts for the market/domain, which is relevant to the new regulation, and for which data is required. The correct data sets and data sources can be identified which will allow a solution to be crafted to allow regulators to meet their regulatory objectives. Only then, if necessary[4], legislative instruments like regulatory technical standards should be written.
7. ISDA would like the Commission to consider the current process/framework by which supervisory reporting requirements are developed and published. The regulatory and technical standards are difficult to change and as such are not flexible enough to deal with market developments or other problems as they arise. This has a detrimental effect on the quality of data reported across all regimes.[5]

*Please note that our response is not confined to EU level supervisory reporting requirements in force by the end of 2016. Our members called into question the effectiveness of a fitness check on supervisory reporting excluding the single most far reaching regulation we have – MiFIR/MIFIDII – which involved substantial implementation costs.*

## Section 1: Assessing whether the supervisory reporting requirements are fit-for-purpose

1.1 Taken together, to what extent have EU level supervisory reporting requirements contributed to improving the following:

a) Financial stability (i.e. monitoring systemic risk)

- ○ Very significantly
- ○ Significantly
- ○ Moderately
- ○ **Marginally**
- ○ Not at all
- ○ Don’t know / not applicable

Please elaborate and provide examples to justify your answer to question 1.1.b):

ISDA believes that regulators are best placed to assess whether the reporting requirements provide them with the necessary data to monitor systemic risks in the market.

[4] *If there is a competent authority data access issue, or new datasets or workflows are needed.*

[5] *While we note that the Q&A process provides some of this flexibility, the Q&A process should be improved by ensuring greater industry consultation and by providing time to implement the guidelines (e.g. six months from date of publication), rather than taking effect immediately.*

Notwithstanding, we do wish to make the following observations.

Overall, the data being provided *should* improve financial stability, but the lack of harmonization as well as the granularity and volume of data that must be reported, is potentially creating a barrier to effective supervision of financial stability.

Lack of harmonization

Looking at the *effectiveness* of the data and whether the supervisory reporting requirements have produced relevant and high quality data, members are concerned about the lack of common and clear definitions of commonly used terminology - such as price, start date and termination date - further complicated with the fact that they report to different Trade Repositories who may employ different interpretations of those definitions. Our members feel that this has the potential to result in false interpretations and erroneous conclusions based on the dataset. ISDA has been an advocate of the global initiatives undertaken by the FSB and CPMI-IOSCO for the standardization and harmonization of key derivatives data elements including the UTI, UPI, and CDE, as well as the standards work of the Global LEI Foundation and the LEI ROC. Which has served to increase data effectiveness in the market. The development of the LEI has been an exemplary demonstration of how harmonization leads to success: a practical example being that LEIs allow firms to identify who they are facing in a transaction and therefore this directly improves financial stability and alleviates the situation faced by (for example) the Lehman Brothers clean-up operation.

In addition, ISDA supports leveraging continued market practices such as use of ISDA Definitions which contain terminology and definitions widely used today by market participants to agree and confirm their derivatives transactions for data elements.

In terms of granularity, members would observe that granularity in reporting does not always improve the ability to monitor risks due to the lack of harmonization. The fact that there is no agreed reporting data dictionary – and certain terminology is not defined – is creating a substantial barrier to effective supervision. In order to streamline reporting in the future, we believe further work is needed on harmonization, rather than attempting to fix this problem by adding further granularity to reports.

Volume of data to be reported

Due to the volume of the data that is now being produced, our members are aware of the challenges that are faced by the supervisory authorities in absorbing and analyzing it, especially the burden this must represent on the smaller national competent authorities. Our members are concerned that the large volume of data may be actually compromising financial stability in that there is simply too much of it to absorb in a meaningful way. Furthermore, we understand that although ESMA and other regulators are now receiving data to be able to improve this monitoring, the lack of standardization around the data fields, and the definition of the data fields when used for specific purposes, is hindering this effort.

b) Market integrity (i.e. surveillance of market abuse and orderly functioning of the markets)

- Very significantly
- Significantly
- Moderately
- **Marginally**
- Not at all
- Don't know / not applicable

Please elaborate and provide examples to justify your answer to question 1.1.b):

ISDA believes that regulators are best placed to assess whether the reporting requirements provide them with the necessary data to carry out surveillance in the market.

Our members are of the view that the new reporting requirements in MiFID II/R should improve market integrity but it is too early to say given MiFIDII/R's recent implementation in January.

We reiterate our headline messages regarding the lack of harmonization and concerns about the granularity and volume of data to be reported when considering market integrity.

Members wish to make the general point that the time given to firms to respond to consultations and indeed react to technical standards, seems in some instances to be growing ever shorter and does not give industry adequate time to propose and ensure that improvements to matters like market integrity, financial stability and investor protection, are adequately addressed. We suggest that more real time feedback forums would help here, combined with industry advisory committees and regular workshops with the industry, following the example of international standard setting bodies.

c) Investor protection (i.e. ensuring proper conduct by firms to ensure that investors are not disadvantaged/negatively impacted)

- Very significantly
- Significantly
- Moderately
- **Marginally**
- Not at all
- Don't know / not applicable

*Please elaborate and provide examples to justify your answer to question 1.1.c):*

ISDA believes that regulators are best placed to assess whether the reporting requirements provide them with the necessary data to improve investor protection.

ISDA notes that the consultation expands upon the definition of investor protection to mean improving proper conduct by firms to ensure that investors are not disadvantaged or negatively impacted.

We recognize that some of the new reporting requirements in MiFID II/R are intended to improve investor protection. For example, the quality of execution reporting that has to be published by execution venues under RTS 27 and the requirement for the annual publication by investment firms of information on the identity of execution venues and on the quality of execution (RTS 28), are intended to help investors to assess whether best execution has been achieved by the executing firm.

However, ISDA's members would like to highlight that although these rules are designed to protect investors, they can also have unintended and undesirable consequences on liquidity providers which ultimately impacts on investors. Specifically, ISDA members have concerns about the level of granularity that must be reported under quality of execution reporting (Commission Delegated Regulation 2017/575) which requires very granular information about prices, costs and likelihood of execution for individual financial instruments to be made public on a quarterly basis. This includes publication of intraday ('point in time') information about prices and values of transactions as well as detailed information about number of orders, requests for quotes, number of transactions etc. per trading day.

This level of granularity effectively creates another form of post-trade transparency, but without the protections that are afforded under the MiFID II/R post-trade transparency rules (for example, a systematic internaliser's identity will be revealed along with the information about executed trades). This potentially exposes systematic internalisers, particularly where they are trading in less liquid instruments such as fixed income instruments which are rarely traded. This can effectively lead to all SIs' positions being made public in a machine-readable format, exposing market makers to significant risks, as they will not be provided with sufficient time to hedge/exit their positions given that it can often take longer than six months for liquidity providers to exit their positions in illiquid instruments.

Disincentivising liquidity providers from participating in the market is to the ultimate detriment of the end investor and an excessive level of granularity also brings into question the usability of the data from the perspective of an end investor.

1.2 Are all of the existing supervisory reporting requirements relevant for maintaining financial stability and upholding market integrity and investor protection?

- Yes, they are all relevant
- Most of them are relevant
- **Some of them are relevant**
- Very few are relevant
- Don’t know / not applicable

*If you do not think that all of the requirements are relevant, please provide specific examples of any requirements which in your view are superfluous and explain why you believe they are not necessary:*

ISDA’s members appreciate that the goal of each supervisory reporting framework is to maintain financial stability or to uphold market integrity or investor protection. However, there are many examples across the reporting regimes of requirements which are duplicative, redundant or overly burdensome and provide little benefit or at least not a benefit that is outweighed by the burden of producing the reports. Some examples are given below, which are intended to highlight some of the key concerns regarding reporting in the EU.

Fundamentally, ISDA and its members believe that a change needs to be made to the way in which new reporting regulations are developed in the EU. This is to take into account the highly technical and detailed nature of reporting and the complexity involved in implementing changes in a safe and prudent manner.

We believe that the currently flawed approach to reporting is underpinning many of the problems that the Commission has identified in its consultation around effectiveness, relevance, efficiency, coherence and added value. In particular, the result of the current approach to reporting has been to create reporting requirements which are duplicative, inconsistent across legislations or inefficient which in turn, as increased the compliance cost of reporting.

As a starting point, we believe that regulators should have an open discussion with the industry about the regulatory goals that they’d like to achieve with a possible new reporting regulation. Crucially, this should take place at the early stages of developing a new regulation (i.e. ideally before regulators begin drafting a first proposal). It is important that this takes place in the very early stages before regulators begin making important decisions about possible data standards and formats or fields to be reported because once this decision is made, we have found from experience that there is little flexibility to deviate from this at a later date, even once issues become known.

In addition, by proactively engaging with the industry, the relevant industry experts will be able to help regulators to identify what type of data is required, potential data sources, areas of overlap, inconsistency etc. This would result in more efficient and feasible solutions to reporting which will also give regulators targeted access to the most relevant data that they need to supervise the market.

We also note that ISDA’s members support using a more flexible way to communicate data requirements of regulators, rather than wholly relying on using the current *regulatory/implementing technical standards* approach. We believe that alternative approaches, which are future proof to product and technology development, would be preferable to relying solely on *regulatory/implementing technical standards* which are by their nature, rigid and inflexible.

While we note the flexibility of the guidance found in Q&A type documents published by the supervisory authorities is attractive to market participants, these often have the flaw of being released to the industry without much warning or transparency and without providing time for the industry to implement the new advice contained in the Q&A. This has flow-on repercussions for the quality of data that is reported because it results in compressed timeframes for developing and (importantly) testing system changes.

To illustrate, we have included two examples of issues which were faced with MiFIDII/R and EMIR. There are others which exist across the frameworks, however these are just some examples which impact ISDA's members.

<u>Examples from MIFIR</u>

ISDA members note that there are reporting requirements in MiFIR/MiFIDII which, because they have been poorly thought through and executed, are unlikely to achieve their original aims of investor protection. Examples cited are (i) Article 59 of the MiFID Delegated Act (Reporting obligations in respect of execution of orders other than for portfolio management) which is required even if clients do not want to receive the reports (anecdotal evidence suggests many do not and are trying to stop the reports and finding that they cannot), (ii) RTS 27 on the quality of execution reporting which must be reported under Article 27 of MiFID II, is expected to generate significant volumes of meaningless data, at least for the first year and perhaps longer, and (iii) the reporting requirements in Article 31(2) of MiFIR, to make public through an APA the volumes of transactions subject to portfolio compression and the time they were concluded, which is also thought to produce data which may be meaningless and unusable for the public. Information about this activity could be shared with regulators (to whom the data may be useful and meaningful) through different channels.

<u>Examples from EMIR</u>

(a) <u>'Country of the other counterparty' field</u>

One high impact example of a redundant requirement, observed so far in new EMIR reporting technical standards (which we understand appears in the top 10 rejection issues at the TRs at present), is the **'Country of the other Counterparty'** field. According to the validation rules introduced with the revised RTS and ITS, this field 'should be populated with a valid ISO 3166 country code, 2 alphabetical characters. If field 1.3 (Type of ID of the other Counterparty) is populated with "LEI", the country code provided in this field shall pertain to the country of the registered office of the other counterparty as specified in the LEI reference data'.

There has been much confusion as to what address in the LEI records (held at the GLEIF – Global Legal Entity Foundation) the country code should be checked against, as both a 'Legal address' and 'Headquarters address' can be found in the GLEIF database. This is leading to a high level of rejections. This is a problem which could have been avoided by not requiring this field to be populated in the first instance, as the information (the country code) can be found in the GLEIF database. It is a duplicative and redundant request in the new RTS and ITS.

(b) Redundant product information required when product identifier submitted

When an ISIN is used as a product identifier for EMIR reporting, most of the product related information can be established by looking up the ISIN. This will also be the case when a global UPI is implemented. Similar to (a) this is a problem of redundant data being sent on reports which increase potential for mismatching and reporting errors.

(c) 'Index name mappings to ambiguous ISO20022 values'

As a further example of such issues, set out in the revised EMIR RTS/ITS is a set list of 26 index codes which do not relate to any set of index names or codes in common use by market participants. ISDA and its members have had to agree within the working groups which of the 26 codes should be used for every floating rate index found in the ISDA definitions, or alternatively to truncate to a maximum of 25 characters if no code mapping is evident.

Mappings such as those below have been created for 422 floating rate indices so far. However, as the ISDA membership does not cover all firms in the industry, not every market participant is involved in discussions to agree these compliance conventions, and it is possible that many firms will report using different terms.

Examples of industry mapping of index codes:

| Current industry standard | mapped to | New ESMA allowable code/value |
|---:|:---:|---|
| EUR-Annual Swap Rate-Reference Banks | » | SWAP |
| EUR-EONIA-OIS-COMPOUND | » | EONA |
| EUR-EURIBOR-Reuters | » | EURI |
| EUR-LIBOR-BBA | » | LIBO |
| GBP-LIBOR-BBA | » | LIBO |
| GBP-Semi-Annual Swap Rate | » | SWAP |
| GBP-WMBA-RONIA-COMPOUND | » | GBPWMBARONIACOMPOUND |
| GBP-SONIA-OIS-11:00-TRADITION | » | GBPSONIAOIS11TRADITION |
| EUR-EURONIA-OIS-COMPOUND | » | EUREURONIAOISCOMPOUND |
| … | … | … |
| … | … | … |

(d) Exchange traded derivatives (ETD) reporting

We support the FIA response regarding the issues that are currently faced with providing transaction level reports for ETDs.

1.3 Is there information that should be reported but which currently is not (i.e. there are reporting requirements that should be added)?

- **Yes**
- No
- Don't know / not applicable

*If you answered yes to question 1.3, please provide specific examples of reporting requirements which in your view should be added and explain why you believe they are needed:*

If regulators wish to add additional reporting requirements in the future, ISDA's members would appreciate the opportunity to actively engage with regulators in the conception stage of the new legislation, i.e. well before the new data requirements are drafted into legislation. In this way, the industry can work with regulators and provide detailed expertise, to enable regulators to be able to design reporting frameworks which are both feasible for the industry to implement but also importantly, achieve the desired regulatory goal in the most effective way possible.

A solution for personal information is needed:

The EC Fitness check offers a keen opportunity for the EU to improve a major issue facing the financial community because of the MIFID II/R requirements. The legislation requires trading venues, approved reporting mechanisms (ARMs) and investment firms to collect or receive personal information to identify traders, desk heads and clients. The personal information includes birthdate, surnames, passport numbers, national ids etc. Because of the way transaction and order-recordkeeping data is transmitted and stored as part of MIFID II/R, this personal information is passed between firms, clients, ARMs, trading venues and regulators and stored in multiple locations on a daily basis. There are major problems with these requirements and processes:

1) These processes increase the risk of cyber breaches and identity theft as there are multiple points of access. It is also unclear how good the standards of security are at the various points in the process. This situation is a breach of responsibility to protect the identities of individuals operating in good faith within the financial markets.

2) In some countries (primarily outside of the EU), it is illegal to share the personal information due to local data protection and privacy laws. This problem has been created by the broad extraterritorial scope of MiFID II/R as well as the fact that EU firms serve non-EU clients which are not subject to the same obligations. This puts all the parties involved in the process from end to end in the situation of having to be either non-compliant

with the MIFID II/R requirements; or to be limited in the partners they can trade with. This could cut off access of such participants to certain markets and transactions.

3) Because trading venues are loath to hold and transmit this personal data, several have attempted to implement solutions that minimize the number of times personal data is transmitted and stored. They are using short codes to identify the parties in the daily reporting, and retain a mapping file to the actual personal data in separate data store. While this is a step in the right direction, each venue is using its own solution creating significant administrative burden for investment firms and clients to comply with different operational requirements from the multiple venues they deal with.

ISDA with several other trade associations wrote to ESMA on 2 October 2017 to highlight these issues and to recommend a solution to the problem. Specifically, the letter states: "The associations and their members believe that data privacy and security concerns can be optimally minimized through use of a unique, anonymous identifier ("investment firm personal data" or "IFPD") included on all order records and transaction reports. This would be a longer-term project and would potentially require a change to RTS 22 [transaction reporting] and 24 [order data] of MiFIR. However, we believe this approach would provide sufficient transparency to allow regulatory authorities to monitor for market abuse while protecting employees of investment firms. There are potentially multiple ways to implement a unique identifier for traders and decision makers. For example, a central data hub could be used to generate and store mappings between the IFPD [investment firm personal data] and a unique code generated for the particular individual."

We believe EC Fitness Check provides the opportunity to reconsider the current approach and instead, adopt a solution that leverages an anonymous, standardized identifier for individuals in trader and decision maker roles. The same framework for such personal information/data could be reused across regulations rather than solving solely for the MiFIR requirements. We would encourage the EC to consider working together with the industry, other regulators and standard setters to establishing a solution to this issue.

1.4 To what extent are supervisory reporting requirements across different EU level reporting frameworks coherent (e.g. in terms of scope, content, methodology, timing/frequency of submission, etc.)?

- Fully coherent
- Mostly coherent (a few or minor inconsistencies)
- Somewhat coherent (numerous inconsistencies)
- **Not coherent (mostly or totally inconsistent)**
- Don't know / not applicable

*Please provide specific examples of reporting requirements which in your view are inconsistent and explain why you believe they are inconsistent:*

ISDA's members have raised the following inconsistencies:

As a general point, ISDA member are concerned that there is currently significant overlap in product and reportable data across REMIT/EMIR/MIFIR/SSR reporting regimes, but yet differences in (i) technical reporting formats (ii) reporting destination (ARMs, APAs, TRs, and NCAs) (iii) reportable events and (iv) reporting party obligations.

Additionally, significant duplications exist between the European Central Bank (ECB) Money Market Statistical Reporting (MMSR), the Bank of England Sterling Money Markets Daily data collection (SMMD), and the Banque de France reporting. EMIR also duplicates many parts of these requirements, resulting in the same data asked for twice, but following different formats, and methodology – the venue field being singled out by members.

The experience of implementing the ISIN as the identifier for derivatives, which was mandated under MiFID II /MiFIR has been problematic, this is due in part to a one-size-fits-all mandatory requirement, especially where the system did not cater for derivatives at the time of publication of the Regulatory Technical Standards. Specifically, it has been a challenge for the industry to accept that the ISIN for derivatives does not record the tenor period of a swap but instead includes the maturity date. And this precludes the ISIN for use as the UPI unless changes to this construct are made and will be a major inconsistency between EMIR and MiFIR when UPI is adopted as the product identifier in EMIR.

The solution

ISDA advocates a **'report once/permission access to data once'** regime: firms would produce a single report which the relevant regulators could 'cut' to create the view that they need. The ISDA Common Domain Model (CDM) and the use of a common language like FpML would help standardise this data and make the report easier to view and understand.

ISDA is developing a solution to the problem of inconsistencies in the ways of representing and processing derivative transactions via the ISDA Common Domain Model (CDM). The CDM will ensure that all derivative products and lifecycle events (such as terminations or amendments to transactions) are described in a prescribed and consistent way by the firms who use this model. Therefore, firms using the CDM would have a single pool of data (or at least in the same standard format) which they could then cut in different ways to meet different regulatory reporting requirements (i.e. to meet the requirements of EMIR, to meet the requirements of MiFID II/R). This would allow regulatory authorities to look at this data in the knowledge that what they were seeing was consistent across the firms who supplied it. We would encourage engagement with us on this, particularly in light of your Financial Data Standardization project. We would be happy to explore the synergies between our projects and how we may be of assistance to you.

Having standard global formats for data and processes such as via the ISDA CDM which have been developed by the industry and adopted for their own business usage would also allow much more meaningful aggregation of data at an international level. Similarly, within the domain of the regulatory reporting requirements, ISDA supports the work which the CPMI, IOSCO, and the FSB are conducting for the global harmonization of the **Unique Transaction Identifier (UTI), Unique**

**Product Identifier (UPI), and Critical Data Elements ('CDE')** of OTC derivatives reported to Trade Repositories.

1.5 To what extent is supervisory reporting in its current form efficient?

- Very efficient
- Quite efficient
- **Rather inefficient**
- Very inefficient
- Don't know / not applicable

*If you think that supervisory reporting is not fully efficient, please provide specific examples and explain why you believe it is not efficient:*

ISDA members would like to set out some of the main challenges faced by supervisory reporting which lead to inefficiency:

- The lack of harmonization. ISDA members advocate for increased engagement and alignments with international regulators, leading to the increased harmonization of how trades and products are described.
- Short implementation timelines, particularly exemplified by the production of ESMA Q&A very close to implementation deadline, create challenges and difficulties for firms. As a result, builds can be based upon assumptions and 'quick and dirty'. ISDA members advocate for active and ongoing dialogue with the industry early on in the process and genuine consultation before the rules are finalized. We also call for flexibility in the process – we note that CFTC 'no action' letters are highly useful in certain circumstances and call for such flexibility to be mirrored in the EU.
- Connected to short implementation timelines, the provision of certain data can be contingent on other data already being in existence. For example, a lack of data has meant a delay to the MiFIDII Systematic Internaliser (SI) regime, because six months of data was deemed necessary in the first instance. Again, ISDA members advocate for active and ongoing dialogue with the industry early on in the process and genuine consultation before the rules are finalized and more realistic implementation timelines.
- Concerns about the level of granularity and the volume of data to be reported, which has led to overlapping data requirements. ISDA members advocate for a data dictionary and harmonized interpretation of fields and the way in which scenarios are reported. As part of this, we would recommend writing data requirements in a common language, (such as FpML for the derivatives space), so that is matches the language used by market participants.

ISDA members have given the following examples of inefficiency arising from the detail of the regulations:

- EMIR dual-sided reporting creates duplicative reporting requirements, and extends the obligations to many less sophisticated market participants leading to inefficiency in matching or dual reporting of the same information.
- MiFIR reporting, such as transparency and transaction reporting, hinges off concepts such as Trading on a Trading Venue (TOTV) and SI status for which there is no regulatory golden source, leading to multiple differing industry interpretations and inconsistent implementation.
- FIRDs data is made available on a T+1 basis but determining whether an instrument is TOTV is really required intraday to understand real time/near real time reporting obligations. While this is accepted as sensible working solution by industry and regulators, it is an example of inefficiency built into the reporting regulations, and establishing that this solution was acceptable took a lot of analysis and deliberations.
- MiFID RTS 27 reporting on the quality of execution is expected to generate significant volumes of meaningless or unusable data, at least in the short term and may also disadvantage liquidity providers in less liquid instruments.

1.6 How well are the supervisory reporting requirements adapted to developments in the fields of modern information and communication technologies (ICT) and digital processes?

- Very well
- Fairly well
- **Not very well**
- Not at all
- Don't know / not applicable

Please elaborate and provide examples to justify your answer to question 1.6:

ISDA members felt that existing supervisory reporting requirements are dated and inflexible to new technology, primarily because they are not aligned with how the market operates and the regulations do not match operational flows of information. ISDA members felt that regulators should set out their regulatory goals and then work with industry partners to develop technical requirements in terms of the common market standards for each domain a reporting framework is intended to gather data on. ISDA wishes to stress that setting common market standards is exactly what the ISDA Common Domain Model (CDM) is striving to do, and would allow for quicker adaption to new technology and methods.

When fully developed, the ISDA CDM will provide an industry standard blueprint for how derivatives are traded and managed across the lifecycle and how each step in the process – the data, events and actions in the life of a derivatives transaction – should be represented. As the CDM will standardise and digitise these events, emerging technologies such as Distributed Ledger and Smart Contracts will be able to reach their full potential. ISDA believes that FpML can be used as a basis for this standard as it is already widely used in derivatives markets.

1.7 To what extent has the adoption of supervisory reporting requirements at EU level facilitated supervisory reporting in areas where previously only national requirements existed?

- Very significantly
- **Significantly**
- Moderately
- Marginally
- Not at all
- It has made supervisory reporting more complicated
- Don't know / not applicable

*Please elaborate and provide examples to justify your answer to question 1.7:*

ISDA agrees that the adoption of supervisory reporting requirements at an EU level has simplified the process for firms who would have otherwise had to report similar information in different formats to multiple EU national regulators.

The example of moving from national rules for MiFID I to EU wide regulations in MIFID II/MiFIR is a great example of the power of harmonization. This should now happen on a global scale throughout active engagement between EU policymakers and their international counterparts and as part of international standard setting bodies.

However, ISDA notes that even in cases where the reporting rules should in theory be fully harmonized across the EU by virtue of being included in a Regulation, there has still been some national divergences in the practical interpretation of the rules which has caused problems. For example, in the area of Article 26 MiFIR transaction reporting, one major national competent authority (NCA) has taken a divergent interpretation of how to populate Field 37 of Table 2 of Annex I of Commission Delegated Regulation (EU) 2017/590 which is the 'country code of the branch membership'.

This field is to be populated to identify the country of a branch of the investment firm whose market membership was used to execute the transaction. The NCA has stated that where a firm executes a transaction as a systematic internaliser (SI), it considers that the SI is a trading venue and therefore is requiring firms to populate this field with the two letter country code of the location of the SI and is rejecting reports which do not satisfy this interpretation. This is contrary to the Delegated Regulation and MiFID II/R which classifies trading venues as regulated markets, multilateral trading facilities and organized trading facilities (i.e. it does not include SIs in the definition). In addition, it is nonsensical to apply the concept of a market membership to SIs since SIs do not have members or participants. This highlights that in some cases, NCAs are superimposing requirements or are interpreting the rules in a way that undermines the benefits of a harmonized reporting regime.

<u>Challenges of guidance – EU level versus national</u>

ISDA members are concerned that the significant complexity of reporting regimes means much has to be clarified with regulators. Some of this clarification comes through EU Level 3 guidance, in the form of comments or Q&A, whilst other clarifications may come through national regulators. This leaves market participants in the position where they must continuously consider both sources of guidance.

1.8 To what extent have options left to Member States in terms of implementing EU level supervisory reporting requirements (e.g. due to their adoption as Directives rather than Regulations) increased the compliance cost?

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all
- **Don’t know / not applicable**

*If you think divergent Member State implementation has increased the compliance cost, please provide specific examples of reporting frameworks or requirements where you believe this to be the case and explain your suggestions:*

ISDA are not able to make an assessment as to the extent of the increase in the cost of compliance due to the adoption of Directives rather than Regulations.

However, we would like to make the following general observations in the approaches taken by different member states:

(1) **Transparency Directive:** In Ireland, filings required by the Transparency Directive must be filed with the Irish Stock Exchange (as the Officially Appointed Mechanism (OAM)), the Central Bank of Ireland and the Companies Registration Office as opposed to a single destination.

(2) **MiFID II/R deferred publication regime:** Under MiFID II/R, national competent authorities have discretion to determine the deferred publication regime that will apply in their jurisdiction for the purposes of the post-trade transparency rules. ISDA members believe that there should be a single deferred publication regime in the EU in order to ensure consistency and avoid regulatory arbitrage.

(3) **MiFID II / R FIRDS:** MIFIDII/R also causes inconsistencies and ambiguities in interpretation – for example FIRDs – ESMA’s data reference system - for derivatives different NCAs are asking for different data to be submitted by Systematic Internalisers under their auspices.

(4) **EMIR:** Even in EMIR, where members note that on top of the reporting Non-Financial Counterparties (NFCs) are required to report to trade repositories, the Central Bank of Ireland requires NFCS that have “significant derivative positions” to complete an EMIR Regulatory Return (an ERR) on an annual basis. There is significant overlap between the information reported to the trade repository and that reported to the Central Bank of Ireland by way of the ERR.

(5) **Primary dealer reports:** There are also some differences in how Member States and their Debt Management Offices require their Primary Dealer reports with different templates, formats

and criteria thus not every DMO is following a Harmonised Reporting Format which requires separate IT builds and supervisory controls.

(6**) Definition of FX spot vs FX forward:** Members note that there have been differences in how Member States determined as being something to be classed as FX spot versus FX forward for a long time, though some recent guidance via MiFIR may have improved things in this matter.

(7) **Short Selling Regulation:** In the Short Selling Regulation there have been such inconsistencies noted by ESMA in their final report:

*"ESMA recognised in the CP that the processes for registration and submitting notifications, for the publication of data and for accessing published information are not harmonised. ESMA acknowledged that such lack of harmonisation creates additional administrative burdens and costs for position holders.*

…

*The majority (eight) of the ten respondents supported the creation of a centralised notification and publication system at Union level, stressing the need for harmonisation across the Union and reduction of the administrative burden and costs on market participants. A number of these responses underlined that each NCA has implemented its own system for receiving notifications (pre-approval processes to register, online platforms, email, fax, direct posting)."*

1.9 Are there any challenges in terms of processing the data, either prior to (i.e. within the reporting entity) or subsequent to (i.e. within the receiving/processing entity) it being reported?

- **Yes**
- No
- Don't know / not applicable

*If you answered yes to question 1.9, please elaborate and provide specific examples:*

ISDA agrees that there are challenges to processing the data:

When data is passed through the entire reporting chain i.e. where data is passed from one entity to another for ultimate reporting to the regulator, there exists the potential for an entity to either add to the reporting rules, or apply the rules differently. This commonly happens:

(1) Where a trade repository adds to the reporting rules, or applies the rules differently when complying with EMIR;

(2) Where a trading venue adds to the reporting rules, or applies the rules differently when complying with MiFID II/R such as under the transaction reporting rules or under the commodities position reporting regime;

In both cases, it means that firms are then required to perform a transformation of the data to meet their requirements. The challenges in both examples can be multiplied when it is necessary for firms to report via multiple intermediaries which may have different requirements.

**To illustrate:**

MiFID II/R transaction reporting – trading venue ID code:

The trading venue ID code is required for transaction reports under Article 26 of MiFIR (Field 3 of Table 2 of Annex I of Commission Delegated Regulation (EU) 2017/590). The code is a number that is generated by the trading venue to identify the market side execution of the transaction. The trading venue then provides the number to the buying and selling parties, who in turn must populate their transaction report with the code. Firms therefore wholly depend on the trading venues to provide them with this data to meet their own reporting obligations.

The current problem is that trading venues are not generating the trading venue ID code in an acceptable format that enables firms to use the number in their transaction reports. Under the rules, the trading venue ID field must be populated with a code that is up to 52 alphanumeric characters. However, some venues are generating codes that include special characters (such as "/" or "&"), using lower case characters or creating codes that are longer than 52 characters.

As a result, individual firms have had to 'transform' the data by stripping out the special characters, converting lower case characters to upper case and truncating codes. This is not only inefficient from a firms' perspective but crucially, it creates a problem from a regulator's perspective because the trading venue ID code is intended to link orders with executed transactions in accordance with Article 25(2) of MiFIR which sets out the order data requirements for trading venues. If firms have been forced to transform the trading venue ID code then it means that the trading venue ID code that is stored at the trading venue will not be identical to the code reported by the firm. As a result, regulators will not be able to effectively link transaction reports with order data.

This illustrates one of the key challenges that firms face in the smooth and efficient processing of data for reporting. Namely, that firms often have a data dependency on another entity (in this case, a trading venue) who they rely on to fulfil their reporting obligations and that where that dependency fails, firms have had to implement inefficient and undesirable workarounds which interrupts the smooth processing of data for reporting.

We note that although there is a separate obligation under Article 12 of Commission Delegated Regulation (EU) 2017/580 (trading venue order data rules), which should theoretically require venues to generate this code in a particular format, the nature of this rule means that regulators are unlikely to immediately detect that a venue is not complying with the rule because trading venues only need to provide the data to the regulator upon request which means that in practice, this seems to have been more lightly supervised than firms' transaction reports that must be routinely submitted to the regulator on a daily basis and are subject to strict validation rules. In this situation, firms also rely heavily on regulators to monitor that trading venues are satisfying their obligations.

MiFID II/R transaction reporting – waiver field:

A similar example can be found with the waiver indicator field in MIFIR transaction reports (Field 61 of Table 2 of Annex I of Commission Delegated Regulation (EU) 2017/590. Under the rules, firms must indicate in their report whether a transaction that was executed on a trading venue was executed under a pre-trade transparency waiver.

This is another example of a data dependency as firms must rely on the venue to provide them with this information to complete their transaction report since it is the trading venues which apply to competent authorities for waivers. However, firms have faced difficulty in populating this field because there isn't a matching or corresponding rule in MiFID II/R which obliges trading venues to provide firms with the waiver indicator.

MiFID II/R commodities position reporting:

To enable monitoring of the position limits regime under Article 57(1) of MiFID II, Article 58(3) MiFID II requires members and participants of regulated markets and multilateral trading facilities and clients of organized trading facilities to report details of their own positions and those of their clients (until the end client is reached) for contracts traded on that trading venue.

Market participants note that one of the major trading venues is requiring member firms to report commodity positions on a gross basis. It is still unclear as to what exactly this trading venue means by "gross reporting" and clarity is being sought from the venue, however, this approach is inconsistent with other exchanges, which accept reports on a net basis. Also, for the sake of consistency with Article 57 of MiFID on position limits, the reporting under Article 58 should concern net positions. Generally, any divergence in the approach taken by an exchange to position reporting causes implementation issues as it forces firms to implement multiple reporting solutions, increasing operational complexity, which in turn increases the risk of breaching the regulation.

Processing of personal information

We refer to our response to section 1.3 (given below as reference). To work around the many internal information walls and secured systems which store personal information about staff firms have had many problems processing personal information to meet MiFIR requirements.

From section 1.3 also

A solution for personal information is needed:

The EC Fitness check offers a keen opportunity for the EU to improve a major issue facing the financial community because of the MIFID II/R requirements. The legislation requires trading venues, approved reporting mechanisms (ARMs) and investment firms to collect or receive personal information to identify traders, desk heads and clients. The personal information includes birthdate, surnames, passport numbers, national ids etc. Because of the way transaction and order-recordkeeping data is transmitted and stored as part of MIFID II/R, this personal information is passed between firms, clients, ARMs, trading venues and regulators and stored in multiple locations on a daily basis. There are major problems with these requirements and processes:

1) These processes increase the risk of cyber breaches and identity theft as there are multiple points of access. It is also unclear how good the standards of security are at the various points in the process. This situation is a breach of responsibility to protect the identities of individuals operating in good faith within the financial markets.

2) In some countries (primarily outside of the EU), it is illegal to share the personal information due to local data protection and privacy laws. This problem has been created by the broad extraterritorial scope of MiFID II/R as well as the fact that EU firms serve non-EU clients which are not subject to the same obligations. This puts all the parties involved in the process from end to end in the situation of having to be either non-compliant with the MIFID II/R requirements; or to be limited in the partners they can trade with. This could cut off access of such participants to certain markets and transactions.

3) Because trading venues are loath to hold and transmit this personal data, several have attempted to implement solutions that minimize the number of times personal data is transmitted and stored. They are using short codes to identify the parties in the daily reporting, and retain a mapping file to the actual personal data in separate data store. While this is a step in the right direction, each venue is using its own solution creating significant administrative burden for investment firms and clients to comply with different operational requirements from the multiple venues they deal with.

ISDA with several other trade associations wrote to ESMA on 2 October 2017 to highlight these issues and to recommend a solution to the problem. Specifically, the letter states: "The associations and their members believe that data privacy and security concerns can be optimally minimized through use of a unique, anonymous identifier included on all order records and transaction reports. This would be a longer-term project and would potentially require a change to RTS 22 [transaction reporting] and 24 [order data] of MiFIR. However, we believe this approach would provide sufficient transparency to allow regulatory authorities to monitor for market abuse while protecting employees of investment firms. There are potentially multiple ways to implement a unique identifier for traders and decision makers. For example, a central data hub could be used to generate and store mappings between the IFPD [investment firm personal data] and a unique code generated for the particular individual."
We believe EC Fitness Check provides the opportunity to reconsider the current approach and instead, adopt a solution that leverages an anonymous, standardized identifier for individuals in trader and decision maker roles. The same framework for such personal information/data could be reused across regulations rather than solving solely for the MiFIR requirements. We would encourage the EC to consider working together with the industry, other regulators and standard setters to establishing a solution to this issue.

<u>Differences in requirements of some receiving NCAs for MiFID II/R reporting:</u>

As mentioned elsewhere, ISDA notes that even in cases where the reporting rules should in theory be fully harmonized across the EU by virtue of being included in a Regulation, there has still been some national divergences in the practical interpretation of the rules which has caused problems for firms processing data for submissions to different NCAs. For example, in the area of Article 26 MiFIR transaction reporting, one major national competent authority (NCA) has taken a divergent interpretation of how to populate Field 37 of Table 2 of Annex I of Commission Delegated Regulation (EU) 2017/590 which is the 'country code of the branch membership'.
This NCA requires that the field is to be populated to identify the country of a branch of the investment firm whose market membership was used to execute the transaction. The NCA has stated that where a firm executes a transaction as a systematic internaliser (SI), it considers that the SI is a trading venue and therefore is requiring firms to populate this field with the two letter country code of the location of the SI and is rejecting reports which do not satisfy this interpretation. This is contrary to the Delegated Regulation and MiFID II/R which classifies trading venues as regulated markets, multilateral trading facilities and organized trading facilities (i.e. it does not include SIs in the definition). In addition, it is nonsensical to apply the concept of a market membership to SIs since SIs do not have members or participants. This highlights that in some cases, NCAs are superimposing requirements or are interpreting the rules in a way that undermines the benefits of a harmonized reporting regime.

1.10 Are there any negative environmental and/or social impacts related to supervisory reporting stemming from EU legislation?

- **Yes, both environmental and social**
- Yes, environmental only
- Yes, social only
- No
- Don't know / not applicable

*If you answered yes to question 1.10, please elaborate and provide specific examples:*

ISDA does not feel able to comment on environmental impact, whilst noting that, in general, any waste of resource may have environmental impact.

In terms of social impact, ISDA members observe that some smaller clients are no longer trading in-scope products, as they feel supervision should be limited to regulated firms. They have the view that reporting their details, including the need for LEIs/specific natural person identifiers, places the burden of regulation on them as clients. The result is that such clients have limited their participation in the market and therefore their opportunity to access investments.

# Section 2: Quantifying the cost of compliance with supervisory reporting requirements

2.1 Is supervisory reporting in its current form unnecessarily costly for its intended purposes (i.e. ensuring financial stability, market integrity, and investor protection)?

- **Yes**
- No, it is at an appropriate level
- Don't know / not applicable

2.2 To what extent the following factors contributed to the excessive cost of supervisory reporting

*Please indicate the relevance of the following factors by giving each a rating from 0 (not contributed at all) to 4 (contributed greatly).*

- **i. Too many requirements**
- **ii. Need to report under several different reporting frameworks**
- iii. Lack of interoperability between reporting frameworks and/or between receiving/processing entities or supervisory authorities
- **iv. Overlapping requirements**
- **v. Redundant requirements**
- **vi. Inconsistent requirements**
- **vii. Unclear/vague requirements**
- viii. Insufficient use of (international) standards
- **ix. Need to introduce/update IT systems**
- **x. Need for additional human resources**
- **xi. Too many/too frequent amendments in the relevant legislation**
- **xii. Lack of a common financial language**
- xiii. Insufficient use of ICT Note
- xiv. Insufficient level of automation of the reporting process
- **xv. Lack of (adequate) technical guidance/specifications**

ISDA's members would generally agree that all the factors listed are relevant and contribute greatly to excessive cost possibly perhaps with the exception of "*Need to report too frequently*" which ISDA's members have no particular issue with once the correct systems are in place. That said, manual or non-automated reporting is clearly burdensome if reporting is required frequently. Similarly, additional or redundant reporting requirements mean that market participants must spend resources[6] at times needlessly, therefore alignment of frameworks is so important in even the short term.

ISDA's members would draw the E.C.'s attention to the footnoted report [7] which shows the burden of regulatory compliance and the low levels of automation, which supports the view espoused on impact to resources both IT and human.

Items above in bold are the key factors ISDA's members have noted. A move to supervisory regimes in which firms are only required to report once, or in which only one view of trades and positions is provided for each transaction to regulators, would address these factors.

Further, ISDA remains an advocate of supervisory reporting regimes which only require one side to report trade details. Dual-sided reporting, such as under EMIR, needlessly generates requirements on end-users and smaller counterparties who do not have the infrastructure to support a full reporting. Even when delegated reporting is permitted the industry has to commit money and resources to reconcile data reported on a party's behalf. Similarly, and more generally extending to other supervisory reporting regimes, the initial and ongoing costs and administration of items like the LEI and resources spent in applying for natural person IDs even when delegating reporting are burdensome for smaller counterparties. When this cohort of smaller counterparties are required to report data under a supervisory reporting framework, it is often not to the benefit of data quality or integrity.

While we agree in theory that there is a "Lack of a common financial language" (xii.), in the publication of regulatory technical standards and other legislative texts, there are standards such as Financial Products Markup Language ("FpML") and ISDA's Common Domain Model ("ISDA CDM") (in development) which can be used to represent financial products such as derivatives. So this factor may be more nuanced. The correct standard or language may exist but needs to be supported by regulators of market and not just used by practitioners in the same market. Regulators and market practitioners should use the same data standards, and where possible the same data for their business and regulatory goals.

ISDA would also caution against endorsing particular standard without requisite research into appropriateness for a particular domain. We would note here the development of global recommendations by CPMI, IOSCO, and the FSB for the harmonisation of the **Unique Transaction Identifier (UTI), Unique Product Identifier (UPI), and Critical Data Elements**

[6] For example, from Q2.2: The (ix) need to introduce/update IT systems and the (x) need for additional human resources.

[7] https://aitegroup.com/report/regtech-reality-check-truth-about-compliance-technology

**(CDE).** Within the CDE work[8] in particular, the ISO 20022 standard is proposed as a potential reference standard for data elements such as price (2.37), spread (2.43) and strike price (2.46), for example, however, the CDE proposals and draft guidance do not align with elements found in ISO 20022 based templates developed by ESMA for MiFIR and EMIR.

*Please specify what other factors, if any, contributed to the excessive cost of supervisory reporting:*

Please indicate the relevance of the listed factors by giving each a rating from 0 (not contributed at all) to 4 (contributed greatly).

2.3 To what extent have the following types of legislatives/regulatory requirements been a source of the excessive compliance costs in terms of supervisory reporting?

i) Supervisory reporting requirements imposed by EU Regulations and/or Directives **4**

ii) Different Member State implementation of EU financial legislation, resulting in diverse national supervisory reporting requirements for the same financial entity/product **2**

iii) National supervisory reporting requirements in addition to those in EU legislation for a specific financial entity/product **1**

iv) Other supervisory reporting requirements in addition to those in EU legislation for a specific financial entity/product (please specify) **4**

Due to the global nature of ISDA's membership, and our members' multinational operations, our members are impacted by any legislation which imposes a supervisory reporting framework on derivative markets in every reporting jurisdiction. Due to the complex EMIR Regulatory and Implementing Technical Standards and the requirement that reports come from both parties to the trade and match in terms of format and content, EMIR has been the most burdensome reporting requirement on this derivatives product set thus far. Hence, item 2.3(i) is rated as contributing greatly to costs.

However, as a result of the 2009 G20 Pittsburgh Summit commitments to have OTC derivatives reported to trade repositories, reporting of the same derivative products, often for the same transactions, is required in other G20 states. This is because to date, the jurisdictions of the major derivatives markets have all implemented reporting frameworks (e.g. EU (to NCAs & ESMA), North America (to CFTC, SEC, and applicable Canadian provincial regulators), Japan (to JFSA), Hong Kong (to HKMA), Singapore (to MAS), Australia (to ASIC), etc.). As mentioned, in some cases these reports are often duplications of reports which are sent to a regulator in a different jurisdiction.

The most important message ISDA's members would like to convey is that it is possible to take the view that different regulatory requirements across multiple regimes yield unnecessary costs

[8] https://www.bis.org/cpmi/publ/d160.pdf

and if market participants could "report once" or "permission access to data once" ("permission once") to the relevant regulators, in a relevant location depending on the entity's setup and operations it would be of great benefit to industry and regulators alike. There is an opportunity now to harmonise reporting globally and when aligned combine requirements to achieve a report once or *permission* once framework.

2.4 Does the obligation to use structured reporting[9] and/or predetermined data and file formats[10] for supervisory reporting increase or decrease the compliance cost of supervisory reporting?

- Increases the compliance cost
- Decreases the compliance cost
- **Does not impact the compliance cost**
- Don't know / not applicable

*Please provide specific examples to substantiate your answer to question 2.4:*

Any effort to review reporting requirements should also provide an opportunity to increase consistency in reporting definition, values and formats with third country jurisdictions, and to ensure that industry participants can report using identical formats across the globe. For instance, while we note that Europe is increasingly mandating the use of the ISO20022 format, FpML remains the predominant messaging standard for OTC derivatives, electronic confirmation and electronic reporting of transactions.

We agree that templates have to be used in the current structure, and are more concerned with the appropriateness of these templates (applying one template for disparate product or asset class sets) and the potential for misinterpretation of how those templates should be used (once proposed a template needs a huge amount of accompanying guidance documentation and validation rules to stand any chance of gathering meaningful data if not in line with formats use by firms in day to day business). Imposing templates which are not used in the industry leads to additional costs and unnecessary operational impacts. These issues are made worse if new system infrastructure(s) are imposed on the industry in order to make the templates operationally functional.

ISDA would advocate a more radical approach to reporting whereby regulators are able to more directly "see" the same data which firms use for business processes, and are able to aggregate and manipulate the data for their regulatory objectives, rather than the more indirect route of asking firms to provide reports, which are plagued with inconsistency and interpretive problems. This is one of the key long term goals of ISDA's Common Domain Model initiative.

[9] (i.e. templates or forms in which specific data elements to be reported are listed).

[10] (i.e. (i) the exact way in which the individual data elements are to be encoded or (ii) the file format in which the information to be reported is exchanged/submitted).

2.5 Please specify the supervisory reporting frameworks to which you are subject (or, in the case of entities receiving and/or processing the data or supervisory authorities, which you deal with or make use of):

Some of the reporting frameworks which ISDA's members are subject to are given below:

- MiFID II/MiFIR (transaction reporting, commodities position reporting, pre- and post-trade transparency reporting, instrument reference data provision, Best Execution requirements etc.)
- EMIR reporting of derivatives
- Securities Financing Transaction Regulation (SFTR)
- Short Selling Regulation (SSR)
- Benchmark Regulation
- Market Abuse Regulation
- Money Market Statistical Reporting (MMSR) – to ECB
- Sterling Money Market Reporting – to BoE
- Bank of England transaction level reporting (capital related)
- COREP (capital reporting)
- FINREP (capital reporting)
- Liquidity reporting (to the EBA)
- Pillar 1,2, 3 disclosures (capital related)
- OTC derivatives reporting analogous to OTC element of EMIR in other jurisdictions such as:
    - North America (to CFTC, SEC, and applicable Canadian provincial regulators)
    - Japan (to JFSA),
    - Hong Kong (to HKMA/SFC),
    - Singapore (to MAS),
    - Australia (to ASIC),
    - etc.

2.5.1 Please estimate the cost (in monetary terms and as a percentage of operating cost) for your entity of meeting supervisory reporting requirements (or, in the case of entities receiving and processing the data or supervisory authorities, of processing the data).

ISDA's members noted the difficulty in proceeding with the collection of budget and resource costs. To ensure that all members provide the same granular level of data, which can then be aggregated, compared, and analysed meaningfully, more precise questions are required, for example specifying each regulatory framework and accompanying entity scope and business functions[11] which should be included in estimates. This to make sure that these statistics are

[11] For example, a portion of any compliance function will provide initial and ongoing support on reporting framework implementations or trading or operations systems and processes may have had to be adjusted to meeting a new reporting framework, when and how such costs are estimated needs to be clear.

reflective of the true cost of implementation and normalised across responding firms who may have very different operations. Without an agreed approach these numbers might be meaningless, as ISDA will have aggregated disparate information.

ISDA members would like to qualify further that they are generally open to sharing such information and estimates of costs and resources bilaterally with the E.C., should the E.C. desire.

a) Average initial implementation cost (i.e. one-off cost):

a i) please estimate its average initial implementation cost (i.e. one-off cost) in euro for your supervisory reporting frameworks:

- I am able to provide an estimate
- Not possible to estimate

Average initial implementation cost in euro:

Or please explain why you cannot estimate the average initial implementation cost:

a ii) please estimate the average initial implementation cost (i.e. one-off cost) as a percentage of total assets/turnover/other:

- I am able to provide an estimate as a percentage of total assets
- I am able to provide an estimate as a percentage of turnover
- I am able to provide an estimate as a percentage of another basis
- Not possible to estimate

Average initial implementation cost as a percentage of total assets:

Average initial implementation cost as a percentage of turnover:

Please specify on which other basis you are able to estimate the proportion of the average initial implementation:

Average initial implementation cost as a percentage of the above-mentioned basis:

Please elaborate on why you cannot estimate the average initial implementation cost as a percentage of total assets/turnover/other:

b) Annual running cost (i.e. recurrent cost) in 2016:

b i) please estimate annual running cost in 2016 in euro:

- I am able to provide an estimate
- Not possible to estimate

Annual running cost in 2016 as a percentage of operating cost:

Please elaborate on why you cannot estimate the annual running cost in 2016 as a percentage of operating cost:

c) Average annual running cost (i.e. recurrent cost) over the last 5 years:

c i) please estimate average annual running cost over the last 5 years in euro:

- I am able to provide an estimate
- Not possible to estimate

Average annual running cost over the last 5 years in euro:

Please elaborate on why you cannot estimate the average annual running cost over the last 5 years as a percentage of operating cost:

Please elaborate on why you cannot estimate the average annual running cost over the last 5 years as a percentage of operating cost:

d) Average annual running cost (i.e. recurrent cost) over the last 10 years:

d i) please estimate average annual running cost over the last 10 years in euro:

- I am able to provide an estimate
- Not possible to estimate

Average annual running cost over the last 10 years in euro:

Please elaborate on why you cannot estimate the average annual running cost over the last 10 years in euro:

d ii) please estimate the average annual running cost over the last 10 years (i.e. recurrent cost) as a percentage of operating cost:

- I am able to provide an estimate
- Not possible to estimate

Average annual running cost over the last 10 years as a percentage of operating cost:

Please elaborate on why you cannot estimate the average annual running cost over the last 10 years as a percentage of operating cost:

2.5.2 Please indicate whether the above figures concern your entity as a whole or only a part thereof (i.e. a department, a subsidiary, a branch, a regional division, etc.).:

2.6 Which reporting frameworks contribute the most to the cost of compliance with supervisory reporting requirements? Please indicate as many frameworks as necessary and explain your answer.

2.7 Does your entity deal with supervisory reporting directly in-house or has this task been outsourced to an external provider?

- Fully in-house
- **Partially outsourced**
- Fully outsourced
- Don't know / not applicable

Please elaborate on your answer to question 2.7 and, if possible, explain the reasons for your business choice:

For larger firms in ISDA's membership, supervision is typically all in-house with some reporting activities or second line of implementation performed by external infrastructure providers, trade repositories and matching platforms, e.g. MarkitWire, DTCC and UnaVista. This can be for certain asset classes in some cases or for specific businesses or legal entities.

Smaller firms in ISDA's membership, or those for whom derivative trading is not a primary business may delegate and outsource reporting to counterparties, but are then often subject to a reconciliation processes, which results in an additional burden and cost.

2.8.1 Please indicate the size of your entity's department dealing with supervisory reporting in full-time equivalents (FTE):

2.8.1 a) at the end of 2016:

- I am able to provide an estimate
- Not possible to estimate

Number of full-time equivalents:

Please elaborate on why you cannot estimate the size of your entity's department dealing with supervisory reporting in full-time equivalents (FTE) for 2016:

2.8.1 b) in 2009:

- I am able to provide an estimate
- Not possible to estimate

Number of full-time equivalents:

Please elaborate on why you cannot estimate the size of your entity's department dealing with supervisory reporting in full-time equivalents (FTE) for 2009:

2.8.2 Please indicate the size of your entity's department dealing with supervisory reporting as a percentage of the compliance work force:

10%

2.8.2 a) at the end of 2016:

- I am able to provide an estimate
- Not possible to estimate

Percentage of the compliance work force:

Please elaborate on why you cannot estimate the size of your entity's department dealing with supervisory reporting as a percentage of the compliance work force for 2016:

2.8.2 b) in 2009:

- I am able to provide an estimate
- Not possible to estimate

*Percentage of the compliance work force:*

*Please elaborate on why you cannot estimate the size of your entity's department dealing with supervisory reporting as a percentage of the compliance work force for 2009:*

2.8.3 Please indicate the size of your entity's department dealing with supervisory reporting as a percentage of the total work force:

2.8.3 a) at the end of 2016:

- I am able to provide an estimate
- Not possible to estimate

*Percentage of the total work force:*

*Please elaborate on why you cannot estimate the size of your entity's department dealing with supervisory reporting as a percentage of the total work force for 2016:*

2.8.3 b) in 2009:

- I am able to provide an estimate
- Not possible to estimate

*Percentage of the total work force:*

*Please elaborate on why you cannot estimate the size of your entity's department dealing with supervisory reporting as a percentage of the total work force for 2009:*

2.8.4 Please indicate whether the figures you provided in your answers to questions 2.8.1, 2.8.2 and 2.8.3 concern your entity as a whole or only a part thereof (i.e. a department, a subsidiary, a branch, a regional division, etc.):

2.9 Have any of the EU level reporting frameworks brought (or partially brought) cost-saving benefits (e.g. simplified regulatory reporting, facilitated internal data management processes, improved risk management, increased operational efficiencies, etc.)?

- ◌ **Yes**
- ◌ No
- ◌ Don’t know / not applicable

*If you answered yes to question 2.9, please indicate which frameworks, explain in what way they have contributed to cost-savings, and if possible quantify the savings (with respect to previous or other similar reporting frameworks):*

To the extent that previously there would have been national rules which are now uniform across the EU, the statement “EU level reporting frameworks brought (or partially brought) cost-saving benefits (e.g. simplified regulatory reporting)“ can be viewed as true in that narrow sense. However, more work to unify the frameworks and harmonise with global rules and firms’ internal data models is required at this time. Ancillary benefits (e.g. facilitated internal data management processes, improved risk management, increased operational efficiencies) are harder to quantify at this stage as the burden of large implementations in recent years has not yet subsided, and in the case of MiFIR requirements are still ongoing. However, while consistency in requirements across a wider region is a clear benefit, if the resulting reports are not correct for the regulatory goal in the first place, then consistency is only a partial improvement, that is, as firms would just be consistently reporting inappropriate data etc.

## Section 3: Identifying possible ways to simplify and streamline supervisory reporting

3.1 Please indicate which of the following could reduce the compliance cost while maintaining a sufficient level of supervisory reporting to ensure that the intended objectives are achieved:

Please select all relevant answers that apply.
**We have highlighted in bold the top issues where we think improvements could be made to streamline reporting.**

| | Short term(2 years or less) | Long term(more than 2 years) | Don't know /not applicable. |
|---|---|---|---|
| Reduction of the number of data elements | ○ | ○ | ○ |
| **Clarification of the content of the data elements** | ○ | ○ | ○ |
| **Greater alignment of reporting requirements** | ○ | ○ | ○ |
| **Greater standardisation/use of international standards** | ○ | ○ | ○ |
| Development of a common financial language | ○ | ○ | ○ |
| **Ensuring interoperability between reporting frameworks and/or receiving/processing entities or supervisory authorities** | ○ | ○ | ○ |
| Greater use of ICT | ○ | ○ | ○ |
| Greater automation of the reporting process | ○ | ○ | ○ |
| **Other** | ○ | ○ | ○ |

*Please elaborate, in particular explaining how you believe the answer(s) you selected for question 3.1 could be achieved in practice:*

While below we support and elaborate on ideas for some of what we believe are the key issues from the provided list, firstly we provide some other points which ISDA's members would care to make generally about this list of issues:

- We don't think the EC's list is a true reflection of the true drivers behind the costs and complexities of reporting. One of the key problems is the **lack of sufficient time to implement reporting rules**.

- o The reporting rules are complex and usually require significant I.T. changes and these changes are not limited to single systems but can affect systems which you would not typically associate with reporting (e.g. HR systems – to report personal identity information under the trader ID field in MiFIR transaction reporting). More time is also needed because there are often data dependencies where we rely on external reference data (e.g. instrument reference data, LEI database, FIRDS) to correctly perform our own reporting.

- We think this could be improved by giving longer implementation times and limiting the issuance of last minute ESMA Q&As (or at least providing firms with implementation time before the Q&A guidance becomes effective). Furthermore, we would ask the EC to consider the possibility of **phased implementation**. For example, start reporting of reference data in the first phase so that this can reach a good level of data quality first, then phase in reporting of other elements such as transactions for basic products or one asset class.

- Similarly to the above two points, ISDA's members believe regulators and legislators should make sure the markets are really ready before implementing new regulatory regimes (issues such as the implementation of instrument reference data systems under RTS 23 of MiFIR and the determination of the scope of derivatives in MiFIR which hangs on the concept of defining what a concept called Traded on a Trading Venue (TOTV) means are cautionary tales which speak to that desire.)

- Notwithstanding the points we have made below in support of addressing the specific issues listed in the question, we agree that addressing them would no doubt have a positive effect, the issues listed don't speak to what the actual goal(s) of supervisory reporting frameworks are and recognition of inherent conflicts in trying to find a one-size-fits-all regime to disparate sets of market participants, products and asset classes as has been the experience thus far.

- Regulators should set out their regulatory goals for a new regulation, and then approach the industry domain experts for the market/domain, which is relevant to the new regulation, and for which data is required. Then the correct data sets and data sources can be identified which will allow a solution to be crafted to allow regulators to meet their regulatory objectives in the most efficient way. Then, if necessary, legislative instruments like regulatory technical standards can be written (if there is a competent authority access issue or new datasets or workflows are needed). (Though generally we should note, that ISDA's members believe a more flexible way to communicate requirements is preferable and effective, as they would be, for example, future proof to product and technology development, in a way in which regulatory technical standards are currently not.)

  - o With better initial industry consultation, requirements in EMIR such as i) and ii) below, both of which are considered redundant and were addressed in the statutory review of EMIR, due to the irrelevance of the data, and, availability of better quality data elsewhere respectively, may have been avoided.

i. the reporting of trades which were subject to EMIR but expired before the start date of the reporting regime, and

ii. the reporting of exchange traded derivatives.

**Greater alignment of reporting requirements**:

- We would strongly urge regulators to seek alignment, not just across reporting frameworks in the EU but also with international reporting frameworks, including coordination with:
    - The harmonization work which the CPMI, IOSCO, and FSB have undertaken for the UTI, UPI, and CDE.
    - The Commodity Futures Trading Commission (CFTC) Review of Swap Reporting Rules[12] and "Roadmap to Achieve High Quality Swaps Data" in which the CFTC will comprehensively review swap data reporting regulations found in Part 43, 45, and 49 of Commission Regulations. This is an opportune time, while the CFTC is drafting regulatory reporting amendments, for the European Commission/ESMA to discuss and coordinate with the CFTC to facilitate and ensure future alignment.
- Aligning EMIR reporting with other global regimes to greatly reduce the compliance cost associated with EMIR reporting: In line with other global reporting regimes for derivatives and even other supervisory regimes in the EU, we believe that EMIR should establish a market-wide principle that matched derivatives transactions should only be reported once, not twice to supervisors.
    - Such a system of single-sided (or entity-based) reporting for derivatives is already practiced in major jurisdictions such as the US and Canada and would align Europe's own system internationally.
    - As stated prominently elsewhere in our response, we also recognize that important work continues to harmonize derivatives reporting standards and enhance supervisory cooperation at a global level. Having a single-sided approach, aligning the parties responsible for reporting, and having equivalence recognition of reporting regimes is a part of this also.
    - *EMIR'S CURRENT REPORTING COMPLEXITY & CONTROLS*
        - The complexity of EMIR's current framework has created challenges of data quality for supervisors and burdens for participants alike.
        - Studies have highlighted the disparity between the data quality available to supervisors due to false negatives in an overly complex reporting

[12] http://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/17-33.pdf

framework compared with the matched transaction data which already exists on the books of counterparties. They have also highlighted the disproportionate cost burdens created by inefficiencies in current EMIR reporting framework.

- Under EMIR's current reporting framework participants are subject to strong controls to ensure their positions remain matched throughout the transaction cycle:

    - Confirmation – prior to execution participants must confirm with one another that the key economic terms of the transaction match

    - Reconciliation – on an ongoing basis participants must reconcile their positions to ensure they continue to match – with any differences resolved in a timely manner

- Having established such a robust control framework within EMIR, the most efficient and effective output for supervisors and participants alike is a single report of each transaction, not duplicate dual-sided reporting requirements.

**How can *greater alignment of reporting requirements* be achieved in practice?**

- When regulators are looking to propose new reporting rules, we would urge them to:

    - **(1) Look at existing pieces of legislation and see if existing rules already give them the information they are looking for** – this to avoid duplication and inconsistencies

    - **(2) Engage with industry early** (before they formally propose the new rules) because firms have first-hand experience with complying with multiple pieces of legislation and will be able to identify overlaps.

    - **(3) Engage with international regulators** to seek alignment and consistency across jurisdictions. Many ISDA members currently have to report to both U.S as well as EU regulators – for example, for OTC derivative transactions we are required to comply with both CFTC/SEC rules in the U.S and EMIR/MiFID II/R rules. The CFTC published its reporting roadmap last year where they are looking to re-evaluate their reporting regime. This would be a good opportunity for EC/ESMA to discuss with the CFTC about ensuring future alignment.

- The EC may wish to consider whether it would be possible to move to a single (albeit possibly larger) report rather than having to do separate reports under MiFIR and EMIR. This is because there are substantial overlaps between the content that needs to be reported under each regime. We understand the purpose of the reports are different but we think it is worth considering developing a report that presents the data in 'objective' terms (i.e. not from a systemic risk or market abuse surveillance perspective) and then regulators could 'cut' the data to create the view that they need.

- Similarly, appropriateness of the scope and applicability of regulations to different market participants. For example, it is widely viewed that entities such as NFCs should have been exempt from EMIR reporting, the data could have come from their dealers (i.e. financial counterparties). Where possible the “golden record” of data should be the focus of regulators data gathering objectives and this principle should be paramount.

- Ideally, A global regulatory approach, and the development of a common regulatory reporting structure, in cooperation with the industry, would significantly reduce costs

***Clarification of the content of the data elements:***

- This is a significant concern for us – there aren’t always clear rules or guidance about how to populate fields. This has led to different firms reporting certain types of transactions in different ways because there isn’t a clear way to interpret the rules. This has led, in part to poor matching rates under EMIR. We anticipate that clarity on allowable fields and definitions resulting from the final recommendations on CDE will help alleviate some of these concerns, however, are cognizant that regulators must implement the final recommendations in the same way in order for concerns to be eliminated.

- In addition, the content of the fields isn’t always aligned– for example, collateral valuations are reported differently under CFTC vs EMIR rules.

- We think this could be improved through earlier and frequent consultation with the industry about how trading scenarios should be reported, ideally before the level 2 rules are finalised.

- The current ESMA Q&A process is also problematic because ESMA Q&As tend to be piecemeal, slow and are often published on short notice, without sufficient time for implementation. Ultimately, this has meant that reporting rules have not developed coherently, which has increased costs and led to poorer quality data for regulators. ESMA should have a clear approach to Q&As with pre-publication drafts or a light form of consultation so that impacted parties can feedback.

- ESMA and other supervisory authorities should consider greater use of industry calls, webinars, and industry advisory committees.

In summary:

- In the near term, for derivatives markets, harmonizing reporting requirements - scope, data elements, identifiers, and privacy are critical to make the data useable. The anticipated benefits resulting from the CPMI-IOSCO and FSB final recommendations on globally harmonised data elements for trade reporting is expected to help in this respect. Given the global foot print of reporting parties, having disparate and sometime conflicting requirements causes significant overhead in meeting the obligations.

- In the long term, for derivatives markets, the ISDA initiative in defining a Common Domain Model across economic, legal, and process elements of financial instruments, would enable adoption of technology like cloud computing and distributed ledgers to promote efficient and timely data access with front-to-back lineage and consistent aggregation methodology to track systemic risk.

*Concerning the development of a common financial language (i.e. a set of harmonised definitions of the terms used in supervisory reporting):*

3.2 To what extent would the development of a common financial language help reduce the compliance cost of supervisory reporting?

- **Very significantly**
- Significantly
- Moderately
- Marginally
- Not at all
- Don’t know / not applicable

*Please elaborate on your answer to question 3.2:*

Consistency of language across regulations published by the EC would be a welcome development as there are many examples across the supervisory reporting frameworks of synonym terms, similar terms and misnomer terms. The multitude of Q&As and opinions published and questions which competent authorities receive regarding the meaning of phrases or terms found in technical standards are testament to this.

While a common financial language within the publications of the EC can no doubt help with better implementation of regulatory requirements, if not grounded in relevant market terminology or using a (data) dictionary which is also used by market participants for their business in the same market/domain, an item can still be interpreted to mean different things in different parts of legislation or even in some cases different sections of the same legislation as happens today and the common financial language would not resolve the underlying issue.

Too prescriptive a language could also add another layer of complexity and exacerbate the cost of compliance where bespoke coding is required to meet just one regulator’s requirements/template. Similarly, a financial language would only help to reduce cost if the same financial language is used across regulations and regulators globally and (to reiterate) is grounded in (or built from) the domain specific standards firms use in their businesses day to day.

In summary, we believe that a common financial language would not fix all issues (but could definitely “normalise” E.C. published regulatory technical standards). There should be a move towards common language, but there should be recognition of practical realities. Actual language experience - both spoken and even technical programming languages - should be considered. Different languages are used to solve different problems that have shared context - so linking of context-based solutions which individually work for particular markets or domains like ISDA's CDM/FpML, FIX, ISO20022, FIBO, etc. should be the goal versus trying to convert all others into one.

In developing or choosing a standard to use as a common financial language (if that is the approach the E.C. intends to take), ISDA's members would note some caution is needed. There should be a general understanding that it is naive to believe there is a single solution that would be appropriate across all participants. Through a consultation process, the following of a 'majority wins' approach for choosing a standard or other solution ignores the realities and activities in practice.

In many cases, a majority may, in fact, be less than 50% of the community in whole given any number of reasons - fragmentation may be occurring for valid reasons, or the sample resulting from any consultation may not be representative of the wider community to be affected.

Finally, where there may not be consensus, the presence of a significant minority should be indicator enough that a single approach or standard will be problematic from many perspectives; cost in many cases being of the least concern whereas impact to operational processes, data quality and forcing changes established working foundational infrastructure being unintended consequence. This is not to say that standards should not be pursued. But they need to be pursued in a more targeted and specific way, as opposed to trying to make/adopt a single standard across a wide ranging set of needs and regulations.

There are instances/cases/examples for which we believe regulators should be cautious in taking a 'one-size-fits-all' approach. For example, the ISDA response to the CDE consultations conveyed that we believe individual authorities should have the ability to determine which of the 100+ critical data elements proposed by the CPMI-IOSCO are appropriate to meet supervisory obligations and therefore required to be reported in their respective jurisdictions.

3.3 To what extent would the development of a common financial language help improve the management (i.e. reporting or processing) of supervisory data required to be reported?

- **Very significantly**
- Significantly
- Moderately
- Marginally
- Not at all
- Don't know / not applicable

*Please elaborate on your answer to question 3.3:*

For ISDA's specific domain of derivatives, the common standard should encompass trade event processing. This will enable maintaining a consistent representation through the trade lifecycle. This is ISDA's aim in the ISDA CDM project.

3.4 – Agreement

3.4 Are there any prerequisites for the development of a common financial language?

- **Yes**
- No
- Don’t know / not applicable

*If you answered yes to question 3.4, please elaborate and provide specific examples:*

Agreement on common data elements and representation. Driving a common standard requires collaborative effort and engagement across multiple industry participants with inputs from public sector. Furthermore, ISDA’s members’ preference would not be for the development of some form of new common financial language for regulations, but to leverage what is there today, keeping in mind how appropriate those existing tools are for the reporting required.

3.5 Are there any obstacles to the development of a common financial language in the short term (i.e. 2 years or less)?

- **Yes**
- No
- Don’t know / not applicable

*If you answered yes to question 3.5, please elaborate and provide specific examples:*

Driving a common standard requires collaborative effort and engagement across multiple industry participants with inputs from public sector. ISDA members would expect a simplification of reporting processes based on existing standards and tools (relevant to the specific domain that have been already adopted by users as common convention). In terms of timing it would be necessary to consult closely with the industry on planned changes, as these can be resource intensive for firms, and sensible lead times need to be factored in to all regulatory reporting changes (something that was not the case for MiFID II/MiFIR with resulting implications for data quality only now becoming apparent).

*Concerning interoperability between reporting frameworks (i.e. alignment/harmonisation of the reporting requirements) and/or receiving entities (i.e. the ability of entities receiving supervisory data to share it amongst themselves in such a way that it remains legible):*

3.6 To what extent would ensuring interoperability between reporting frameworks and/or receiving entities help reduce the compliance cost of supervisory reporting?

- Very significantly
- Significantly
- Moderately
- Marginally

- Not at all
- **Don’t know / not applicable**

*Please elaborate on your answer to question 3.6:*

The idea of introducing interoperability between reporting frameworks seems to ISDA’s members to be defined too broadly, what is this supposed to mean? That all frameworks are equivalent, which would surely not make sense. It seems that defining the objective of interoperability is likely the top challenge to tackle with the current set of reporting frameworks - finding inflection points versus trying to force commonality across all contexts and use cases is likely to yield better, more actionable and productive success.

Alignment of reporting requirements (fields and definitions) is something ISDA members support throughout this response and generally and previously advocated for in responses to consultations related to EMIR, MiFIR, and MAR etc. The important thing is that, in conjunction with the industry, the analysis of the data elements required across EU reporting must be completed, together with assessments of the relevant standards that could be used for those data elements.

However, where the same data about the same transactions is required by two reporting frameworks the goal has to be to combine them into one report/framework regardless of the regulatory goal or receiver of the data.

Finally, if the requirements and data attributes are standardized, implementing them should technically become platform agnostic. Also, leveraging shared data technologies such as Distributed Ledgers, could potentially eliminate the need for elaborate reporting frameworks. However, once data attributes are standardised, there should be little need for duplicate reporting of the same data to different regulators and the aim should be to design a "report once" framework, with individual regulators able to consume the data they require from a single source.

3.7 To what extent would ensuring interoperability between reporting frameworks and/or receiving entities help improve the management (i.e. reporting or processing) of supervisory data required to be reported?

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all
- **Don’t know / not applicable**

*Please elaborate on your answer to question 3.7:*

If data can be more efficiently exchanged then hopefully there is a general benefit here in terms of the management of data by authorities. Again though it is not possible to be precise about how this would all work in practice, given the unknown variable of the systems used by the authorities.

3.8 Are there any prerequisites for introducing greater interoperability between reporting frameworks and/or receiving entities?

- **Yes**
- No
- Don't know / not applicable

*If you answered yes to question 3.8, please elaborate and provide specific examples:*

As a prerequisite to introducing any interoperability, there needs to be **agreement amongst regulators across different reporting regimes (including overseas regulators) about how to report certain fields and scenarios**. Adoption of international standards (UPI, CDE, UTI, LEI, etc.) are key to this but the international standards do not currently cover all types of fields so there is still a need for regulators to develop, at a global level, a consistent approach to reporting. For example, a derivatives transaction should be reportable in the same way regardless of whether it is under EU rules or under CFTC or SEC rules; and similarly, regardless of whether it is reported under MiFIR or EMIR.

We would emphasise that financial systems are global and therefore for regulators to be able to accurately monitor markets, reporting needs to reflect this. Firms' trade with international counterparties and on behalf of international clients and are often required to report to more than one regulator, which makes harmonised reporting essential to streamlining reporting and reducing costs. From a regulator's perspective, we would also expect that having a harmonised and coherent approach to reporting would facilitate information sharing by making the data more comparable and help enable oversight at a global level.

3.9 Are there any obstacles to introducing greater interoperability between reporting frameworks and/or receiving entities in the short term (i.e. 2 years or less)?

- **Yes**
- No
- Don't know / not applicable

*If you answered yes to question 3.9, please elaborate and provide specific examples:*

It would be necessary to consult closely with the industry on planned changes impacting industry as these can be resource intensive for firms, and sensible lead times need to be factored in to all regulatory reporting changes associated with delivering this aim.

3.10 To what extent would greater use of ICT help reduce the compliance cost of supervisory reporting?

- Very significantly
- Significantly
- **Moderately**
- Marginally
- Not at all
- Don’t know / not applicable

*Please elaborate on your answer to question 3.10:*

Crucial to the application of ICT for this purpose is completion of the exercise to identify crucial data elements and a refinement of the approach to standards which we have covered in previous answers. We note that ICT is already used to a greater or lesser extent in reporting today, so a significant benefit can come from the application of such technology to a more focused and standardised data set.

3.11 To what extent would greater use of ICT help improve the management (i.e. reporting or processing) of supervisory data required to be reported?

- Very significantly
- Significantly
- **Moderately**
- Marginally
- Not at all
- Don’t know / not applicable

*Please elaborate on your answer to question 3.11:*

The benefits could be significant but it is difficult to offer a definitive answer as so much is dependent on the difference between the current ICT approach at authorities and any future changes adopted.

3.12 Are there any prerequisites for the greater use of ICT in supervisory reporting?

- Yes
- No

- **Don’t know / not applicable**

*If you answered yes to question 3.12, please elaborate and provide specific examples*:

The data strategy in terms of what is required to be reported, and the standards to be adopted for such reporting, all need to be clarified first.

3.13 Are there any obstacles to the greater use of ICT in supervisory reporting in the short term (i.e. 2 years or less)?

- **Yes**
- No
- Don’t know / not applicable

*If you answered yes to question 3.13, please elaborate and provide specific examples:*

This would be dependent on the progress relating to the steps mentioned in answer to 3.12. Could the necessary data strategy be agreed and put in place in this timeframe? Also allowance must be made for the lead time required for firms to make changes in their systems.

*Concerning greater automation of the reporting process:*
3.14 To what extent would greater automation of the reporting process help reduce the compliance cost supervisory reporting?

- **Very significantly**
- Significantly
- Moderately
- Marginally
- Not at all
- Don’t know / not applicable

*Please elaborate on your answer to question 3.14:*

3.15 To what extent would greater automation of the reporting process help improve the management (i.e. reporting and/or processing) of supervisory data required to be reported?

- **Very significantly**
- Significantly
- Moderately
- Marginally

- Not at all
- Don’t know / not applicable

*Please elaborate on your answer to question 3.15:*

3.16 Are there any prerequisites for a greater automation of supervisory reporting?

- Yes
- No
- Don’t know / not applicable

*If you answered yes to question 3.16, please elaborate and provide specific examples:*

3.17 Are there any obstacles to a greater automation of supervisory reporting in the short term (i.e. 2 years or less)?

- Yes
- No
- Don’t know / not applicable

*If you answered yes to question 3.17, please elaborate and provide specific examples:*

3.18 What role can EU regulators play in facilitating or stimulating greater use of ICT in supervisory reporting?

- Crucial role
- **Important role**
- Moderate role
- Limited role
- No role
- Don’t know / not applicable

*Please elaborate on your answer to question 3.18 and provide specific examples of where and how you believe EU regulators could help:*

Clearly regulators as the rule setters and recipients of reporting are crucial in this regard as they define the requirements for reporting in terms of the content as well as the mechanisms that can be used.

3.19 What role can EU regulators play in facilitating or stimulating greater automation of the reporting process?

- Crucial role
- **Important role**
- Moderate role
- Limited role
- No role
- Don’t know / not applicable

*Please elaborate on your answer to question 3.19 and provide specific examples of where and how you believe EU regulators could help:*

3.20 What else could be done to simplify supervisory reporting while ensuring that regulated entities continue to fulfil their supervisory reporting requirements?

With incumbent regimes such as EMIR, regulators should have consistent messages and advice on interpretation for market participants. National competent authorities and all trade repositories (TRs) should all be aligned with ESMA at a minimum. Furthermore, this advice should be public and decisions about requirements transparent. For example, information on what fields are matched and how validations are implemented at trade repositories are not often publicised and are often contradictory with respect to some individual fields if not completely.

Prior to achieving loftier goals of “report once”, or allowing regulators sight of market participants own business day to day data. There would be near term value in a cross jurisdiction international data dictionary to identify opportunities to simplify and streamline within jurisdictions and across jurisdictions. The EC and EU regulators should encourage the work carried out by CPMI, IOSCO, and the FSB are conducting for the global harmonization of the **Unique Transaction Identifier (UTI), Unique Product Identifier (UPI), and Critical Data Elements (‘CDE’)**. The final recommendations on CDE should resolve noteworthy international reporting misalignment such as aligning definitions in North America, Europe and Asia reporting regimes for the allowable reportable values for collateralization[13].

Where international agreement is reached, it should not be ignored (e.g. CPMI IOSCO UPI, UTI, and CDE) and where there are many political agendas, pulling decisions in different directions, the output risks being watered down and rendered meaningless in terms of what participants had set out to achieve. This is an onerous and costly exercise, but if done well, then it will ultimately benefit market participants, as long it is not done in a cottage industry fashion creating further problems (e.g. inconsistencies between asset classes, forcing buy and sell concepts into derivatives, referring to the concept of legs).

[13] See Appendix to ISDA Response to Harmonisation of critical OTC derivatives data elements other than UTI and UPI – third batch (August 2017), https://www.isda.org/a/lZiDE/cpmi-iosco-cde3-isda-response-2-1-2-36-2-64-2.pdf.

3.21 Can you provide any practical example of improvements to data management processes that could be applied to supervisory reporting with a view to reducing the compliance cost and/or improving the management of supervisory reporting?

- **Yes**
- No
- Don’t know / not applicable

*If you answered yes to question 3.21, please specify and explain your suggestions:*

There is already a requirement imposed by ESMA on Data storage tenure. This can help improve the Data Management Process required for Supervisory Reporting. Regulatory authorities need to ensure that the rush for standardisation does not product square pegs for round holes, and that all standards choices are really fit for purpose. The goal of having one standard in all cases for the same data element is not necessarily always the best approach if that standard is stretched to breaking point in the process. In such circumstances choosing the right tools for particular circumstances will prove better in terms of data quality and costs than persisting with a one size fits all regime that does not deliver.