ISDA. | Safe, Efficient Markets

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

Re: Feedback on the draft Validation Rules and XML schemas under UK EMIR

Introductory comments

The International Swaps and Derivatives Association, Inc. ("ISDA") and its members appreciates the opportunity to provide feedback to the Financial Conduct Authority ("FCA") and Bank of England ("Bank") draft Validation Rules and XML schemas for the UK European Markets Infrastructure Regulation (UK EMIR) requirements. We are broadly supportive of the draft Validation Rules and XML schemas, and appreciate the alignment with the EU EMIR Refit (as proposed by the European Securities and Markets Authority ("**ESMA**")). There are however some changes we believe will improve the rules and schemas, as outlined below. We stand ready to provide additional information on any of these items as required.

Validation Rules

ISIN (2.7)
Article 7 of the technical standards state an ISIN is required if either:
>   (a) it is admitted to trading or traded on a trading venue;
>   (b) it is traded on a systemic internaliser and its underlying is admitted to trading or traded on
>   a trading venue or is an index or basket composed of instruments traded on a trading venue.

The Validation Rules for this field do not include all the conditionality referred to in item (b), i.e. the Validation Rules exclude the requirement for the underlying to be "admitted to trading or traded on a trading venue or is an index or basket composed of instruments traded on a trading venue".
We propose this conditionality is included in the Validation Rules for consistency with the technical standards.
We note the draft UK EMIR Validation Rules matches with EU EMIR, but we will propose the same change to ESMA.

UPI (2.8)
The third validation rule for this field is "If the field 2.7 is blank and the field 2.41 is populated with a MIC of a third-country organised trading platform, this field is optional." This aligns with the EU EMIR Validation Rules and we agree with its inclusion. We would like to highlight though that given this is a reconcilable field and populating the UPI field can be optional, we encourage the FCA provides clear guidance on the scenario(s) where neither an ISIN or UPI would be reported, as this will help avoid unnecessary reconciliation breaks.

Clearing obligation (2.30) & Cleared (2.31)
It is understood that removing the validation rule "If field 2.31 is populated with 'Y', this field shall be populated with 'UKWN'. 4 alphabetical characters." from field 2.30 has been proposed to provide visibility of whether a cleared trade is subject to the clearing obligations.
The ESMA Validation Rules for these fields are such that populating "UKWN" for cleared trades will have the meaning that the trade no longer has a clearing obligation (as the trade has been cleared). While we recognise "UKWN" may not be an obvious value to reflect this meaning, the end result essentially provides the same information as UK EMIR and as such, we propose the UK EMIR Validation Rules align with the EU EMIR Validation Rules.
Such alignment will reduce the divergence between rule sets while still providing the same information, along with reducing costs and the risks of incorrect reporting.

Early termination date (2.45)
The 'Changes' tab states this field has been "reinstated within the Correct action type in order to facilitate the scenario outlined in the validation rule". However, the Action Type 'CORR' is shown as being optional for both UK and EU EMIR Validation Rules, i.e. no change has been made to the UK EMIR rules. Is the intention for this field to be Conditional for Action Type CORR?

Counterparty 2 (1.9) & Nature of the counterparty 2 (1.11)
We note that the Validation Rules for these two fields have been changed from the rules published by ESMA, but the fields are not captured in in the 'Changes' tab. For both UK and EU EMIR Refit, the conditionality of the fields relates to whether Counterparty 2 is a natural person, but it is not clear on the reason for the change under UK EMIR. We would appreciate the FCA providing information on the change description and change reason for these two fields, similar to how the other changes are expressed in the 'Changes' tab.

Reconciliation

Counterparty 1 (Reporting counterparty) (1.4) and Counterparty 2 (1.9)
The 'Reconciliation tolerance' for these two fields refer to each other, i.e. field 1.4 says "Same as field 1.9" and field 1.9 says "Same as field 1.4". We believe these are reconciliation 'Conditions' and should be reflected as such, with the 'Reconciliation tolerance' for the fields changed to "Yes".
Please note, the draft Validation Rules align with EU EMIR, but we have made the same proposed change to ESMA.

Indicator of the underlying index (2.15) & Name of the underlying index (2.16)
The 'Reconciliation tolerance' for these two fields is shown as "Yes", but the reconciliation 'Conditions' are "NA". Therefore, we believe the 'Reconciliation tolerance' for these fields should be changed to "No".

We note that ESMA 'Guidelines for reporting under EMIR'[1] advises in Table 102 (section 7.4.3) that the values for these fields are to be the "List of benchmark(s) provided by the Authority". We encourage the FCA to provide clear guidance on the values to be populated for these fields. In particular, for the field 'Name of the underlying index' as this is populated with free format text (up to 50 alphanumerical characters).

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[1] https://www.esma.europa.eu/sites/default/files/library/esma74-362-2281_final_report_guidelines_emir_refit.pdf

Valuation method (2.24)

The 'Reconciliation tolerance' is shown as "No", but Conditionality is given for the field. We propose the tolerance for this field is amended to "Yes" to reflect the reconciliation conditions.

Please note, the draft Validation Rules align with EU EMIR, but we have proposed the same change to ESMA.

Master Agreement type (2.34)

The 'Reconciliation tolerance' is set to "Yes", but the 'Conditions' field is blank. We believe the tolerance should be set to "No" for this field.

Please note, the draft Validation Rules align with EU EMIR, but we have proposed the same change to ESMA.

Spread of leg 1 (2.93) & Spread of leg 2 (2.109)

The conditionality of the spread fields only allows a spread value to be populated if:

 (i) for 'Spread of leg 1', either the 'Indicator of the underlying index' (2.15) or 'Name of the floating rate of leg 1' (2.85) is populated, and

 (ii) for 'Spread of leg 2', if the 'Name of the floating rate of leg 2' (2. 101) is populated.

This conditionality means a spread can only be reported for interest rate products.

However, spreads are a common trade feature of non-interest rate products, with the ESMA guidance specifically calling out Commodity basis swaps and Credit default swaps (see section 4.17, paragraph 252 (c) and (f)) as products where a spread is expected to be reported when applicable.

Assuming the FCA also expects spreads to be populated for these products, the Validation Rules for the spread fields (2.93 and 2.109) will need to be changed in order to allow them to be populated for non-interest rate trades.

Please note, the EU EMIR Validation Rules also prevent spread from being populated for non-interest rate products and this has been raised to ESMA.

XML schema

Move validation from application layer to XSD

Validation has moved from application layer to XSD for several fields. We are not clear on the reason for this move, but it will require each firm with reporting obligations to both UK EMIR and EU EMIR to build different Exception Management processes for the same exceptions.

While there is no strong preference as to where this validation is to be maintained, for the purposes of reporting harmonization between jurisdictions, we propose UK EMIR aligns with EU EMIR.