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Submitted via email to uti@iosco.org and cpmi@bis.org

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Consultation Report on *Harmonisation of Key OTC derivatives data elements (other than UTI and UPI) - first batch*

Dear Sirs,

Markit is pleased to submit the following comments to CPMI IOSCO in response to its Consultation Report on Harmonisation of Key OTC derivatives data elements (other than UTI and UPI) - first batch (the "***Consultation Report***").

Markit[1] is a leading global diversified provider of financial information services.[2] Founded in 2003, we employ over 4,000 people in 11 countries and our shares are listed on Nasdaq (ticker: MRKT). Markit has been actively and constructively engaged in the debate about regulatory reform in financial markets, including topics such as the implementation of the G20 commitments for OTC derivatives and the design of a regulatory regime for benchmarks. Over the past years, we have submitted more than 120 comment letters to regulatory authorities around the world and have participated in numerous roundtables.

Introduction

Markit's derivatives processing platforms are widely used by participants in the OTC derivatives markets today and are recognised as tools to increase operational efficiency, reduce cost, and secure legal certainty. With globally over 2,000 firms using the various MarkitSERV platforms that process, on average, 90,000 OTC derivative transaction processing events per day they form an important element of the workflow, and also in supporting firms' compliance with various regulatory requirements across jurisdictions. Specifically, the MarkitSERV platforms facilitate the electronic confirmation of a significant portion of OTC derivatives transactions worldwide, submit them for clearing to 16 CCPs globally, and, for many counterparties,[3] report their details to trade repositories ("***TRs***") in Europe, the United States, Canada, Japan, Hong Kong, Singapore and Australia.

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[1] See www.markit.com for more details.
[2] We provide products and services that enhance transparency, reduce risk and improve operational efficiency of financial market activities. Our customers include banks, hedge funds, asset managers, central banks, regulators, auditors, fund administrators and insurance companies. By setting common standards and facilitating market participants' compliance with various regulatory requirements, many of Markit's services help level the playing field between small and large firms and herewith foster a competitive marketplace. For example, Markit's KYC Services provide a standardized end-to-end managed service that centralizes "Know Your Client" (KYC) data and process management.
[3] Globally, we currently report transactions to Trade Repositories for over 100 firms and more than 1,000 entities, including most of the large, globally active dealers.

On the basis of our derivatives processing activities we have been directly involved in data standardisation and improvement of data quality efforts of global regulators and the industry. We welcome the publication of the Consultation Report and we very much welcome regulatory and industry efforts that aim to ensure the consistent use of identifiers, including LEIs, UTIs, and UPIs, as well as other relevant data elements.

Comments

Question 1

With reference to alternatives proposed for data elements included in the group "Date" (data elements 1.01, 2.01) and "Timestamp" (data element 8.03 in List 1 and data element 2.02 in List 2)

a) Are the advantages and disadvantages of proposed harmonisation alternatives included in the report appropriately defined? If not, which aspects should be revised and how?

b) Is the proposed default value sufficiently unambiguous? Will users of TR data be able to distinguish between the default value for timestamps and reported timestamps? If this would not be possible, what alternative do you suggest?

c) Which of the proposed harmonisation alternatives should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

<u>Effective Date</u>

CPMI-IOSCO proposed two alternatives for the data element "Effective Date".

We support the implementation of Alternative 1 (EFFDATE). This is because it is the industry standard in practice today and it has not posed any issues in respect to implementation and data reporting. The additional time element that CPMI IOSCO considers in Alternative 2 (EFFDATETIME) is not currently negotiated nor specified by participants on a transaction by transaction basis. While the specific time can be important for credit derivatives this is already addressed in Section 1.49 of the 2014 Credit Derivative Definitions. Where applicable, other transactions are defined by the product definitions that govern the transaction but, as the calculation period generally is a number of days, it is not time dependent.

Furthermore, since timestamps are not an element of the effective date for the trade confirmation process, we do not believe that it would be appropriate to add them. An effective date timestamp is not stored within internal systems of counterparties to transactions. Requiring it to be reported would likely cause many issues and create significant costs while not adding any benefit. We anticipate that, if firms were forced to provide a timestamp, they would use a default time of 00:00:01, which would not add any value.

With regards to the definition of effective date, we believe it is important to understand and clarify how it would be interpreted for lifecycle transactions, where the effective date of the original transaction might be superseded by the effective date of the new transaction. It should be noted that lifecycle events that result in the creation of a new trade may also reference a new effective date. On this basis, we believe the following should be noted for the below lifecycle events:

a) Novation – For credit derivatives, the effective date of a novation trade is the novation date, i.e., the date on which the parties enter into the novation transaction. For interest rate derivatives it is not clear as to whether CPMI-IOSCO would like the novation date or the relevant accrual date for each leg to be specified.

b) Compression – For credit derivatives, a transaction that has resulted from a compression will be assigned a new effective date based on the date on which the compression took place. Again, for interest rate derivatives it is not clear as to whether CPMI-IOSCO would like the effective date to be the relevant historic accrual date for each leg to be specified.

c) Other – For credit derivatives transactions, succession events or partial triggering in a restructuring event will result in the cancellation of the original transaction and the booking of new transactions, reflecting the revised reference entity and portion of the notional attributed to those transactions. Those transactions will reflect the effective date of the original trade.

End Date

CPMI IOSCO proposed two different options for End Date. We support Alternative 1:ENDDATE for the same reasons articulated in our response to Effective date. In this case we anticipate that, if forced to provide a timestamp, firms would use a default time of 23:59:59 which would not add any value.

Cleared

We generally believe that a balance needs to be struck between adding a value to flag every single component of clearing separately and over-simplifying the field to a Boolean. We believe that Alternative 2 could be viable so long as a separate 'intended to be cleared' field was maintained as a number of regulators require this to be specified today. In Alternative 1 as specified there is no option for a direct member cleared leg: Clearing Member – CCP. Nor is there a way to specify indirect client clearing.

Primary Obligor

We recommend that CPMI IOSCO clarify what it refers to with "primary obligor".

If it is the beneficiary it would not be known by both parties but only by the reporting party that trades. In contrast, in credit derivatives the concept of primary obligor is utilized to refer to the reference obligation of the underlying reference entity. The primary obligor is *not* a party to the trade even though this is referenced as the 'counterparty' in most industry standards. We are not aware of any contract where the obligor is agreed on the legal confirmation separately from the counterparty.

Question 4

With reference to the definition for "Notional amount":

(a) Should guidance be complemented by a definition of "leg 1" and "leg 2" or are market conventions already clear? In the former case, which definition would you suggest? If relevant, please provide an asset-class specific answer.

(b) As regards FX derivatives, the solution proposes only two notional amounts based on the assumption that for FX swaps the spot and the forward leg are represented as two separate transactions with separate UTIs linked via a linkage data element. Should the Harmonisation Group take into consideration an additional alternative? If yes, which one and why? For example, should the Group require a total of four FX notional amount data elements namely two notional amount data elements to represent the two currencies associated with each leg of the swap?

(c) Should the Harmonisation Group in the future decide to provide harmonisation guidance also for the notional amount of commodity derivatives, which aspects should it take into account? How should this potential harmonisation proposal be defined for different commodity derivatives?

Question 5

With reference to alternative 1, which harmonises both the actual "Notional amount" (Data elements 6.01 and 6.02) and the "Original notional amount" (Data element 6.04), versus alternative 2, which harmonises only the actual "Notional amount" (Data elements 6.01 and 6.02):

(a) Are the advantages and disadvantages of proposed harmonisation alternatives included in the report appropriately defined? If not, which aspects should be revised and how?

(b) Which of the proposed harmonisation alternative should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

Notional Amount

CPMI-IOSCO proposed definitions of (current) Notional Amounts for each of the two legs of a trade[4] and two alternatives for the Original Notional Amount. CPMI-IOSCO also requested comments on whether the guidance on the notional amount should be complemented with definition of 'Leg1' and 'Leg2'.

We are not aware of any current market convention covering all products that define the order in which the two legs of the trade be specified.[5] Any industry convention that would define Leg1/Leg2 of each type of trade would have no impact on how the trade is booked or confirmed, neither on the economic terms of the trade. Implementing it would require wholesale changes to systems throughout the industry and should be avoided.

The industry infrastructure in place today recognizes the individual legs of the trade without the need to number them. For instance, when multi-leg transactions are confirmed on trade confirmation platforms, the parties to the trade match the respective economic details for each leg including who pays each leg and this irrefutably defines the terms of the trade. Matching and reconciliation tools will contain mechanisms to identify each leg in a specified order. For global aggregation, the legs of trades could be paired based on the UTI, sorted based on simple rules (e.g. currency, leg type or LEI of payer) before a simple matching algorithm was applied.

It is further worth noting that not all products in all asset classes have a notional amount (e.g. forward starting equity options and forward starting equity swaps where a dummy notional of 0.01 is used). Some commodities are executed, booked and confirmed based on units of measure and not in currency amounts.

For FX swaps additional fields for notional would be required unless the market practice is agreed as these being reported as two separate trades - a spot and a forward or two forwards, as we recommended in our response to the CPMI-IOSCO consultation on UTIs.

Original Notional Amount

CPMI-IOSCO proposes as Alternative 1: original amount at execution, and as Alternative 2: do not harmonise this data. We are supportive of Alternative 2 and we concur with CPMI-IOSCO's observation that:

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[4] This is only the case for Interest Rate, Equity, Credit and FX derivatives
[5] This is to say that, for example, there is no industry convention that defines the payer leg of a vanilla IRS as Leg 1 and the receiver leg as Leg 2. This is also true for FX derivatives where notional of no particular currency (say USD) is defined as Leg1 or Leg2.

"If we consider transaction data in which modifications are captured as new transaction record linked via UTI, then it is only necessary to represent the current notional amount".

Industry practices in place today require the reporting of current notional only. There are lifecycle events under which the original notional amount of the trade is updated and the most effective way to identify the original notional amount is to have a UTI that is linked to the original transaction. To further illustrate this point, consider if a novation lifecycle event requires assignment of a new UTI to the novated trade. The original notional amount of the new trade transaction would only be a fraction of the notional of the original trade. There would now be two transactions and it would not be appropriate that the original notional amount of the parent trade be included in the report of the novated trade, which has an original notional amount of its own. Another example would be that of a partially terminated trade where there is an update to the original notional amount.

For the reasons presented above it becomes extremely difficult for counterparties to report the original notional amount which CPMI-IOSCO recognized in the advantages for Alternative 2.[6]

Since Trade Repositories store historical data, we believe that the emphasis should be on TRs to provide the functionality of "inspection of historical transaction data" to be able to "determine the original notional amount at trade execution".

Question 6

With reference to alternatives proposed in the allowable values for the data elements "Notional currency" (alternative 1 and 2):

(a) Are advantages and disadvantages of proposed harmonisation alternatives included in the report appropriately defined? If not, which aspects should be revised and how?

(b) Which of the proposed harmonisation alternative should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

CPMI-IOSCO proposed two alternatives for the reporting of Notional currency for each leg of an OTC derivative trade.

Alternative 1 ("those included in ISO 4217") is defined by CPMI-IOSCO as follows: "Any transaction in an offshore currency should be reported in a currency from ISO list according to certain methodology".

We support Alternative 1 as it points to an international standard defined list of valid currencies that all market participants and market infrastructures have already built into their systems. For example "CNH", which is CNY delivered offshore in Hong Kong. Transactions in this currency are already confirmed on MarkitWire by a large number of industry participants with an ISO currency of CNY with the delivery location specified as Hong Kong in a separate field "Offshore Holiday Centre". Converting from the ISO currency to another non-ISO currency for reporting purposes alone would be disruptive and inefficient.

Question 7

With reference to the data element "Valuation amount":

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[6] "When there is a need to compare original to current notional amount, inspection of historical transaction data would be required to determine the original notional amount at trade execution".

(a) Are the two proposed alternatives agreeable? Please specify for which types of derivatives which of the alternatives should apply.

(b) Should the following factors, upfront payment and daily settlement of the derivatives transaction, be reflected in the valuation amount? If yes, please specify how.

Valuation Amount

CPMI-IOSCO proposed two alternatives for the reporting of the data element "Valuation Amount". Alternative 1 expresses valuation as "exit cost of the contract or components of the contract" while Alternative 2 express valuation as "the variation versus the start of the contract".

We believe that lifecycle events such as corporate actions, novations, upgrades and downgrades[7] would make the adoption of Alternative 2 complicated. To further illustrate this point, take the example of a downgrade of a trade. In such a scenario the starting value of the contract would need to be adjusted for the reported value to reflect market prices. We support the adoption of Alternative 1 which is agnostic to the lifecycle events explained above.

CPMI-IOSCO further states in Alternative 2 that "The starting value is typically zero, when the contract is concluded at market prices". We believe that this is the case only for swaps[8] where lifecycle events have no impact on valuation produced under Alternative 2. There is also no difference in the valuation amount produced under Alternative 1 and Alternative 2 for such contracts. However, CPMI IOSCO should note that there are various OTC contracts whose starting value is not zero and where lifecycle events have a significant impact on the starting value of the contract.

Valuation timestamp

CPMI-IOSCO proposed a valuation date and time to be included in the trade report. Intra-day market movements are crucial and should be reflected in the valuation of the contracts and hence they should be included in the reported data field.

Early termination timestamp

In accordance with our comments on Effective Date and End Date, a timestamp is generally not agreed, booked or confirmed between the parties for an early termination. Only the date should be required to be reported for "Early Termination Date". CPMI-IOSCO should also explicitly clarify whether it refers to: an early termination clause specified in the original contract which is a callable swap (bought embedded option); a mutual credit break; or indeed if it is referring to the date the trade is actually terminated if that option is exercised, unilaterally or mutually as applicable.

Question 9

With reference to alternatives proposed for the data element "Direction":

(a) Are the advantages and disadvantages of proposed harmonisation alternatives included in the report appropriately defined? If not, which aspects should be revised and how?

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[7] Increase or decrease in the notional of the trade. This is different from when a counterparty enters into a new trade to increase or decrease its exposure
[8] Interest rate and Foreign Exchange swaps.

(b) Which of the proposed harmonisation alternative should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

(c) Are the proposals sufficiently robust for transactions with multiple legs? With reference to Alternative 1, can the counterparty side (buyer/seller) clearly identify the parties paying each relevant payment stream? With reference to Alternative 2, is the payer of payment streams an applicable concept for all payment streams? Responses illustrated with worked examples where applicable would be appreciated.

CPMI-IOSCO recommended two alternatives to determine "Direction".

Even though for certain derivative contracts such CDS and options it is possible to identify the buyer and the seller, CPMI IOSCO should note that the concept it outlined in Alternative 1 ("Approach to Direction based on counterparty side") is not applicable to all types of trades. We welcome that CPMI-IOSCO recognizes that for FX futures and forwards the concept of buyer and seller is not relevant.[9]

We do not recommend the use of Alternative 1 which would rely on a buyer and seller being present in all cases. We believe that use of this approach would cause risk and increased error rates in transactions that are reported. Nor do we recommend the use of Alternative 2 ("Approach to Direction based on Payment Streams"). Instead, in-line with comments voiced by industry associations, we support a hybrid approach based on both Alternative 1 and 2. Such approach would allow parties to (i) continue to identify the direction of a transaction via "buyer" or "seller" in cases where it is current market practice to do so, while (ii) in cases where the direction of the trade is not booked or confirmed via identification of a buyer and seller, the direction of the trade would be determined by identifying the party that is responsible for the relevant payment leg.

Finally, CPMI-IOSCO should note that its proposed approach does not reflect some products. For example, for basis (floating-floating) swaps there are two spreads while for other transactions there are none.

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We hope that our above comments are helpful to CPMI IOSCO. We would be more than happy to elaborate or further discuss any of the points addressed above in more detail. In the event you may have any questions, please do not hesitate to contact us.

Yours sincerely,

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[9] See 3.2.2 Direction : "For futures and forwards other than FX: buyer is buyer of the instrument"