

# EFAMA's REPLY TO ESMA's CONSULTATION PAPER ON TECHNICAL STANDARDS ON REPORTING, DATA QUALITY, DATA ACCESS & REGISTRATION OF TRADE REPOSITORIES UNDER EMIR REFIT

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# EFAMA's reply to ESMA's Consultation Paper on Technical standards on reporting, data quality, data access and registration of Trade Repositories under EMIR REFIT

## INTRODUCTION

EFAMA supports ESMA's proposals to harmonise EMIR as guided by global CPMI-IOSCO reporting data elements.

Those proposals streamline the different reporting's requirements, and provide additional clarifications on reporting fields, improve data quality, accuracy and completeness of trade data reported to ESMA.

However, several key areas should be reviewed prior to publishing the final report and submit the draft technical standards to the European Commission.

- i. Use of ISINs and CPI Codes in the identification of derivatives financial instruments: We fully support the introduction of UPIs for the reporting of OTC derivatives. We consider that the UPI can represent a term of identification for the product that could be common to all transactions in a single class of assets. We insist also on the need to use ISINs and CFI Codes to identify derivatives instruments. ISINs have been designed in MiFID II to be the mechanism of identification for all financial instruments, without distinction of asset class.. In that perspective, we support the work of ANNA-DSB as the primary source of identifiers for derivatives.– (see [ANNA-DSB explanation of the articulation between the 3 identifiers](#)).
- ii. Reporting format: For standardisation purposes and from a cost control perspective, we ask ESMA to facilitate the implementation of ISO 22022 as soon as practically possible. Indeed, imposing ISO 22022 would facilitate the reporting of all transactions on all financial instruments, from a product and from a transaction perspective. The use of a unique set of ISO reporting standards will reduce the data that are exchanged with TRs and the workforce needed to reconcile reporting. In that perspective, we suggest ESMA to work more closely with the [ECB Collateral Management Harmonisation Task Force](#), considering the strong linkages between derivatives and collateral. Should ESMA decide pressing forward on this request, we urge ESMA to propose an alignment with [ECB's implementation of SCoRE and ensure the deployment of the revised reporting are not applicable before November 2022](#).
- iii. Hybrid Transaction Reporting Mechanism ("HTMR"): we propose a Hybrid Transaction Reporting Mechanism ("HTRM") concept reducing the regulatory reporting burden within the EU derivative market. Differing from a demand for single sided reporting, we are suggesting a mechanism reducing the reporting burden significantly for at least parts of the industry while maintaining the full reporting requirements for credit institution that are anyway obliged to report on behalf of NFC-. To strengthen the quality of data available, we are in favour of a closer alliance with the ANNA-DSB that would collect by one party all information that can be associated with the UPI / ISIN while ESMA / the NCAs retrieve the data required from ANNA DSB. You will find further details in our reply to Q26.
- iv. Reconciliations: We encourage ESMA to take into consideration the global competitiveness of the EU financial industry by reducing the regulatory reporting burden within the EU derivatives markets. In this respect, we propose a Hybrid Transaction Reporting Mechanism ("HTRM") concept or alternatively a closer alliance with the ANNA-DSB.

In addition, ESMA should consider removing the reconciliation requirements for several fields and we propose that ESMA retains the flexibility to adjust field reconciliations if required rather than

incorporate the rules into the technical standards themselves. While there is a significant increase in the number of reconcilable fields, most of these fields are transactional data that would be expected to have been agreed between the counterparties and so should match. However, some of the proposed reconcilable fields cannot be expected to match either because there may not be a value available to report or because the proposed tolerance level is too narrow.

- v. Reporting of outstanding trades: For cost and operational risk's reasons, we would not recommend reporting again all existing transactions.
- vi. Joint harmonisation efforts: In line with our efforts to provide best practices in the reporting of derivatives, we are sharing the views of some associations in some specific topics related to some fields' definitions. In that perspective and for those questions, we believe that this consultation is an opportunity for ESMA to harmonise reporting standards and guarantee legal certainty in the regulatory reporting.

## QUESTIONS

### **Q1 : Do you see any other challenges with the information to be provided by NFC- to FC which should be addressed? In particular, do you foresee any challenges related to the FC being aware of the changes in the NFC status?**

The Non-Financial Counterparties (NFCs), and especially NCA- (i.e. those above the clearing threshold), are not prone to share data nor aware of their obligations to obtain LEIs. Consequently, our members find it impractical and potentially unfeasible to consistently meet the reporting requirements suggested by ESMA. Therefore, we propose that an NFC- entity should be permitted – via a written agreement and/or procedural document – to agree standard values the FC will report in the fields for which the FC requires client data.

The FC will assume these pre-agreed values will be applicable for every trade unless the NFC- client advises otherwise, in which case the FC would be expected to report as per the NFC- clients instructions for that trade.

Regarding the fields identified within paragraph 8, where an FC will require data from the NFC- client, we question whether data is required for the field 'Clearing Member'. NFC- entities are not required to clear so an FC would presumably not need data for this field. If there are scenarios when the Clearing Member field is to be populated, we request whether examples can be provided to assist with our understanding of the reporting requirement.

The recently published EMIR Q&A provides additional clarity on how to proceed when the classification of an NFC changes between plus and minus (TR question 54 (c)). We have identified additional points for clarification when an NFC changes classification, along with our interpretation:

- i. When an NFC- is reclassified as an NFC+, it is assumed that all open positions do not need to be re-reported to reflect the 'plus' status.
- ii. Where an NFC- is reclassified as an NFC+, but does not inform the FC, it is assumed the NFC+ is liable for any duplicative reporting which may occur as a result.

### **Q2 : Do you agree with the proposals set out in this section? If not, please clarify your concerns and propose alternative solutions.**

Paragraph 14 confirms this reporting requirement applies to OTC derivatives contracts only. However, the EMIR definition of OTC derivative contracts is such that futures and options executed on a non-

equivalent third country exchange would legally be classified as an OTC derivative rather than an ETD. This could therefore lead to a subset of an NFC- entities ETD positions being carved out and treated as OTC for the purposes of FC / NFC- reporting requirements, thereby increasing the risk of inconsistent reporting and adding greater complexity to both NFC- and FC entities.

Since the commencement of EMIR reporting in 2014, ETD trades executed on non-equivalent third country exchanges have been reported as ETD products and as there is nothing within the technical standards proposals that would change this approach, we propose that an ETD executed on a non-equivalent third country exchange is (i) to be reported as an ETD contract (not an OTC derivative contract), and (ii) should be treated as an ETD contract for all purposes across EMIR, including FCs reporting on behalf of NFC- client. Therefore, such trades would not be in scope for an FC to report on behalf of an NFC- client.

### **Q3 : Do you need any further clarifications regarding the scenario in which the FC and NFC- report to two different TRs?**

It is understood that the portability guidelines are to be used for transferring trades between TRs.

We would like to note though, that the portability guidelines were created to support the transfer of full portfolios of trades between TRs rather than the 'partial porting' of a sub-set of an NFC- entities trade portfolio to potentially multiple TRs. This has raised some questions and challenges to be addressed. These include:

Initiating the porting of trades – NFC- to FC. It is our understanding that NFC- entity is required to start the porting process. While the FC may also need to inform their TR of the trades being ported over, unless the FC is a member of the TR used by the NFC- entity, the FC cannot initiate the porting of trades.

It is less clear as to whether the FC needs to sign the portability agreement, or whether this only needs to be signed by the NFC- and the two TRs involved. If the FC also needs to sign the agreement, separate forms will be required for confidentiality reasons. For example, if the NFC- has a trading relationship with several FCs, a separate agreement is required for each FC, otherwise the FCs will have sight of trades for which they are not the counterparty.

To reduce the burden on NFC- entities, we propose that FCs do not sign the portability agreement so that only a single form is required.

Initiating the porting of trades – FC to NFC- or NFC+. There will be scenarios where trades will be transferred from, rather than to, the FCs TR. For example, if an NFC- entity chooses to start reporting for itself or if an NFC- is reclassified as an NFC+, the open trades on the FCs TR will need to be transferred to the NFC- / NFC+ TR. When a transfer from the FCs TR to the NFCs TR is to take place, it is unclear what action each counterparty would need to take. While the FC would presumably need to start the transfer process by notifying its TR, it would seem necessary for the NFC to validate the transfer is to take place. Otherwise, an FC could transfer trades to a NFCs- TR without their knowledge or approval.

In light of these two above points, we would welcome clarification on which party initiates the process of transferring trades between TRs (both to and from the FCs TR), as well as any actions the other counterparty may need to take, such as the signing of the portability agreement.

Alternative method to transfer trades between TRs. We appreciate the portability guidelines provides transparency as to the full lifecycle of NFC- trades. However, as mentioned above, the portability guidelines were not developed to support partial porting and so TRs have had to take steps to support this requirement while aiming to keep the burden to NFC- and FC entities to a minimum. Looking into the future, we would encourage alternative means for transferring trades to be considered. For example, an

NFC- entity could decide to exit positions from the FC's TR to re-report the positions into their TR, but both the 'exit' and 'new' events are tagged and linked with a 'tracking ID'. This would provide transparency as to which trades have been transferred between TRs due to the FC / NFC- reporting requirements, i.e. via the Tracking ID, against what trades are genuine exit and New trade events, i.e. there will be no Tracking ID.

**Q4 : Are there any other aspects related to the allocation of responsibility of reporting that should be covered in the technical standards? If so, please clarify which and how they should be addressed.**

Paragraph 15 notes that the NFC- entity is responsible for renewing their LEI for the FC to successfully report. The recently published EMIR Q&A expands on this within TR question 54 (b), clarifying the NFC- is liable for their own LEI, although FCs should liaise with NFC- clients to assist with the timely renewal of LEIs. It would be welcomed if the technical standards were to incorporate this Q&A clarification.

**Q5 : Do you see any other challenges with the information by NFC- to FC of their decision to perform the reporting of OTC derivatives which should be addressed?**

A timeline of 5 working days for an NFC- to inform an FC of their intention to report themselves is too short. The process of an NFC- entity getting set up to report for themselves, and to agree with the FC the portfolio of trades to transfer, can take several weeks.

Therefore, rather than set a fixed timeframe of how much notice an NFC- should provide to an FC that they intend to self-report, we propose that not until

- i. the NFC- has put all relevant processes in place, and
- ii. the portfolio of trades to transfer between TRs (where applicable) has been agreed with the FC,

Can a date be set from when the NFC- entity will commence self-reporting?

Paragraph 22 states "NFC- may decide to partially perform the reporting of certain OTC derivative contracts." If NFC- entities want to report some, but not all, of their trades themselves, this must first be clearly communicated and bilaterally agreed between the NFC- and FC upfront. It is not feasible for an NFC- to unilaterally decide whether it will report certain OTC trades itself.

Please note, the above point assumes that where the CP refers to "partially perform the reporting" in paragraph 22, it means that the NFC- may want to report trades for specific asset classes or for products, and that the FC reports all remaining contacts.

**Q6 : Do you agree with the proposals set out in this section? If not, please clarify your concerns and propose alternative solutions.**

Agreed. No additional comments.

**Q7 : Do you see any issues with the approach outlined above? Do you see any other challenges with the delegation of reporting which should be addressed?**

It should not be problematic for the Report submitting entity ID to be a mandatory field and there are no objections to this.

We do, however, wish to comment on the information the report submitting entity is to provide to reporting counterparty. Paragraph 32 states "the report submitting entity should ensure that the reporting

counterparties are informed about relevant TR data processing results and relevant reporting or data quality issues should any arise.” This would put additional burden on both parties, and we oppose such a proposal.

The reason this will create additional burden to both counterparties is because the party providing the delegated reporting service (the ‘delegate’), will be required to send Submission and Position reports the delegating counterparty (the ‘delegator’). The delegator party will therefore receive separate submission and position reports from each counterparty that it has a delegated reporting relationship with. As these reports may be sent in different formats, the delegator party may need to put in place procedures to consume and process multiple reports sent in various formats.

We prefer a simpler process where the delegator counterparty on-boards to the relevant TR (as is currently the case). This will allow the delegator to view all its trades in a single Submission Report and single Position Report, regardless of how many counterparties are submitting trade data on its behalf.

We note that this arrangement would mean the delegator would not have access to the pre-submission error report, but any such trades can be derived by their absence on the submission and/or position reports.

**Q8 : Which errors or omissions in reporting should, in your view, be notified to the competent authorities? Do you see any major challenges with such notifications to be provided to the competent authorities? If yes, please clarify your concerns.**

We do not agree with the proposal that counterparties should notify the NCAs if they experience a problem (e.g. IT incidence) that prevents them from submitting the reports to the TRs. NCAs have access to the relevant TRs’ reporting data which can be used to detect systemic risk within the derivative market. In addition, and under EMIR, ESMA has direct responsibilities regarding the registration, supervision, and recognition of TRs. Therefore, ESMA and the NCAs are well equipped to detect those shortcomings via the reporting to TRs without putting additional burden to market participants.

**Q9 : Do you see any issues with the approach outlined above? Do you see any other challenges with the reconciliation of trades which should be addressed?**

As has been observed with current reporting requirements (both for EMIR and other jurisdictions), if there is ambiguity within the rules as to how a field should be reported, the two counterparties may report different values for a given field, but both sets of data complies with the technical standards and validation rules. In such instances, while it is reasonable to expect that counterparties will work towards resolving the reconciliation breaks, the “successful reconciliation of both sides of reported derivative contract” may not be easily achieved.

To attain consistent reporting of data, the rules should be presented to allow only one way in which to interpret them. For example, if the technical standards were to be presented in a machine readable / machine executable format (as well as being written in natural language), there would be only one way in which to interpret and implement the rules.

Please see the response to question 11 for additional details on how the EMIR rules can be represented in a machine readable / machine executable format.

**Q10 : Do you see any other data quality issues which should be addressed?**

The validation rules are a significant factor in understanding the requirements and market participants rely on these rules when developing their reporting processes. The validation rules clarify whether a field is mandatory, conditional, or optional, and help to ensure there are no ambiguities or potential data quality

issues in the requirements. Therefore, in the absence of the proposed validation rules, it may not always possible to provide a full and complete response to some of the questions

**Q11 : Do you agree with the proposed technical format, ISO 20022, as the format for reporting? If not, what other reporting format would you propose and what would be the benefits of the alternative approach?**

We strongly agree with the proposal to use ISO 20022 as the technical format for the updated EMIR reporting, as it is already foreseen by the SFTR reporting's obligation.

We are a strong proponent of the use of ISO standards along the whole value chain of the financial industry. A unique ISO structure and standards should be also applicable to derivative instrument identification and classification, as well as regulatory reporting in the same way as FSB was able to create a global solution for entity identification with the LEI.

We believe that the priority must be on pushing the only universally accepted, government supported, industry standard setting system.

**Q12 : Do you foresee any difficulties related to reporting using an ISO 20022 technical format that uses XML? If yes, please elaborate.**

See answer to Question 11.

**Q13 : Do you expect difficulties with the proposed allocation of responsibility for generating the UTI?**

We agree with the UTI proposals, especially regarding the creation of the UTI by the end of the day trade date (T+0) to provide certain date to compute the valuation of the transactions. Any later deadline would cause problems in cases where management companies have outsourced the portfolio management.

**Q14 : Is any further guidance needed with respect to the generation and exchange of the UTI for derivatives reported at position level?**

We agree with the current framework.

One feature that would be useful would be to develop a standard facilitating the self-determination of a UTI for a particular transaction.

**Q15 : Is it clear which entity should generate the UTI for the derivatives that are executed bilaterally and brought under the rules of the market ('XOFF')? Are there any other scenarios where it may be unclear whether a derivative is considered to be "centrally executed"? Please list all such specific scenarios and propose relevant clarifications in this respect.**

No additional clarification requested.

**Q17 : Should the hierarchy on UTI generation responsibility include more explicit rules for the case of the delegated reporting? If so, propose a draft rule and its placement within the flowchart.**

No additional clarification required.

**Q18 : Which policy option presented in the flowchart do you prefer? Please elaborate on the reasons why in your reply.**

Considering all the above, we believe that the existing rules on generating the UTI should not be amended. Adding a T+0 deadline for providing the UTI to the other party should be sufficient.

However, if ESMA intends to modify the existing rules, burden and complexity should be lowered for SFCs and buy-side firms.

ESMA should require the sell side to provide the UTI (unless otherwise agreed between the parties) within said deadline. Where parties have problems to identify the sell side, the mechanisms described under Option 2 could be used as fallback, but certainly not mix of option 1 and option 2 as it would be too complex to implement.

**Q19 : Is the additional clarification concerning the sorting of the alphanumerical strings needed? If so, which should method of sorting should be considered?**

See our reply to question 18.

**Q20 : Are there any other rules that should be added to the hierarchy on UTI generation responsibility? To the extent that such rules are not contradictory to the global UTI guidance, please provide specific proposals and motivate why they would facilitate the generation and/or exchange of the UTIs.**

See our reply to question 18.

**Q21 : Do you support including more specific rules provision on the timing of the UTI generation? If so, do you prefer a fixed deadline or a timeframe depending on the time of conclusion of the derivative? In either case, please specify what would be in your view the optimal deadline/timeframe. Please elaborate on the reasons why in your response.**

We are in favour of a fix deadline (at T+0).

**Q22 : Do you expect issues around defining when you will need to use a new UTI and when the existing UTI should be used in the report? Are there specific cases that need to be dealt with?**

The requirements of when to use a new UTI are clear.

**Q23 : Do you expect any challenges related to the proposed format and/or structure of the UTI? If yes, please elaborate on what challenges you foresee.**

The format is in line with CPMI-IOSCO guidelines and no challenges are expected.

**Q24 : Do you have any comments concerning the use of ISINs as product identifiers under EMIR for the derivatives that are admitted to trading or traded on a trading venue or a systematic internaliser?**

We agree with the proposal to use the UPI as a product identifier under EMIR., and the UPI alone would be sufficient as a product identifier.

ISINs are a relatively established form of identification following the requirements in MiFID II and SFTR for the identification of financial instruments.

Therefore, we consider that ISINs should be used for the identification of all financial instruments, facilitating the harmonisation of reporting requirements. We also note and support the work of ANNA-DSB that develops the required reporting format needed to achieve that objectives.

We also support the work of LEI ROC in its efforts to harmonise UPIs and we subscribe to the fact that “a UPI may have some other uses internally but for now, the sole purpose is for reporting.” We insist on the fact that those two identifiers do not share the same purpose.

We are a strong proponent of the use of ISO standards (e.g. ISIN, CFI, LEI) along the whole value chain of the financial industry. We believe that the ISO structure/organisation - at least with some nudging by the regulators across the globe - is able to create a successful story for derivative product identification by UPI in the same way as ISO was able to create a global solution for entity identification with the LEI.

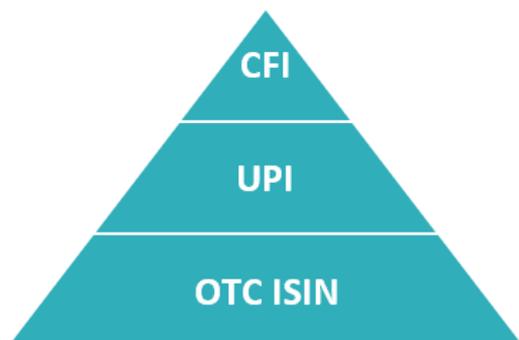
The ISO standard governance offers a readily available global solution with standards and an infrastructure in place which is acceptable to both the regulators and industry.

From a buy-side point of view the pre-trade availability of a globally agreed standardised set of reference data attached to an ISIN combined with a UPI which in turn enables (in a first phase) automation of regulatory reporting as well as (in a second phase) trading, clearing, settlement and collateral management would be a huge step forward for the (OTC) derivative markets.

**Q25 : Do you have any comments concerning the use of UPIs as product identifiers under EMIR? Should in your view UPI be used to identify all derivatives or only those that are not identified with ISIN under MiFIR? ?**

For OTC contracts, all 3 identifiers should be used as they do not serve the same purpose. The ISIN code should be used for the identification of each financial instrument defined under MiFID II, Annex 1. This would ensure cost-effective, systemic risk transparent, harmonised, and machine-readable global reporting standard and avoid duplication of reporting if ISO 22022 standards are applied.

The CFI (Classification of Financial Instrument) code (ISO 10962) could be a means of determining the primary characteristics of the derivatives.



In this scenario, a CFI might contain:

CFI Level
A type of document
Issued by a country
Authentication type available
That the document is a passport

The UPI could contain:

UPI Level	
<b>CFI Attributes</b>	A type of document
	Issued by a country
	Authentication type available
	That the document is a passport
<b>Additional UPI Attributes</b>	Country of Issue
	Is the passport biometric
	Any visas issued for this passport
	Any notations of concern

Finally, the OTC ISIN (ISO 6166) would tell you yet more about the document, such as:

OTC ISIN Level	
<b>CFI Attributes</b>	A type of document
	Issued by a country
	Authentication type available
	That the document is a passport
<b>UPI Attributes</b>	Country of Issue
	Is the passport biometric
	Any visas issued for this passport
	Any notations of concern
<b>Additional OTC ISIN Attributes</b>	City in which the passport was issued
	Biometric type
	Type of visas associated with this passport
	Full Name of Individual associated with the passport
	Date of birth
	Issue date
	Expiry date

Each level of the data hierarchy offers a differing view into the available information set and can be used to aggregate based on the required level of granularity. The analogy above offers a framework for thinking about how each of the CFI, UPI and OTC ISIN combine to address individual data aggregation requirements.

To put the information presented above within the context of the attributes required to define an OTC derivative, **an example of the expected OTC ISIN to UPI mapping is presented below.** The structure in the tables below is based on the UPI Technical Guidance document [published by CPMI-IOSCO in September 2017.](#)

For a single currency fixed-float Interest Rate Swap:

- The OTC ISIN Record is a superset of the UPI Record,
- The UPI contains two fewer attributes to uniquely define the Record,
- The DSB can derive additional useful information for both regulators, and industry
- The DSB Record contains additional meta data that tracks version, status, and other administrative information.

Attribute Type	OTC ISIN Record	Expected UPI Record	OTC CFI Record
Product Template Selection	4	4	4
User Input Values	8	6	2
Derived Values	7	4	2
Meta Data	5	5	5

Category	ISIN	UPI	Attribute	Example Value
Product Template Selection	✓	✓	Asset Class	R – Rates (CFI 2 <sup>nd</sup> Char)
	✓	✓	Instrument Type	S – Swap (CFI 1 <sup>st</sup> Char)
	✓	✓	Product	Fixed_Float
	✓	✓	Level	UPI
User Input Values	✓	✓	Notional Currency	USD (ISO 4217)
	✓	✓	Reference Rate	USD-LIBOR-BBAR (ISDA)
	✓	✓	Reference Rate Term Value	3
	✓	✓	Reference Rate Term Unit	MTH (ISO 20022)
	✓	✓	Notional Schedule	C – Constant (CFI 4 <sup>th</sup> Char)
	✓	✓	Delivery Type	P – PHYS (CFI 6 <sup>th</sup> Char)
	✓	×	Price Multiplier	n/a
Derived Attributes	✓	?	Full Name (human readable)	Rates Swap Fixed_Float USD-LIBOR-BBA 3 MTH
	✓	✓	Classification Type	SRCCP (ISO 10962)
	✓	✓	Underlying Asset Type	C – Fixed - Floating (CFI 3 <sup>rd</sup> Char)
	✓	✓	Single or Multiple Currency	S – Single Currency (CFI 5 <sup>th</sup> Char)
	✓	?	Short Name	N/A Swap Fxd Flt USD (ISO 18774)
	✓	×	Commodity Derivative Indicator	n/a
	✓	?	ISO Reference Rate	LIBO
Meta Data	✓	✓	Record Status	New
	✓	✓	Status Reason	
	✓	✓	Last Update Date Time	2017-07-31T12:00:00
	✓	✓	Version	1
	✓	✓	Parent	<link to parent identifier>

(See ANNA-DSB: <https://www.anna-dsb.com/2020/04/27/so-whats-in-the-cfi-upi-and-otc-isin/>)

**Q26 : Do you agree with the assessment of the advantages and disadvantages of the supplementary reporting of some reference data? Are there any other aspects that should be considered?**

See our replies questions Q24 and Q25.

We generally support the initiative started by ESMA to further streamline the reporting obligation for all relevant financial counterparties (UCITS/AIFs). However, we strongly question if the proposed requirements are appropriate to simplify the reporting burden for the reporting entities and the principle of proportionality.

The intention of EMIR REFIT was to streamline the reporting requirements for all (financial) counterparties (UCITS/AIFs), thereby reducing the administrative burden but also ensuring that the quality of data needed for monitoring derivatives markets and identifying financial stability risk is not lost. Therefore, we strongly support the recommendation of the EU Commission to introduce a single-sided reporting for exchange traded derivatives (ETDs). Only CCPs should be responsible and legally liable to report ETDs on behalf on both counterparties to a trade repository. The EU Commission concluded that a single sided reporting of ETDs could greatly simplify the reporting burden without adversely impacting the transparency of the derivatives market. While CCPs will face a slightly higher burden, they are well equipped for this task and the overall reporting burden will decrease as the reporting requirement concerning ETDs will be eliminated for all other counterparties. Should ESMA be ready to envisage the possibility of single-sided reporting and to enforce a unique set of reporting requirement, we would welcome a decision to develop a regime for single-sided reporting for all derivatives.

In the absence of support of single-sided reporting mechanism, we want to propose an alternative type of reporting mechanism:.

- Principle of proportionality

As a result of EMIR REFIT, ESMA is mandated to develop implementing technical standards to be submitted to the EU Commission who will put in place the legislative process as its proposal. As it is indisputable ESMA's draft must comply with the principle of proportionality, ESMA's draft needs to consider all burden falling upon economic operators and citizens and commensurate with the objective to be achieved.

The below mentioned proposed Hybrid Transaction Reporting Mechanism ("HTRM") aims to reduce the intended burden on economic operators and citizens without conflicting with the objectives to be achieved with ESMA's draft implementing technical standard.

According to the reporting obligation for (OTC) derivative contracts, it is the overarching goal of EMIR (Level 1) to provide all relevant information on the risks inherent in the derivative markets to ESMA, the relevant competent authorities, the European Systemic Risk Board (ESRB) and the relevant central banks of the ESCB (Recital 41 of Regulation (EU) No 648/2012). A comprehensive overview of the market and the assessment of systemic risk is aimed (Recital 43 of Regulation (EU) No 648/2012).

- Hybrid Transaction Reporting Mechanism ("HTRM")

We believe that ESMA has carefully calibrated the draft also considering the complexity of this matter. As the level 1 text requires clearly a dual-sided reporting obligation for financial counterparties (UCITS/AIFs). It is not our aim to request a single-sided reporting by referring to a HTRM.

The principle of proportionality requires to consider a more hybrid transaction reporting mechanism. The overarching goal of EMIR has already been achieved. The intended update of the technical standards will further improve the data quality while harmonising also the data reporting fields. ESMA describes in margin note 265 of the CP with regards to data elements related to collateral, margins, and counterparty rating triggers:

"ESMA proposed to keep this field in place. The current format provides sufficient information under a dual-sided reporting regime, but it is not compatible with information gathered under a single-sided

regime. Therefore, to facilitate global aggregation of derivatives information, ESMA proposes, to extend the categories that need to be reported in this field to capture the collateralisation by both counterparties to the transaction.”

If additional categories are reported by at least one of the financial counterparties (e.g. Sell-Side) it would provide ESMA and the National Competent Authorities with sufficient information. If the receiving information from one counterparty would be considered as sufficient by the Competent Authorities, then the data quality should be further improved for all reporting entities. Therefore, we suggest broadening the scope of this hybrid transaction reporting structure. Such a model would minimise the burden falling upon economic operators and citizens and would still be commensurate with the objective to be achieved.

It is part of a business model of many credit institutions authorised in accordance with Directive 2006/48/EC (“Sell side”) to become counterparty of (OTC) derivatives for clients from any other (financial) sector. It is usually the case that at least one of the counterparties is an authorised credit institution. This is the case for UCITS and AIF who are subject to restrictions regarding the variety of possible counterparties. As ESMA achieves the data quality goals also without obtaining the data elements referred to recital 265 of the CP, ESMA should request such data points only from one of the counterparties, preferably the Sell-Side.

Reporting entities (e.g. UCITS/AIFs) cannot assess which data fields are required by ESMA and NCAs from both parties to enhance the data quality and to harmonise OTC derivatives data elements reported. According to Article 5 para 2 of Protocol 2, any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. Therefore, ESMA should assess which further data points could be made subject to the HTRM to minimise the burden falling upon economic operators and citizens and would still commensurate with the objective to be achieved.

- Closer alliance of ANNA-DSB

To achieve the objective of the EU principle of proportionality within the EMIR reporting obligation an alternative could be to foster closer cooperation with the ANNA-DSB.

Credit institutions authorised in accordance with Directive 2006/48/EC that typically act as the derivative product provider in the (OTC) derivatives market could be obliged to provide all required ESMA reference data fields to ANNA-DSB when they would like to use (OTC) ISIN for all derivative products subject to the EMIR reporting obligation. This requirement should not be restricted to TOTV-ISINs according to MiFIR. At the same time ESMA, NCAs and TRs need to be required to obtain such data only from ANNA-DSB going forward. Thereafter they need to enrich the individual transaction messages themselves as needed.

ESMA should not have any political issues with ANNA-DSB as central reference data base for derivative instruments. The EU/ESMA had been instrumental in the set-up of ANNA-DSB and are following the FSB approval of ANNA-DSB as global UPI provider. Also, global regulatory community acceptance is given. With such a solution, the size and complexity of the existing EMIR transaction reports from counterparties to the trade repositories could be reduced to a minimum. Reporting would be more efficient and secure. Duplication of databases and data reconciliation efforts along the reporting chain could be avoided if ANNA-DSB is appointed as the golden source of issuer supplied derivative instrument reference and necessary flow data for all EMIR transaction reporting.

Without our proposed changes, our members are of the view that the proposed draft will further increase the reporting burden and the complexity for all financial counterparties which was not the intention of EMIR REFIT as suggested by the EU Commission. We strongly encourage ESMA to take into consideration the EU principle of proportionality when assessing the feedback received from the financial industry and submit the draft technical standards to the EU Commission for endorsement.

**Q28 : Do you foresee any issues in relation to inclusion in the new reporting standard that the LEI of the reporting counterparty should be duly renewed and maintained according to the terms of, any of the endorsed LOUs (Local Operating Units) of the Global Legal Entity Identifier System?**

LEIs are an integral part of reporting and each counterparty should be held liable to renew and maintain its LEI.

ESMA should facilitate the implementation of LEI at international level and be more prescriptive in the NCAs that it supervises.

**Q29 : Do you foresee any challenges related to the availability of LEIs for any of the entities included in the Article 3 of the draft ITS on reporting?**

We do not foresee any challenges with the entities listed.

**Q30 : Do you have any comments concerning ESMA approach to inclusion of CDEs into EMIR reporting requirements?**

The adoption of CDE fields is welcomed, but the definitions of such fields must not diverge from the CDE standards. To apply a different definition to a CDE field would go against the principles and benefits of adopting CDE standards.

**Q31 : Is the list of Action types and Event types complete? Is it clear when each of the categories should be used?**

The list of Action Types and Event Types are complete, although we encourage ESMA to coordinate with the ECB regarding its collateral projects.

**Q32 : Is it clear what is the impact of the specific Action Types on the status of the trade, i.e. when the trade is considered outstanding or non-outstanding?**

Yes, however, questions may come up during the implementation.

**Q33 : Is it clear what are the possible sequences of Action Types based on the Figure 1?**

Yes. See the response to question 37 for more detail regarding Revive.

**Q34 : Are the possible combinations of Action type and Event type determined correctly? Is their applicability at trade and/or position level determined correctly?**

Yes. This new concept of Action Type and Event Type combinations is welcomed as this provides more clarity on the reason why an Action Type has been reported.

**Q35 : Is the approach to reporting Compression sufficiently clear? If not, please explain what should be further clarified or propose alternatives.**

Please refer to [our replies on the ESMA consultation on PTRR](#) regarding our difficulties to access PTRR.

**Q36 : Do you agree with the proposal to include two separate action types for the provision of information related to the valuation of the contract and one related to margins?**

There are no concerns with separating valuation and collateral action types.

**Q37 : Do you agree with the proposal to include the Action Type “Revive”? Are there any further instances where this Action Type could be used? Are there any potential difficulties in relation to this approach?**

Revive is a welcome addition to the Action Types.

However, Figure 1 shows that Modify, Correct, Valuation and Collateral action types can be submitted for Terminated positions and under current EMIR reporting, the submission of a Modify or Correct action time for a terminated position would put that position back to an outstanding status. With this being the case, there would presumably be no need to use Revive on a terminated trade to move it back to an outstanding status.

Therefore, it is our understanding that under the new proposed technical standards, Revive will be the only action type that can move the status of a trade from terminated to outstanding. Furthermore, the only scenario where action types Modify and Correct would be used on a terminated trade if such action types are reported late, i.e. a Modify or Correct should have been reported before the Early Termination event.

Assuming the above assumption is correct, this would be a move away from current EMIR reporting processes and while we do not object to this change, it would be beneficial for the technical standards to clearly express why action types Modify, Correct, Valuation and Collateral would be used for a terminated trade and that such action types would not change the status of the trade.

**Q40 : Are there any products other than derivatives concluded on a venue and CfDs that may need to be reported at position level?**

We are of the view that only ETD trades are to be reported at position level. All OTC derivative trades are to be reported at trade level only.

Furthermore, it is also our view that CfDs are OTC products and therefore would only be reported at trade level.

Under current EMIR reporting, the majority of CfD trades are reported at trade level, but there are several market participants that do report these products at position level which creates a non-insubstantial number of reconciliation breaks. Therefore, to establish an industry standard for reporting CfDs, we propose that the technical standards specify that CfDs are only to be reported at trade level – in line with all other OTC derivative products.

**Q41 : Do you have any general comments regarding the proposed representation of the reporting requirements in the table of fields? Please use the separate excel table to provide comments on the specific fields in the table.**

The creation of a separate Table for margin and moving some of the data elements currently in Table 1 to Table 2 is a positive change and we are supportive of this proposal.

**Q42 : Is the proposed definition adequate? Can you think of any cases where further clarification would be needed or further problems might be expected? What would you expect to be reported as effective date when the trade is not confirmed?**

The definition for Effective Date is adequate and we welcome that it adopts the CDE definition.

Linking the Effective date to the confirmation should not be an issue as the same trade booking data source will generally be used to populate both the confirmation and the Effective Date field within the EMIR report.

Therefore, the Effective Date on the confirmation and the value submitted on the EMIR report should always be the same regardless of whether the confirmation has been issued prior to reporting.

There is value in the technical standards providing additional clarity of how to report Effective Date for novations. This is a scenario that historically has resulted in some ambiguity of what to report for Effective Date, so establish clear requirements should limit the amount of reconciliation breaks for novation trades. However, any such clarification should be as a footnote to the definition and the technical standard definition itself should remain aligned to the CDE.

**Q43 : Is the proposed definition adequate? Can you think of any cases where further clarification would be needed, or further problems might be expected? What would you expect to be reported as maturity date when the trade is not confirmed?**

The definition for Expiration Date is adequate and we welcome adoption of the CDE definition.

As with Effective Date (question 42) we do not foresee any issue with reporting the Expiration Date prior to the trade being confirmed.

**Q44 : Do you agree with the proposed definition? Are there any other aspects that should be covered in the technical standards?**

We agree with the proposed definition. No additional comments.

**Q45 : Do you agree with the proposed definition? Are there any other aspects that should be covered in the technical standards?**

We agree with the proposed definition. No additional comments.

**Q46 : Do you foresee any difficulties with the reporting of Event date? Please flag these difficulties if you see them.**

While there are benefits aligning Event Date in EMIR with the equivalent field in SFTR, it would be more beneficial to align the date with the CFTC reporting requirements as the two regimes cover more similar products. However, while CFTC asks for an Event timestamp, the EMIR definition for date only (and not time) is preferable.

The implementation of Event Date for SFTR has not been simple, therefore more information and/or examples of how to implement this field would be welcomed.

**Q47 : In relation to the format of the “client code”, do you foresee any difficulties with reporting using the structure and format of the code as recommended in the CDE guidance? If you do, please specify the challenges.**

ESMA should promote the LEI code, including at the level of the NFCs.

**Q48 : Alternatively, would you prefer to replace the internal client codes with national identification number as defined in MIFIR transaction reporting? Please specify the advantages and disadvantages of both alternatives.**

As mentioned in our reply to Q47, ESMA should encourage Members States to implement LEI as the main identifier for all companies.

**Q49 : Do you agree on the proposal to include this process in the draft RTS on procedures for ensuring data quality?**

The proposed procedures for ensuring data quality is in line with the current process.

We consider that a LEI-change (e.g. following a merger), amending reported data referring to derivatives outstanding at the date of the LEI change should be within the sole responsibility of the TR.

Experiences show that it can take quite a while until a merger of a counterparty is carefully considered in the IT systems of its counterparties.

Therefore, we would suggest taking the following approach as a guideline for mergers:

- i. Absorbing legal entity informs (a) the TR and (b) the LOU used by the legal entity that ceases to exist as soon as possible, but not later than the effective date of the merger. Counterparties are to be informed accordingly,
- ii. The TR receiving this information, informs ESMA and ESMA informs all TRs and LOUs,
- iii. Approved or recognised TRs amend all outstanding transactions with the LEI of the absorbing legal entity,
- iv. The LOU contacted by the absorbing legal entity amends the data maintained for the legal entity that ceased to exist in order to reflect the merger and adds a link to the LEI of the absorbing legal entity.

The above would not only increase data quality, it would also reduce the operational burden otherwise put on counterparties of merging legal entities.

As a longer-term solution, we would suggest the GLEIF should become the primary source for identifying and consuming changes to LEIs. The GLEIF maintains the centralised industry record of LEI data and this database is updated each time a LEI changes.

Therefore it would arguably be quicker and more efficient if market participants, TRs, ESMA and NCAs consume LEI changes directly from the GLEIF rather than from TRs, enabling such updates to be reflected almost immediately for open positions whilst utilising pre-existing and commonly used data feeds.

Any such move towards a GLEIF driven process for communicating and consuming changes to LEIs would require global coordination, and subsequent changes to controls and the legal structure would also

need to be considered. This is therefore not an initiative that can be achieved for EMIR alone but would be a long-term process to be conducted across global reporting jurisdictions.

**Q50 : Do you agree that one month is the good timespan between the notification by the counterparty to the TR the corporate restructuring event and the actual update of the LEI by the TR?**

Under the suggested approach described in our response to Q49, it should be TRs and LOUs who should determine whether one month ahead of a merger is sufficient.

However, to avoid disadvantages to the European economy, ESMA should ensure that the timeframe set for these notifications does not start earlier than corresponding the ad hoc publication requirements under MAR.<ESMA\_QUESTION\_TSTR\_50>

**Q51 : Do you agree on the fact that transactions that have already been terminated at the date when the TR is updating the LEIs should be included in the process?**

This is agreed, but please see the answer to question 49 where we propose an alternative long-term approach.

**Q52 : In the case of transactions where an impacted entity is identified in any role other than the reporting counterparty (e.g. Counterparty 2, Broker etc), when the TRs should inform the reporting counterparties of the change in the identifier of that entity?**

Please see the answer to question 49 where we propose an alternative long-term approach. This proposal would help address the question of which party informs of a LEI change.

**Q53 : Which entity should identify all transactions that should be amended due to a partial modification of the identifier of an entity?**

Please see the answer to question 49 where we propose an alternative long-term approach. This would help address the question of which party informs of a LEI change.

**Q54 : In cases where the counterparty is not responsible and legally liable for reporting transactions, which entity should be in charge of notifying the TR and what should be the related requirements between the counterparty itself and the entity who is responsible and legally liable for the reporting?**

We support Option 1, where the counterparty affected by the event should be responsible. We also agree that the counterparty should be permitted to delegate this requirement.

**Q55 : Do you see any other challenges related to LEI updates due to mergers and acquisitions, other corporate restructuring events or where the identifier of the counterparty has to be updated from BIC (or other code) to LEI because the entity has obtained the LEI?**

No other challenges noted.

**Q60 : Do you foresee any difficulties with reporting in case the value “Intent to clear” is not included in the list of allowable values for Field « Cleared » ? Please motivate your answer.**

The field ‘Intent to clear’ field does not need to be reported.

**Q61 : Do you have any other comments concerning the fields related to clearing?**

No additional comments.

**Q62 : The timely confirmation requirement applies only to non-cleared OTC contracts. However, under the rules in force, the confirmation timestamp and confirmation means are reported also for ETD derivatives by some counterparties, leading to problems with reconciliation of the reports. ESMA proposes to clarify that the abovementioned fields should be reported only for OTC non-cleared derivatives. Do you agree with the proposed approach for clarifying the population of the fields “Confirmation timestamp” and “Confirmation means”? Please motivate your response.**

We agree that the fields Confirmation timestamp and Confirmation means should only be applicable to non-cleared OTC derivative contacts. ESMA would make reporting of these fields voluntary for ETD while taking the field off the reconciliation list.

**Q63 : Do you have any comments concerning the fields related to settlement?**

We welcome the proposals for Settlement and believe this will result in clear requirements for reporting the settlement fields and we would like to use the opportunity to request ESMA's clarification on how counterparties shall report currencies which are not covered by ISO 4217 (e.g. CNH).

**Q69 : Is more guidance needed for the determination of the “valuation type”, e.g. similar to the guidance provided in the CDE guidance on page 41-42?**

No additional guidance is needed at this stage.

**Q70 : Do you agree that the fields IM/VM Posted/Received fields are provided in with both a pre- and post-haircut value?**

We agree that both pre- and post-haircut values are reported and harmonised for all legislations requiring the exchange of margins.

**Q71 : Do you agree to change the format of the collateralisation field to one that is compatible with single sided reporting?**

Yes. This would be supported by the HTRM approach that we have propose in our response to Q26.

**Q72 : Do you agree that the fields “Counterparty rating trigger indicator” and “Counterparty rating threshold indicator” are added?**

We do not support addition of the “counterparty rating trigger indicator” and the “counterparty rating threshold indicator”. as these fields will be difficult to populate and do not appear to be meaningful information neither to the authorities nor the investors.

**Q73 : Do you agree that a single A rating is the most relevant trigger for the “Counterparty rating threshold indicator” field?**

See our reply to question 72.

**Q75 : Are there any limitations with regard to ESMA’s proposed adjustments to these EMIR reporting fields? If so please specify what the limitations are and how they could be overcome?**

See our proposed model in our response to question 26.

**Q76 : Do you think that there are other additional fields which would be necessary to fully understand the price of a derivative?**

No additional fields should be necessary.

**Q77 : Are there any further pieces of clarification in relation to these fields (beyond the information in the definitions in the annex) which could be added to the amended standards to ensure reporting is done in a consistent manner? If so, please expand on how ESMA can ensure the standards are clear to reporting entities and reduce ambiguity with regard to what should be reported for different fields.**

No additional information required.

**Q79 : Should there be any further guidance provided in relation to the population of the ‘notional’ field on top of the content of the CDE guidance? What should this guidance say? Do you foresee any difficulties with reporting of notional in line with the CDE guidance?**

No additional guidance is required.

**Q80 : Is the guidance provided in ESMA Q&A TR 41 clear? Should any further guidance be provided in addition to ESMA Q&A TR 41?**

No further guidance required.

**Q81 : Do you foresee any challenges with the interpretation of the EMIR data should the fields “Quantity” and “Price multiplier” be removed? In case these fields are maintained, should there be further clarity as to what should be reported therein? What should this guidance say? Should this guidance be per asset class? Should this guidance distinguish between OTC and ETD derivatives?**

No issue foreseen with the removal of these two fields.

**Q82 : Do you foresee any challenges with reporting of the Total notional quantity?**

No issue foreseen with the removal of these two fields.

**Q87 : Do respondents believe that any of these new fields would be problematic to report? If so, please explain why.**

We have doubts that these fields are required to achieve the goals set by EMIR and EMIR Refit. If ESMA sees the necessity, we would like to refer to the HTRM approach described in our response to Q26.

**Q88 : Do you foresee any difficulties related to reporting of the additional fields for package transactions? Please motivate your reply.**

We welcome the adoption of the CDE fields for package transactions.

However, we encourage ESMA and CFTC to continue working together to ensure the Package definitions for each jurisdictions are aligned and to recognise that package transactions are not all complex transactions.

**Q89 : Do you foresee any difficulties related to the reporting of prior UTI? Please motivate your reply.**

We agree with the adoption of the field Prior UTI, however the prior UTI may not always be available. Therefore, we propose that the Prior UTI is not a mandatory field when re-reporting outstanding trades

**Q92 : Do you see a need for further adjustment of the reporting requirements to allow for effective reporting of PTRR events, in addition to the ones proposed in the section 4.4.11.3?**

See our reply to the ESMA consultation on PTRR.

**Q95 : With regard to reporting of delivery interval times, which alternative do you prefer: (A) reporting in UTC time or (B) reporting in local time? Please provide arguments.**

Timestamps should remain consistently across all EMIR fields. Therefore, we propose option A of "reporting in UTC time"

**Q98 : Do you support the proposal that reports pertaining to the derivatives outstanding on the reporting start date should be updated in order to ensure consistent level of quality of data and limit the operational challenges?**

Since reporting requirements aimed to assess systemic risk, our members have doubts that updating already filed reports is required to archive this goal especially when considering the data collected. Against this background, we believe that this burden should not be out put on market participants. If ESMA has good reasons why this data concerning outstanding transactions is required for the assessment of systemic risk, we generally are of support. Should ESMA decide pressing forward on this request, we urge ESMA to propose an alignment with ECB's implementation of SCoRE by November 2022. However, we do not believe that these fields are required to be collected from both counterparties of a transaction. Instead, we refer to the HTRM approach further described in our response to Q26.

**Q99 : Do you foresee challenges with the update of reports pertaining to outstanding derivatives in line with the revised requirements? If so, please describe these challenges. In particular, if they relate to some of the newly added or amended reporting fields, please mention these fields.**

In addition to our reply to question 98, we want to highlight that it may not be possible to populate some of the new EMIR fields for outstanding trades. Therefore, it may be necessary for validation and reconciliation rules to be relaxed (at least for some fields) for the reporting of outstanding trades.

**Q100 : Do you think that additional time after the reporting start date should be granted for the counterparties to update the reports pertaining to the outstanding derivatives? If so, how much additional timeline would be required?**

Should ESMA insist, considering the volume of transaction ongoing at the start of the new reporting obligation, participants should have at least a year after the start date of the obligation to re-report all open trades.

**Q101 : Do you agree with the proposed timelines for implementation, i.e. 18 months from the entry into force of the technical standards?**

We ask ESMA to consider a minimum of an 18-month implementation's period, and preferably a synchronisation with ECB SCoRE program's implementation and the development of the related ISO 20022 standard

**Q103 : Are there any additional aspects that would need to be clarified or specified with regards to the verification of logical integrity of submissions with different Action types such as "Revive"? Please detail the reasons for your response.**

As covered within our answer for question 37, we assume the Action Type 'Revive' is the only way in which to change the status of a terminated trade back to outstanding, and that action types Modify and Correct will no longer re-open a terminated trade (as per current EMIR).

**Q104 : Do you consider that the proposed procedure will allow the TRs to verify the compliance by the reporting counterparty or the submitting entity with the reporting requirements, and the completeness and correctness of the data reported under Article 9 EMIR? If not, what other aspects should be taken into account? Please detail the reasons for your response.**

We believe the procedures should allow TRs to verify the compliance of reports.

**Q105 : Are there any additional aspects that would need to be clarified or specified with regards to the updates to the LEI that are to be performed by the TRs? Please detail the reasons for your response.**

While it is considered reasonable for TRs to process LEI changes within 30 days, this is conditional on the TR being in receipt of all the required information. The 30-day period should only commence once the TR has been supplied with all the relevant data.

**Q106 : Are there any other aspects that should be considered with regards to the scope and start of the reconciliation process? Please detail the reasons for your response.**

We believe that reconciliation should be limited to reporting fields that are crucial for the assessment of systemic risk.

We also believe that there appears to be a contradiction in what the consultation paper states:

- i. Margin note 364, point c says "derivatives that have expired or that have been terminated more than a month before the date on which the reconciliation process takes place and were not revived should be removed from reconciliation".

- ii. Margin note 366, point c says the reconciliation applies to all derivatives where “the derivative (i) has been terminated and not been revived, (ii) has been cancelled with action type “Error” and not been “Revived”, (iii) has matured, or (iv) has been reported with action type “Position component”.

We believe that only outstanding trades or trades that were terminated within 30 days are in scope to be reconciled, even though margin note 366 does not seem to apply the 30-day lookback period. We request that this assumption is clarified.

**Q107 : Are there any aspects related to the intra-TR reconciliation that need to be clarified? Please detail the reasons for your response.**

No additional clarification required.

**Q108 : What additional aspects with regards to inter-TR reconciliation will need to be considered? Should additional fields be considered for pairing? Please detail the reasons for your response.**

We believe that pairing should be based on the UTI and LEI of the two counterparties, and between the ISIN and the UPI.

**Q110 : What other aspects should be considered to reduce data transformation and format issues in the inter-TR reconciliation process? Please detail the reasons for your response.**

As mentioned in our answer for 11, we support the implementation of the ISO 22022 and the implementation of ISINs as ways to reduce the cost of reporting and to increase harmonisation for the benefits of authorities and market participants.

**Q112 : Do you agree with the proposed approach to establish tolerances for certain fields? Please detail the reasons for your response.**

We strongly support ESMA having the flexibility to adjust the reconciliation rules and processes outside of the RTS and ITS.

It may not be possible to determine ahead of the reporting start date whether all the reconciliation rules and tolerance levels are appropriate for any given field. Therefore, we suggest that ESMA should retain flexibility to adjust reconciliation criteria and tolerance levels rather than establish the reconciliation requirements within the technical standards which would require a rule change should it transpire any of the reconciliation requirements are not suitable.

If ESMA were to retain the flexibility to change reconciliation tolerances and criteria, any such adjustments can be put in place much more quickly and easily, benefitting both regulators and market participants alike.

We would caution against a ‘one size fits all’ approach to applying tolerance levels across multiple fields. A tolerance level of three decimal places (for percentage values), may be suitable for one field, but inappropriate for another. Therefore, we would advocate that tolerance levels should be applied as appropriate on a field by field basis.

Timestamp fields

We propose that the field Confirmation timestamp should not be a reconcilable field. Paper confirmations are generally processed manually with counterparties potentially located in different time zones. As a result, it is highly likely – and often unavoidable – that the two counterparties will execute a confirmation at times greater than an hour apart. Therefore, a one-hour tolerance would not be relevant for paper confirmations as it is too short a tolerance period to realistically reflect how they are processed. ESMA should also bear in mind that requirements for clock synchronisation have only been relevant for those market participants subject to MiFID II.

#### Numerical and Percentage value fields

Several of the fields where the numerical tolerance is applied are agreed terms of the contract so there should be a 100% match. Historically, these fields have generally broken for matching purposes due to how more general reporting logic – such as the exchange rate or leg alignment – is applied. ISDA, along with several other trade associations, have established [EMIR reporting best practices](#) to standardise from of the general reporting principles. Addressing some of these best practices' items within the new technical standards would help remove several of the common causes that currently create matching breaks across multiple fields.

**Q121 : Are there any aspects that need to be further specified regarding the end-of-day reports to be provided to reporting counterparties, the entities responsible for reporting and, where relevant, the report submitting entities? Is there any additional information that should be provided to these entities to facilitate their processing of data and improve quality of data? Please detail the reasons for your response.**

No, we agree with the proposed end-of-day reports.