

26 September 2009

ANNA Response to CESR Consultation Paper (dated 22 July 2009)

Classification and identification of OTC derivative instruments for the purpose of the exchange of transaction reports amongst CESR members

The Association of National Numbering Agencies ("ANNA") is pleased to be given the opportunity to share our views on the CESR consultation paper concerning the classification and identification of OTC Derivative instruments.

ANNA has played an integral part in the area of financial instrument standards since its formation in 1992. Seventeen years into our history, the membership of ANNA has evolved to consist of 78 National Numbering Agencies world-wide; plus an additional 22 "partner" entities. Security identification coverage through ANNA's membership encompasses the use of a standardised instrument identifier, the International Securities Identification Number ("ISIN"), adopted and utilised within excess of 122 jurisdictions throughout the world. It is deemed important to share with you that the ANNA membership composition is formed of 23 Stock Exchanges, 3 Data Vendors, 45 CSDs/ICSDs, 3 Financial Regulators and 4 Central Banks.

The introduction, maintenance and promotion of ISO standards for financial instruments are key objectives and undertakings of each member organisation within ANNA. The use of existing and development of new International Standards is a vital part of ANNA's contribution to the efficient operations of the global capital markets. The improvements that the standardised use of ISIN and CFI across the global marketplace brings, in terms of addressing risk, operational efficiency aspects and the fact that an overwhelming majority of financial markets have adopted the ISIN as their primary identifier, are proof that there are distinct advantages to supporting and further promoting the use of adopted ISO standards in the international marketplace – such as the ISIN and CFI codes.

Harmonised financial markets need and demand the provision of international standards and the administration of these standards in a regulated manner – which can sometimes also include the parallel operation of an official international standard plus an alternative code.¹ The unique identification of uncertified derivatives has become a necessity in Europe as a result of MiFID. ANNA has noted, through internal research that has been undertaken, that a number of the European Stock Exchanges are however, proposing an alternative instrument identifier be used. This appears to be supported in principle by CESR, but in ANNA's view, is contradictory to the fundamental principles of international financial instrument standardisation through the use of approved ISO standards.

¹ As, for example, the parallel use of common codes and ISINs for the identification of Eurobonds held with the ICSDs (Euroclear Bank SA./NV and Clearstream Banking Luxembourg)

The adoption of the Alternative Instrument Identifier (“All”) as an isolated solution for listed derivative instrument identification is difficult to envision as a positive initiative supporting securities market integration through the use of approved ISO standards. Whilst we recognise that the ISIN can be used via the CESR TREM, we are aware that a significant number of EU Regulators have chosen to use the All as their means of security identification. In our view, presenting the option to use the ISIN along with the introduction of the All creates fragmentation in the information flow chain. The promotion and adoption of alternative identifiers could actually be seen as directly conflicting with the work of ISO and the associated standards development and implementation processes. The adoption of alternative identifiers is viewed by ANNA as an initiative that hinders harmonisation across financial markets and arguably could be viewed as a move supported by CESR to step away from promoting the use of the ISIN standard and other associated international financial standards such as the CFI. The adoption and promotion of the All is viewed as a backwards move from current on-going initiatives and many years of work undertaken to integrate all chains of a financial transaction towards the use of a common global identifier; the ISIN.

The concepts presented in the latest CESR consultation paper, suggest introducing yet another All and CFI-like code into the Transaction Reporting Exchange Mechanism (TREM). As conveyed through previous items addressed above, bypassing the recognised and established ISO standards process is not deemed to be in the best interest of the global financial markets as a whole. ANNA recognises that CESR is only focused on European Economic Area related matters, but when considering potential solutions to identified problems, we believe a more expanded scope of consideration has its merits. Initiating and supporting practices that can be adopted and used in the global financial markets by all supporters of ISO standards should be a fundamental driver in the decision making process.

The key principles reflected and reiterated throughout the CESR consultation paper are those of common understanding, common business language, common exchange protocols and standardised data. All taxonomy directly linked to the support and use of ISO standards and as such, are fundamental characteristics behind the establishment of such standards.

Referring to page 6 of the consultation paper:

“Given the essence of the OTC derivatives, CESR thinks that it would be too burdensome for the investment firms creating an OTC derivative to require a National Numbering Agency to create a CFI code for each contract.” ANNA fails to understand the underlying factors that have led CESR to reach and publish this conclusion. As has been referenced in the CESR paper, the CFI standard is in the final stages of a revision, part of the revision being undertaken specifically to address such matters.

Additionally, “CESR considers that mandating all market participants to allocate ISIN codes to all OTC derivative instruments would be an extremely costly and burdensome request.” ANNA recalls that this same justification was used when considering identifiers for listed derivative instruments, yet we do not understand how this rationale was arrived at. Currently the majority of ANNA members are already assigning ISINs to listed derivative instruments (critical mass has been achieved already). OTC derivatives represent an expanded scope of coverage for which ANNA would welcome constructive dialogue to assess CESR’s needs and requirements in respect of using existing standards to meet such requirements. It is the view of ANNA in this regard that there could be solutions to ISIN assignment for OTC derivatives (reactive notification to the relevant National Numbering Agency as and when an ISIN is required or pre-allocated ISINs provided in advance) are two initial suggestions.

Upon reviewing the consultation paper in its entirety, we noted a number of references to ANNA, ISIN and CFI throughout the context of the document. It is not clear to ANNA where some of this information is being obtained, as there are some inaccuracies and there was no known involvement of ANNA during the formation of the overall concept prior to the consultation paper being circulated. For example, on page 5, the document indicates ANNA is currently working on a new version of the CFI standard. In fact, ANNA is the appointed Registration Authority for the CFI standard. ISO standard revisions are in fact undertaken through ISO via the appropriate ISO sub-committee; which in this case is Sub-Committee 4. It is therefore ISO Sub-committee 4 that is coordinating the process of reviewing the existing CFI standard.

ANNA believes the above response addresses the views canvassed from reviewers of the consultation paper and with that, requests for comments on the subject. We appreciate the opportunity to share our views on this matter.

We remain at your disposal should you seek further discussions on this or other topics pertaining to the identification of financial instruments.

For more information, please contact

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