

REGIS-TR
RESPONSE TO CONSULTATION PAPER
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EXECUTIVE SUMMARY

On the 10 November 2014, ESMA issued a Consultation Paper to review EMIR Technical Standards that Trade Repositories (TRs) implemented before the entry into force of the reporting obligation in February 2014.

REGIS-TR welcomes the proposal contained in the Consultation Paper and believes that the need to harmonise the fields and adapt them to market needs is key in order to achieve data quality and increase reconciliation allowing an efficient supervision.

REGIS-TR has answered all the questions in the Consultation Paper taking into account the implications from a TR and a customer perspective, to provide an accurate view of the benefits and issues that may arise from the proposed changes in the Consultation Paper. After having analysed the changes and clarifications, REGIS-TR would like to highlight several aspects that, in our opinion, will support a smooth transition from one version of the Technical Standards to the proposed one in the mentioned paper:

A definition of how the enforced Technical Standards will coexist with the new ones is required. This point will determine, on one hand, how internal flows are defined to avoid issues when the information is reported according to the new standards (i.e. mapping of new fields or application of Level 1 Validations) and, on the other hand, how other functionalities such as Public Data, Regulator's Access or Inter TR Reconciliation are impacted and adapted to the new fields.

REGIS-TR understands that the review of the Technical Standards responds to the need to achieve harmonisation and increase data quality. Thus, we believe that new Technical Standards should be prioritised before any other changes related to the Regulator's Access are done. Although this will imply a delay in providing the information in a standard manner to Supervisors, it will reduce the impact in the systems (both of TRs and NCAs).

Furthermore, the interdependencies between how information is displayed to Regulators and how the information is stored in the system, determine the need of issuing common and prioritised requirements to all TRs. This would allow efficient planning, avoiding the implementation of temporarily and incomplete releases that will need to be adapted in a short period of time, when the new standards are endorsed.

Finally, REGIS-TR would like to highlight the need to clearly define the rules and validations that all TRs should carry out over reported positions, especially now that the new standards foresee a dedicated field to differentiate trades from

positions. REGIS-TR believes that the Consultation Paper is a great opportunity to enforce rules on position reporting that will not only ease supervision but also assist in the process of Position Calculation together with improving the quality of the data.

Thank you very much for considering our request. We remain at your disposal to further discuss REGIS-TR's proposal which we believe, benefits all stakeholders.

RESPONSES

Question 1

Do you envisage any difficulties with removing the 'other' category from derivative class and type descriptions in Articles 4(3)(a) and 4(3)(b) of IST 1247/2012? If so, what additional derivative class (es) and type(s) would need to be included? Please elaborate.

REGIS-TR customers do populate "Other" in the field "Derivative Class", in some cases, to report spread betting. Therefore, REGIS-TR believes that, from a customer perspective, those products (along with others such as "strategies") that are classified as "Other" need to be embedded in the rest of the existing categories, which might not be possible in all cases. Thus, guidance on how to report them is required if the category "Other" is deleted from the field "Derivative Class".

From a technical perspective, any deletion of a category in a database impacts how the information will be processed once this category is not available. For example, it should be defined how modifications to trades where this category was reported should be processed or if there is a need to migrate the information reported according to old category to the new ones (common mapping rules are required).

Finally, the deletion of this category impacts Public Data Reports, which aggregate the information by derivative class as well as other fields. TRs need to be aware of how this information should be displayed if the category is not available anymore.



Question 2

Do you think the clarifications introduced in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

As indicated in paragraphs 25 and 26, clarifications in regards to the counterparty side designation have been included in Annex V of the Consultation Paper (article 3, page 39), and REGIS-TR considers this to be very helpful. However, REGIS-TR understands that further clarifications to this respect might be needed for some specific products, such as:

1. NDFs: to determine the buyer and seller of the NDF and, since the latest Q&A does not provide specific guidance for this product, REGIS-TR understands that the logic defined for FX Forward should be applied to NDF. Therefore, the field "Counterparty Side" may be reported following the alphabetical order rule as if the Non Deliverable Currency (NDC) was deliverable. Taking an USD/CNY NDF as an example and, since the CNY would be first in alphabetical order, the Counterparty who would "theoretically" deliver it, would be the "Seller" (although, according to market convention the NDF buyer, buys the base (USD) and "theoretically" delivers the quoted (CNY)).

2. FRAs: Could you please clarify if the market convention where the buyer is the one paying the fixed rate should be followed for these products?

3. BASIS SWAP, for example 12m Euribor versus 6m Euribor for 2 years.

CURRENCY SWAP, for example 3m \$ LIBOR versus 3m EURIBOR.

CROSS CURRENCY SWAP, for example 2,75% fixed in EUR versus 6 mo \$Libor +15 bp."

In general terms, REGIS-TR understands that further clarification on counterparty side designation is needed in order to set standards that prevail over individual NCA's guidelines. This would help to achieve a more harmonised reporting and better reconciliation results.



Question 3

What difficulties do you anticipate with the approaches for the population of the mark to market valuation described in paragraphs 21 or 19 respectively? Please elaborate and specify for each type of contract what would be the most practical and industry consistent way to populate this field in line with either of the approaches set out in paragraphs 21 and 23.

REGIS-TR understands that the field "Value of the contract" must reflect, as accurately as possible, the current value of the contract at the time when it is valued. Therefore, REGIS-TR considers that for any product for which there is a market price available (mainly ETDs), the mark-to-market method (quantity * price * price multiplier) should be used to value the contracts. On the contrary, for those products (typically OTC traded), like Forwards, FRAs or Swaps, that do not have a market price available, mark-to-model methodology should be used for valuation. This value should represent the replacement cost of the contract.

Question 4

Do you think the adaptations illustrated in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

REGIS-TR would like to highlight that any addition or deletion to the database impacts the TR as old fields need to coexist with new ones. It is vital to define common basis for all TRs to determine the mentioned coexistence so that internal flows are adapted in a consistent manner. Also, other functionalities that might be connected to the deleted fields need to be adapted (as mentioned in the response below for the EEA Indicator which is used for Inter TR reconciliation purposes). Finally, participants need to know how the mapping will be done to adapt their systems and to stop using deleted fields.

The major concern as a TR will be the fact that some fields will not have an equivalent cardinality of one to one, for instance there are fields that will be split into two or more fields. The addition of new fields will not only affect the database architecture of the TRs and the ones of the reporting counterparties but also all the programs that process and source the data from the split fields.

From the TR perspective the treatment of the previous records in terms of data maintenance, modifications and updates will be more complex than the existing standards. In the new specifications, the logic for the use of the fields is substantially changing for example, in the product identifications.

Additionally, REGIS-TR considers that the position calculation, aggregation, regulators reports and any other treatment of the records will not follow a straight forward process, because the essential attributes that support the logic of such enhancements are dramatically affected, for example, in the contracts identifications.

On the other hand, changes to the logic and disaggregation of fields can push reporting counterparties to build new reporting solutions instead of improving the current ones.

On top of that, it is important to highlight that EMIR pushed financial and non-financial counterparties to set up, adapt and align their legacy systems and market practices to a series of new and demanding regulatory requirements, and significant changes can potentially lead reporting counterparties to maintain two different specifications, systems and records for the same purpose. This can be a taxing, and more resource consuming situation.

Please find below REGIS-TR's feedback on each individual proposal made by ESMA in the Consultation Paper:

(28) The obligation to report timestamps according to ISO 8601 as defined in the ITS will avoid, from REGIS-TR's perspective, issues with different time zones and formats, which will, in turn, increase the reconciliation rates. This standard implies harmonising the reporting of stamps. However, counterparties will need to convert all their stamps to Zulu time.

(29) REGIS-TR believes that the usage of LEIs in certain fields is only needed to boost data quality. REGIS-TR, however, does not fully understand why the reporting counterparty (to be identified in Table 1 Field 2) could not be eligible for an LEI as any legal entity that is counterparty to the trade reportable under EMIR should be identified with an LEI.

On the contrary, REGIS-TR agrees with the possibility to use an alternative code in Table 1 Field 3 to identify the other counterparty, but only in the case of private individuals.

(30) The allowance of more than one valid character within the field "Corporate Sector of the Counterparty" will solve the problem that some customers are experiencing when they report this field, as they are currently forced to select just one code. Furthermore, the definition as to how the different codes have to be reported should be provided.

(33) The deletion of the EEA Indicator proposed by ESMA in the consultation paper will imply changing the Inter TR Reconciliation specifications, as this indicator is currently used to filter the trades that are subject to the mentioned process. Thus, if this change is finally implemented, TRs should take this into account to amend the reconciliation process appropriately. Additionally, the change will impact the reporting entities that already adapted their systems to fill in this information, whereas now, it will not be necessary.

(34) REGIS-TR fully agrees with the introduction of a new field to report the "actual notional" and believes that it may entail certain difficulties for counterparties. However, in our opinion, it will increase the data quality which will compensate the effort to implement the change.

(35) The approach of reporting the All code by concatenating the MIC code and the Exchange Product Code seems more appropriate than the exiting approach by which just the EPC is reported.

(36) The change in the name of the current Table 2 Field 9 from "Transaction Reference Number" to "Report Tracking Number" would not pose further problems to counterparties, except in the case of OTC derivatives, as that

reference is currently not being generated by counterparties and customers are therefore reporting the value NA in this field. Furthermore, it is not clear how this reference would be reflected in the position reporting.

(38) REGIS-TR believes that the clarification of time periods will allow a consistent reporting among counterparties and will increase the quality of the reconciliation results. REGIS-TR would like to confirm if the current length of the field which is of up to 3 digits followed by the established codes (D, W, M and Y) should be maintained.

(41 & 42) REGIS-TR welcomes the introduction of the new action types as they expand the scope of the situations covered by the ITS. The new action type “P” satisfies the requirements made by counterparties and different market associations and will ease the reporting of ETD transactions that are compressed on the same day.

With regards to the action type “R”, could you please advise if there are any scenarios not permitted under this action type? That is, for example, the correction of a counterparty identifier.

Furthermore, REGIS-TR proposes the inclusion of 2 new action types:

(a) An action type to cancel the trade due to Novation of position or trade. This will increase the understanding of the reporting flow which will ease supervision provided that a reporting rule is clearly defined.

(b) Additionally, a new action type should be added in order to reflect the migration between TRs. This will be applicable to the trades that are closed in the exiting TR and also to ones open in the new TR.

Question 5

Do you think the introduction of new values and fields adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

(43) : REGIS-TR agrees on including the action type to indicate if a trade is reported at a position or trade level as it would be very useful in order to handle the information received and to generate reports to entities and regulators. REGIS-TR's suggestion is for OTC trades as a general approach, "T" (transaction) should be reported. This field should be mandatory in order to help to identify whether a reported message is transaction or position. REGIS-TR expects a clarification of which fields would be mandatory when the action type is "P". It is necessary to specify how to report positions because it will improve the quality of data and the percentage of reconciled trades. Concerning CFDs, REGIS-TR will suggest a concrete approach regarding how to report the positions and transactions and how to manage the new Action Types. From a technical point of view, REGIS-TR will be able to include this field into the Reporting Schema, but it is important to mention that each time that a field is included in the report, Market Participants are impacted.

(44): REGIS-TR understands that using negative values in some fields is Market Practice. However, guidance on how to populate that information is key to increase data quality.

(45): REGIS-TR considers that the inclusion of this field would make the information provided to regulators more reliable. From a technical perspective, every time a field is included, it is necessary to assign resources and make new developments.

(47 / 48 / 49): REGIS-TR understands that the mentioned changes in these paragraphs are suitable for OTC products. However, guidance for exotic OTC products is required as identification with a UPI is not always available. REGIS-TR has learned that most of the mismatches are caused by discrepancies on the current fields ProductID1/ProductID2. Thus, data quality would probably improve if guidance on how to populate fields, "Contract Type and Asset Class" is issued. Additionally, the obligation to report fields Contract Type and Asset Class together with the detailed information that needs to be provided in fields in Section 2b will definitely make the reporting more consistent.

(51 / 52 / 53 / 54): REGIS-TR believes that those changes and definitions would be applicable to ETD trades. However, the market practice in the OTC market does not follow the same definitions provided in these paragraphs as Initial Margin + Variation Margin. Additionally, it does not cover the

replacement value if a credit event occurs, in some scenarios. Therefore, REGIS-TR believes that these changes are not worth the necessary resources as once implemented they will not provide a complete solution.

(55): REGIS-TR believes that an endorsed rule to determine who needs to generate and transmit UTIs is required. In REGIS-TR's opinion, the term "fail to agree" is ambiguous and determining who is responsible to generate and transmit the UTI beforehand will not only assist reporting entities with their reporting obligation but also increase pairing and control double reporting. Although, internal agreements between counterparties shall be permitted, it is key to know who is responsible for the generation if the mentioned agreement fails.

Question 6

In your view, which of the reportable fields should permit for negative values as per paragraph 40? Please explain.

In our view, negative values should be allowed for the following fields:

Field 16 Price / rate

Field 17 Value of the contract

Field 23 Up-front payment

Field 40 / 41 Fixed rate of Leg 1 /2

Field 64 Price/time interval quantity

Field 67 Strike price

Question 7

Do you anticipate any difficulties with populating the corporate sector of the reporting counterparty field for non-financials as described in paragraph 42? Please elaborate.

From REGIS-TR's perspective, each time a field is included, Market Participants are impacted because they are required to update Schemas and validations. As it is just one field, from a functional point of view, REGIS-TR would not find it hard to drive the incorporation of the field "Corporate sector of the Reporting Counterparty" if it is not a repeatable field. REGIS-TR's understanding is that repeatable fields might be complex and it would be necessary to have clarifications about how to manage the possibility of reporting more than one sector. Also, it is necessary to specify which validations should be implemented. However, it is our understanding, this new implementation could have a great impact on the Non-financial Entities because they have less resources to dedicate to the reporting obligation and usually, they are not as familiar with reporting obligations as financial ones. Thus, any change normally causes several issues until they are able to report properly. It is important to notice that, given the fact that this information is not contained in any trade ticket or term sheet, entities would need to carry out new enhancements and developments in order to retrieve the information and include it in their reports.

Question 8

Do you envisage any difficulties with the approach described in paragraph 45 for the identification of indices and baskets? Please elaborate and specify what would be the most practical and industry consistent way to identify indices and baskets.

REGIS-TR has assumed that this question refers to paragraph 49 instead of 45.

REGIS-TR agrees with the approach of paragraph 49 by adding granularity to the identification of the underlying when it is an index or a basket by specifically listing all components of that index or basket in the field Underlying (Table 2 Field 4). However, REGIS-TR would like to ask how ESMA expects this information to be reported. Would that be by adding repeatable fields to identify each of the components of that basket or index? Or would it be a free text field where all the components can be subsequently listed? REGIS-TR believes that free text fields do not increase data quality and may be difficult to reconcile, as well as to carry out the supervisory activity due to the issues in relation to the validation of the content reported in these types of fields. Another question that arises is what should be reported if the components of the basket are OTC products themselves. How does ESMA expect this to be reported?

Additionally, REGIS-TR understands that ESMA is trying to achieve an accurate identification of the underlying but also the possibility of filtering the information to Regulators in a correct manner too. Therefore, if the filtering criteria by B and I changes, once the approach in paragraph 49 is implemented, the implementation of the request contained in TR Question 37 would not be valid and a new change to the Regulators' Access would be requested in a short period of time. This would lead to inefficiencies on the TR side that may be avoided if the changes defined in the Consultation Paper are prioritised.

Question 9

Do you think the introduction of the dedicated section on Credit Derivatives will allow to adequately reflect details of the relevant contracts? Please elaborate.

REGIS-TR believes that the quality of information will improve if a dedicated section on Credit Derivatives is included and that reporting entities will not encounter any issues to obtain and provide the information proposed in the Consultation Paper. Therefore, REGIS-TR agrees with the inclusion of the fields regarding the section "Credit Derivatives".

Question 10

The current approach to reporting means that strategies such as straddles cannot usually be reported on a single report but instead have to be decomposed and reported as multiple derivative contracts. This is believed to cause difficulties reconciling the reports with firms' internal systems and also difficulties in reporting valuations where the market price may reflect the strategy rather than the individual components. Would it be valuable to allow for strategies to be reported directly as single reports? If so, how should this be achieved? For example, would additional values in the Option Type field (Current Table 2 Field 55) achieve this or would other changes also be needed? What sorts of strategies could and should be identified in this sort of way?

REGIS-TR's understanding is that it would not be feasible to reflect any strategy within one report because this would require including several new fields and to implement new validations that are currently banned. Therefore, REGIS-TR believes that a suitable solution would be to include a new field to link strategies. Strategies would be reported in separate legs but a code will identify whether more than one trade is involved into a strategy or not.



Question 11

Do you think that clarifying notional in the following way would add clarity and would be sufficient to report the main types of derivatives:

60. In the case of swaps, futures and forwards traded in monetary units, original notional shall be defined as the reference amount from which contractual payments are determined in derivatives markets;

61. In the case of options, contracts for difference and commodity derivatives designated in units such as barrels or tons, original notional shall be defined as the resulting amount of the derivative's underlying assets at the applicable price at the date of conclusion of the contract;

62. In the case of contracts where the notional is calculated using the price of the underlying asset and the price will only be available at the time of settlement, the original notional shall be defined by using the end of day settlement price of the underlying asset at the date of conclusion of the contract;

63. In the case of contracts where the notional, due to the characteristics of the contract, varies over time, the original notional shall be the one valid on the date of conclusion of the contract.

To avoid misunderstandings, REGIS-TR believes that specific types of derivatives should not be mentioned at the beginning of paragraphs 56 and 57, since there are also, for example, options and CDFs that can be traded in monetary units too. Therefore, the below wording is proposed:

(60) In the case of contracts traded in monetary units, original notional shall be defined as the reference amount from which contractual payments are determined in derivatives markets;

(61) In the case of contracts designated in units such as barrels or tons, original notional shall be defined as the resulting amount of the derivative's underlying assets at the applicable price at the date of conclusion of the contract;

(62) In the case of contracts where the notional is calculated using the price of the underlying asset and the price is only available at the settlement time, the original notional shall be defined by using the end of day settlement price of the underlying asset at the date of conclusion of the contract;

(63) In the case of contracts where the notional, due to the characteristics of the contract, varies over time, the original notional shall be the one valid on the date of conclusion of the contract.

REGIS-TR believes that uniform guidance must be provided in this respect to improve data quality and increase reconciliation.