



European Securities and Markets Authority  
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France

Dear Sir / Madam

## **Review of the technical standard on reporting under Article 9 of EMIR**

UnaVista Limited (“UnaVista”) welcomes the opportunity to comment the ESMA Consultation Paper: Review of the Technical Standards on Reporting under Article 9 of EMIR (ESMA/2014/1352).

An EMIR authorised trade repository since November 2013, UnaVista is part of the London Stock Exchange Group (“LSEG”), a diversified international exchange group that sits at the heart of the world’s financial community. As the operator of a trade repository, UnaVista is well positioned to comment on the review of the reporting technical standards and the proposed changes.

### **Key points**

- UnaVista welcomes the review and supports many of the changes that ESMA has proposed. However, we would encourage ESMA to take advantage of the review to specify validations. As ESMA will be aware, the Level One validations to the existing reporting technical standards have caused challenges for market participants and this disruption will continue when the Level Two validations are implemented later this year. In our view, ESMA should specify the required validations in these technical standards proposals in order to avoid the need to implement subsequent onerous validation requirements. The closer ESMA can get to a clear specification now will reduce the need for interpretation of the requirements by trade repositories and reporting entities. This will reduce confusion amongst reporting entities, increase harmonisation and improve data quality.
- We would also urge ESMA to address position reporting in these technical specifications. Article 9 covers trade reporting requirements, however, ESMA has allowed the reporting of positions to supplement trade reporting and we believe that these position reports contain far more value where they are reported than the original trade reports. Since subsequent lifecycle events are reported at the position level (if the original trade reports have been compressed), the calculation of positions can only be performed using position reports. Given the widespread reliance on position reports for ETDs and certain OTC derivatives such as CFDs and spreadbets, it is equally important that harmonised technical standards are implemented for position reports as they are for trade reports. As this review of the technical standards includes proposals for the facilitation of position reporting, including the new common data field 74 to indicate a position report, we would encourage ESMA to go further and fully specify position reports.
- Finally, we suggest that ESMA takes this opportunity to revisit the requirement to populate reference data associated with ISINs. ESMA and National Competent Authorities (NCAs) have experience of derivative reporting since November 2007 (and beyond for those NCAs that collected transaction reports ahead of MiFID). We believe that it will have been evident that the poorest quality reports were those where the reference data needed to be populated – i.e. OTC and Aii derivatives. One important lesson that should



be clear from the long history of MiFID derivative reporting is that the data quality of reports will decline the more reporting entities need to populate reference data. As ESMA's objectives in the review are to improve the quality of reporting and reduce unnecessary burdens, ESMA may wish to consider whether reference data needs to be populated by individual counterparties where the product identifier is an ISIN and the reference data is available to the trade repositories or regulators.

**Q1: 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 ITS 1247/2012? If so, what additional derivative class(es) and type(s) would need to be included? Please elaborate.**

Inevitably this would cause difficulties for some reporting counterparties, but we would agree that a category type of 'other' adds no value and should be removed.

We believe that 'debt' is a separate asset class and should not be included within 'interest rate' as it is fundamentally different. If ESMA considers it necessary for debt to be included in one of the five asset classes detailed, we would argue it has closer similarities to 'credit' than 'interest rate'.

In addition, we believe that 'spreadbet' is worthy of a separate 'contract type' as its characteristics are different to 'CFD' or 'swap', especially in relation to 'price multiplier' and 'quantity' fields.

**Q2: 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.**

We support the proposed changes and believe these will help improve the data quality of reports. However, we do not believe that the section adequately reflects the complexity of diversity of the derivatives market. In addition, a guidance document, that includes practical reporting examples covering differing derivatives types, is required if reporting is to be fully harmonised. The EMIR Q&A document does not provide the required level of practical guidance. We believe this is particularly relevant in relation to the buy/sell indicator. We do not believe that the guidance referenced in the Q&A document adequately covers all derivatives, particularly FX derivatives. We would also note that the methodology described for vanilla fixed for floating interest rate swaps appears to be different from market convention (where it is generally accepted that the party receiving the floating rate is the buyer). With the methodology proposed, the two counterparties would face additional complexity in determining how each party populates leg one and leg two of the interest rate fields and there could be increased matching errors in the reconciliation process.

**Q3: 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.**

As a trade repository, we use the mark to market values in our 'breakdown of values by derivative class' aggregations for public dissemination. The proposed changes to the population of the mark to market value in paragraph 21 will have a profound impact on these aggregations. The two distinct proposed methodologies for determining the mark to market values, dependent on derivative type, will also have an unintended impact on the data aggregations by asset class.



**Q4: 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.**

Time format

We support the proposal for a single time format as this will promote harmonisation.

Use of LEIs

We strongly support the proposal to promote use of LEIs and remove BIC and interim identifiers as options. However, we have some concerns that client code is still listed as an option for the identification of the 'reporting counterparty' in the revised ITS. We understand that it might be possible for private individuals to have a reporting obligation where they are also a business, but we have no evidence of this in our trade repository.

Country of the Other Counterparty

We would suggest that this field could be left blank where the other counterparty is identified with an LEI and information of domicile will be associated with this LEI.

We are not convinced that this field actually meets its purpose as there will be some 'other counterparties' that are based outside of the EU/EEA that may still have an EMIR reporting obligation, notably alternative investment funds managed by AIFMs authorised or registered in accordance with Directive 2011/61/EU.

Original Notional/Actual Notional

The definition used for these fields appear to be driven from an OTC swap perspective; it is still not clear how these fields should apply to ETDs and other instruments such as spreadbets. Again, we would advocate use of examples covering all derivative types in a guidance document to help eliminate any confusion (please also see our response to Q11).

Aii Instrument ID

We do not believe that the Aii should be used as a derivative identifier. The Aii is a collection of reference data rather than an instrument identifier. In our experience in processing large trade volumes where the Aii is used, there is little consistency across the market in its adoption. In addition, as there is no approved standards authority (e.g. ANNA as an ISO Registration Authority for ISINs) many market participants struggle to correctly provide the necessary combination of disparate reference data attributes to create the Aii.

There are significant issues with Aii compared to a robust coding system like ISIN, that is professionally maintained on behalf of the industry with ISO approved published standards. The primary issue with Aii is that each market participant is required to create an Aii by combining multiple descriptive reference data items, which inevitably results in trading counterparties using different product IDs leading to high exception rates when Trade Repositories attempt to match dual sided trades. Full ISIN coverage exists for all UK domiciled Exchange Traded Derivatives at no cost to the industry, and in our view it would be a proportionate and



practicable approach for the regulations to mandate their usage. This was in fact the original proposal from CESR when MiFID reporting was implemented in 2007. We are concerned that the subsequent introduction of the Aii has compromised the quality of data reported.

If ESMA determines that it is appropriate for the Aii to be used, we would caution against populating the instrument identifier with both the EPC and the venue of execution. The argument that 'XOFF' could be used as a trading venue for exchange traded derivatives is implausible and contradicts the logic in the proposed level Two validations for the venue of execution field ("If exchange Product Code is provided in field 2.2, it should be populated with a valid MIC only; XOFF or XXXX values should not be accepted.").

#### Action Type

We do not understand the rationale for the proposed change to the definition of action type 'M' in the RTS. This will cause some degree of difficulty for entities currently using it to correct errors to any fields within a submitted report. A more effective approach in our view would be to use action type 'O' when submitting changes to the actual terms of the derivative as this also allows use of the 'Action Type Details' field. The loss of 'Action Type' 'O' and the 'Action Type details' field would result in a reduction in the information contained in a report.

In addition, we have not seen any evidence that reporting counterparties are correcting reports through 'action type' 'E' and a submission of a new report. We believe reporting counterparties have understood that this value should be used to cancel a report that should not have been submitted in the first place.

We would welcome additional guidance on whether a UTI can be re-used if it has been 'errored out' using an action type of 'E'.

We would also recommend that a further action type value is created to facilitate the migration of counterparties' reporting from one trade repository to another.

We fully support the introduction of a new action type to facilitate position reporting.

**Q5: 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.**

#### Level/Field 74

We fully support the introduction of a new field to distinguish trade reports from position reports. We already utilise such a field with values of 'T' for trade and 'P' for position. We would encourage ESMA to use the value of 'P' for position, rather than 'O' as has been proposed.

#### Country Code of main residence



We do not see this proposed new field in the revised RTS or ITS. We would therefore welcome clarification from ESMA if this is intended to be a separate field to the 'country of the other counterparty' (about which we have commented in our response to Q4).

As a general observation, we believe that reporting counterparties will find it challenging to determine the 'Country of the main residence of the other counterparty".

#### Underlying

We would recommend that this field is used to identify the ultimate underlying instrument of a derivative as we believe this is the best way of enabling trade repositories to correctly permission regulators to access data under EMIR. This would imply that the Aii would never be used as the underlying code type. It would be extremely ambitious to expect any counterparty to populate the full Aii.

We are also concerned at the workability of the proposal to populate ISINs for all instruments within a basket. Creating unlimited repeatable fields could cause significant issues and inefficiencies. Additional challenges would be faced with the maintenance and validation of basket constituents.

#### Collateral

We understand the benefit that additional fields for initial margin and variation margin will bring to regulators. In our view, adding these fields will not be burdensome for trade repositories, however implementation may pose some challenges for reporting counterparties.

#### UTI Generation

We fully support the proposal for prescription on which counterparty shall be responsible for the generation and dissemination of the UTI. We believe this lack of prescription is one of the major factors behind the low pairing rates and we would expect them to improve as a result.

#### **Q7: 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.**

No. The NACE taxonomy may not be familiar to all counterparties, but it appears to be easy to understand and populate.

#### **Q8: 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.**

It would certainly help if ISINs were assigned to as many indices as possible and we would recommend that index providers should co-operate with the National Numbering Agencies to facilitate this. Reliance on a free format 'full index name' will inevitably result in inconsistencies irrespective of index name availability. We believe the proposal on baskets is more problematic, as indicated in our response to Q5.



**Q9: Do you think the introduction of the dedicated section on Credit Derivatives will allow to adequately reflect details of the relevant contracts? Please elaborate.**

Yes, but we would recommend that further detail is required on exactly how the coupon should be expressed; for example, should it be a percentage or in basis points.

**Q11: Do you think that clarifying notional in the following way would add clarity and would be sufficient to report the main types of derivatives:**

We believe greater clarity is required and this can only be achieved using worked examples of derivative types.

Yours faithfully

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