# Macintosh HD:Users:2005-2010:Desktop:NDAQ_Letterhead_2014:ndaq_color.pngNASDAQ Clearing response on ESMA CP 2014-1352 – EMIR Reporting article 9

Introductory remarks

NASDAQ OMX Clearing AB (“Nasdaq Clearing”, “we”, “our”) welcomes the opportunity to comment on the European Securities and Markets Authority’s (“ESMA”) consultation paper “Review of the technical standards on reporting under Article 9 of EMIR”.

As a general matter we are supportive of the European Association of CCP Clearing Houses’ (“EACH”) response to this consultation. In our own response we have sought to reinforce certain positions in the EACH response as well as providing some additional comments.

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.

Nasdaq Clearing endorses the EACH view that the the “other” category should be kept as it can be useful in the case of introduction of new products not previously envisaged. Not having this category could potentially cause unnecessary delays and issues and possibly decreases rather than increases the quality of reporting.

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.

Firstly, Nasdaq Clearing welcomes the clarifications proposed to be introduced with comments as given below. Secondly, we would like to highlight the need for an adequate time for market participants to implement the proposed changes to the reporting. Adding and deleting fields will need to be implemented through the scheduled technical releases of each party involved. Nasdaq Clearing supports the recommendation from EACH of an implementation timeframe of at least 15 months.

Paragraph 18: We consider the definition given for Table 1, Field 17 is unclear and needs further clarification. There needs to be a clear definition of what value is requested for the field and the name and definitions should be adjusted appropriately thereafter.

Paragraph 25: We support the alternative approach given by EACH for reporting of contracts where terminology used does not necessarily translates into “buyer” or “seller”. It is important that the reporting allows for a logic that reflects the way these types of contracts are handled by market participants.

Paragraph 26: Nasdaq Clearing requests that an additional category, Seafood (“SF”), is added to Table 2, Section 2g, Field 53.

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

Nasdaq Clearing agrees that the mark to market valuation requires clarification and endorse the views given by EACH on this issue.

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

Nasdaq Clearing broadly supports the EACH response with the additional commentary below.

Paragraph 41:
We agree with the proposed adaptation of action type codes to be used for corrections of reports. We would however like to highlight the need for further adaptations. There are a number of situations where the “other counterparty” to a trade or a position changes, for example because of mergers or a change of a previously missing or incorrect LEI.

Currently some Trade Repositaries do not allow for changing the “other counterparty” of an active trade or position without using the combination of action type “error” and “new” to cancel the original position and opening up a new position respectively.

The proposed solution is to obtain a new UTI for the trade/position and report to the other counterparty. This approach will be very cumbersome and it is our view that it also breaks the rules for how to create a UTI since the original trade/position is unchanged and consequently the basis for creating the UTI is unchanged. It will also create problems for the counterparty to re-create and match the UTI.

We propose that logic for supporting such changes is introduced, for example via a special message type.

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.

Nasdaq Clearing supports the comments given in EACH’s response with the additional commentary below.

Paragraph 43:
We welcome the introduction of new fields for reporting positions. We however request clarification from ESMA on how the parties of a report should report “buyer” and “seller” of zero positions. For example, a customer’s positions net to zero. This position needs to stay open in the system until they expire or the customer closes out both sides. If it were cancelled then it cannot be re-opened if the customer trades in the instrument again. Also some zero positions need to have reported market values.

Paragraph 49:
We believe that it should be possible to leave the Underlying field (current Table 2, Field 4) blank for products where this field is not relevant, in accordance with TR Answer 20 in the ESMA EMIR Q&A from 24 October, 2014.

Q6: In your view, which of the reportable fields should permit for negative values as per paragraph 40? Please explain.

Nasdaq Clearing supports the views given by EACH. In addition we support the additions proposed by ESMA including the following fields that should permit for negative values.

2.40 Fixed rate of leg 1

2.41 Fixed rate of leg 2

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.

Nasdaq Clearing supports the views given by EACH.

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.

Nasdaq Clearing supports the views given by EACH.

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.

Not applicable to Nasdaq Clearing.

Q10: 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?

Nasdaq Clearing supports the views given by EACH.

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:

Nasdaq Clearing supports the views given by EACH.