ISDA. Safe, Efficient Markets
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Response to DP24/2 – Improving the UK transaction reporting regime

The International Swaps and Derivatives Association, Inc. (ISDA)[1] welcomes the opportunity to respond to the FCA's DP24/2 on improving the UK transaction reporting regime.

Overview and summary

We are supportive of the approach being taken to identify how UK MiFID transaction reporting can be streamlined and simplified, while also improving upon the quality and relevance of submitted data. We are encouraged that several of the proposals put forward in the DP would lead to reduced burden on the industry and also improve the data received by the FCA.

However, there are some areas either not fully explored within the DP, or not addressed at all, where ISDA believes improvement of the existing proposals and inclusion of additional measures could result in even greater efficiencies and improvements. Some key themes include:

- Alignment to global standards and to similar reporting regimes. Adopting globally agreed definitions, and aligning data requirements with similar regimes (notable UK EMIR) where possible will reduce burden to the industry and improve data consistency.
- Duplicative reporting should be avoided to reduce the amount of data market participants are required to populate on transaction reports. This can be achieved by utilising the transaction data submitted under Article 9 of EMIR where there is overlap with MiFID, and also by leveraging the attributes of identifiers such as the UPI and ISIN, thereby avoiding the need to report that same attribute information again in separate fields.
- Introducing a 'targeted' correction message that enables firms to correct only those fields previously reported with an error.

[1] Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 77 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on LinkedIn, Facebook and YouTube.

- Utilisation of existing technology and data standards that will ultimately improve consistency, clarity and accuracy of reporting, as well as reducing implementation burdens to the industry. We cite the Common Domain Model (CDM) and ISDA Digital Regulatory Reporting (DRR) as opportunities.
- TOTV determination is problematic for all asset classes of OTC derivatives and this is an opportunity to address some of these issues hindering the industry.
- The DP identifies the need for an improved identifier for OTC derivatives which ISDA fully supports and intends to perform additional analyses to identify the best solution.
- A form of singled-sided reporting could be introduced to reduce the burden on smaller firms, but only where such a step would not unduly impact larger firms still required to submit transaction reports.

ISDA and our members have been encouraged with the level of interaction between the FCA and the industry to date. We would like to continue this positive communication with the FCA to further discuss and consider the proposals put forward within this DP response.

Question 1: How should we balance alignment between international transaction reporting regimes with the benefits from a more streamlined UK regime? Are there particular areas where divergence would result in more significant operational challenges or costs? These could be specific to field content, trading scenarios, reporting arrangements, or any other area.

As an overall standpoint, we support alignment on reporting requirements across the global regimes, and where possible, the application of global identifiers. Nonetheless, we support divergence under revised MiFID rules where it will create a more efficient and transparent regime, with better data quality. Our response calls out some specific areas where divergence or alignment with EU MiFID, or other global regimes, would be beneficial, (either to improve reporting and/or reduce the burden on the industry).

One area where alignment would in the majority of cases be beneficial, is the application of global standards that have been designed to achieve greater consistency in how reporting requirements are defined, and how the data is to be provided to regulators. Where possible, we encourage the use of these global standards which include (but are not necessarily limited to), Legal Entity Identifier (LEI) ISO 17442, Classification of Financial Instruments (CFI) ISO 10962, Market Identifier Codes (MIC) ISO 10383, Unique Product Identifier (UPI) ISO 4914, Unique Transaction Identifier (UTI) ISO 23897, ISO 8601 for dates and times, ISO 4217 for currencies, and ISO 20022 dictionary for data elements contained within submitted reports.

A single transaction can be in scope for reporting under multiple regimes. This could be within the same jurisdiction, e.g. in scope for UK MiFIR and UK EMIR, across jurisdictions, e.g. in

scope for UK and US reporting, or a combination of both. Essentially, the same data is being provided to each regulator responsible for each in scope regime. Where this is the case, the requirement should be defined and represented consistently, in line with the globally agreed standards. However, different regimes will have distinct purposes so each data field should be assessed on merit, and if regimes require the underlying data for a different purpose, alignment to global standards may not be suitable.

The CDE fields are commonly adopted across jurisdictions for derivative reporting, but different versions of the CDE are being used. For example, APAC reporting regimes are using CDE version 3, while UK EMIR uses version 2. CDE version 4 is currently under review. To enable the UK regime to remain agile and up to date with the latest CDE version, we propose that field definitions are not defined within the level 2 technical standards, as this would require a more lengthy and costly process to update the definitions. Instead, if such information were captured as level 3 / validation rules, the UK would be better placed to update the field definitions in a more timely and cost effective way.

Question 2: What changes could we make to the UK's transaction reporting regime now to remove duplication or provide synergies with requirements in other UK wholesale market reporting regimes?

Duplicative data across regimes: As referred in the answer to Question 1, the same transaction can be in scope for multiple regimes. In the case of the UK MiFIR transaction reporting requirements, all in scope OTC derivatives will also be reportable under the UK EMIR reporting regime. While these two regimes have different purposes, multiple data points will be reported consistently. Therefore, we encourage UK regulators to apply data received elsewhere (such as from UK EMIR reporting) to the MiFIR transaction reporting requirements to avoid duplicative reporting.

Duplicative data available from identifiers: Each transaction message will contain several different types of identifiers, some of which inherently contain attributes of the transaction. For example, the UPI for an IRS Fixed Float transaction will contain information such as the Reference Rate, Reference Rate Term Value and Term Unit, the Notional Currency, Notional Schedule and Delivery Type. We proposed it should not be necessary to report this information again within the relevant fields of the transaction message as the information is already available within the UPI. Such an approach would reduce duplication of reported information without compromising the data available to the regulators.

Single-sided 'plus' reporting: We believe there is an opportunity to reduce the reporting burden for smaller firms by requiring them to only report reference data, including personal individual information. We explore this concept further in the response to Q20.

Targeted correction of data: When a transaction report is submitted with an error, the reporting entity can only correct that error by resubmitting a full transaction message. This can be problematic to do as the entity needs to populate all fields with the relevant data as it was at the time of execution. Such data elements may change over time (e.g. due to lifecycle events) meaning the data as it was at execution may not longer be readily available.
This can be addressed, and the process of submitting corrections made more streamlined, if the correction reporting message can be targeted to only include the impacted fields, i.e. those fields that had an error. A targeted correction message will remove the risk of other fields being inadvertently overwritten with incorrect data, avoid firms needing to lookback to retrieve old data, and make the whole process more efficient.

Use of Trade Repositories: MiFID transaction messages are submitted to ARMs, but the majority of other comparable reporting regimes, (such as UK EMIR) use Trade Repositories (TRs). TRs tend to have tighter controls and are a well established conduit for reporting within the industry. There are differences in the type of data submitted for MiFID compared to regimes that use TRs, (for example, MiFID includes personal information pertaining to individuals), and these need to be factored into when considering the potential benefits that could be realised if transaction messages were submitted to a TR. Furthermore, while a move to TRs would bring benefits of alignment with other regimes, there will also be costs incurred by market participants to implement the change, and potentially the ongoing costs may be no less, or even higher, than reporting to an ARM.

Without performing a careful cost benefit analysis of reporting transaction messages to a TR rather than an ARM, and unless concerns around data privacy can be fully satisfied, we do not advocate for one option over the other. However, we do encourage the FCA to take this opportunity to assess whether a TR reporting process would ultimately be the preferable approach.

Question 3: Which areas of the transaction reporting regime do you find most challenging? Please explain why.

Corporate Actions

The inclusions and exclusions of different types of corporate actions within the regulatory text means market participants have struggled to consistently implement and automate the reporting of these events. Each corporate action type has to be considered against a number of regulatory references to determine reportability or not, which increases the likelihood of over or under reporting.

Under the current MiFIR requirements, the "reportability" of each type can only be determined by reading the guidelines, the Q&A and the regulation itself. It becomes necessary for some market participants to manually review the term sheet for each corporate action, work through

the terms and the intermediary steps involved, before being able to clearly determine whether the corporate action is in scope or not.

We propose that the UK take the opportunity to exempt all corporate actions from the scope of MiFIR transaction reporting.

Equity Swap Reporting

The regulation and the Guidelines published by ESMA that dictates how firms should report Equity Swaps is confusing as it is currently set out. A combination of Buyer/Seller field definitions, guideline examples, and the notional increase/decrease fields creates a real risk of inaccurate reporting where a client goes long or short on a swap, or even more challenging, when the client fluctuates between long and short exposure.

The lack of guidance for example to where a client goes short on Swap in particular means regulators are unlikely to be able to accurately monitor reports submitted by market participants for Equity Swaps due to the inconsistency of how the requirement has been interpreted and implemented.

Quantity and Price Types

The Guidelines includes a number of examples for the use of price and quantity types, but the expected requirement is not fully clear. The definition of ‘Notional’ and ‘Nominal’ are confused, and the “types” used for specific asset classes in the Guidelines are allied inconsistently.

Whilst we appreciate the FCA has made its position clearer on this topic via Market Watch, it would appreciated if the definitions and “types” available were clarified further, as has been proposed under Question 30.

Furthermore, the use of the field “Price Multiplier” is too vague in some cases for market participants to confidently report sufficient details to allow the FCA to perform the relevant calculations for, for example, Futures.

Use of the value ‘NORE’ to identify ‘Execution within Firm’

There is uncertainty within the industry as to the correct application of the value ‘NORE’ for the field ‘Execution within firm’. Common scenarios where this applies is where:

- A firm always routes orders to the same third party for execution
- A firm routes order to a different legal entity in same group

We believe the correct application of ‘NORE’ is where the order originates outside the reporting entity, for example in a remote booking scenario and an individual should be named at the firm when the execution is instigated by the reporting firm itself. However, this is not clarified in

regulatory guidance, so clarity as to the FCAs expectations for the application of 'NORE' would clarify matters for market participants.

Country of Branch for the Buyer / Seller

There is some lack of clarity as to the definition of a client and when this field should be populated.

To simplify the requirement, we suggest the fields could be populated in all cases where the Buyer / Seller is not the reporting firm, a CCP or a venue. At present there is inconsistency in how firms populate the fields, with some market participants classifying the counterparty as an Eligible Counterparty, while others take a differing view. A strict reading of the definition of a MiFIR Client should lead to consistent reporting, but as of today, the same logic is not being applied being applied uniformly within the industry.

- *Corporate actions – difficult to ascertain what is in or out of scope.*
- *Determination of in scope/out of scope trades. E.g. For an FX forward traded bilaterally, must query the ISIN and check FIRDS. A complex process prone to errors.*
- *Also see Mathew Vincent's email from 9 Dec with additional items.*

Time period to classify an instrument as TOTV: The current seven day window to classify an instrument as TOTV means that transactions can, and do, get rejected because reference data has not been submitted and processed at the time of reporting. There could be an opportunity to reduce the time period for TOTV classification, meaning it if far more likely transactions will be successfully submitted first time and thereby reduce the additional processing by market participants.

We acknowledge however, that this would mean any instruments not identified as TOTV within the shorter time period, e.g. two days, would not be reported. Therefore, it would be prudent to assess the number / percentage of instruments that are made TOTV late in order to make a more informed decision.

Question 4: Could data quality be improved through new technologies or messaging standards? If so, how, and what can the FCA do to support this?

Machine executable reporting requirements

The UK have an opportunity to take a global lead in the development and application of technology and data standardisation for regulatory reporting

As you identify in paragraph 3.25, regulatory reporting can be made more efficient and effective though Digital Regulatory Reporting (DRR) and the Common Domain Model (CDM). ISDA advocate for all jurisdictions to establish regulatory rules (in particular, transaction reporting rules are especially prime for this) as unambiguous logic (machine

executable code) published alongside legal text. The logic would use a standardised model (the preference would be the CDM as this is an open source model that is already relatively well developed) to allow market participants to implement it as code within their reporting systems and processes, with limited additional interpretation or manual intervention.

To support this innovation, our response to the recent Call for Evidence on Financial Services Growth & Competitiveness Strategy, recommended that the government (and indeed, regulators) can play a vital role by:

1. **Championing a common, open-source data standard for financial products** by which we can build automated solutions that are consistent across multiple products, business lines, and regulatory regimes. This could be built off the success of the Common Domain Model[2](CDM), developed by ISDA, ICMA and ISLA and now under the governance of the Fintech Open Source Foundation (FINOS), which provides the foundation for initiatives to digitise regulatory reporting, key collateral management processes, and other post-trade lifecycle processes.

The Transforming Data Collection (TDC)[3] program being run by the Bank of England and FCA is an example where the UK is already looking to improve the accuracy of data reported to regulators, whilst simultaneously introducing greater efficiencies to the reporting processes, and reducing the burden on market participants. The TDC itself cites “Defining and adopting common data standards” as central to achieving its vision. Furthermore, one of he intended outcomes of the TDC is establishing machine executable regulations which will dramatically improve the standard of reporting in the UK, potentially setting it apart from other global jurisdictions. The goals of the TDC also opens up greater possibilities for blockchain and AI to further the quality of data reported to regulators and reduce the impact of adhering to reporting regimes on firms. Foundational to all such initiatives though is a common data standard adopted by regulators and the industry, that can be applied consistently across financial products and processes.

In order to support the TDC program, set the UK on a path to being a global leader for machine executable regulations, and realise the potential benefits of blockchain and AI, it is essential that a single, common data standard is adopted and used consistently across regulatory regimes and across financial products. The CDM, as an existing open-source model, would be a prime candidate for this purpose which continues to be developed and expanded, and can be applied immediately.

2. **Providing leadership** for timely investment in machine-readable and machine-executable regulation. Authorities must be clear regarding specific standards, after full consultation with the market, to ensure timely and broad adoption.

[2] https://www.finos.org/common-domain-model
[3] https://transformingdatacollection.co.uk/

Digitisation will create a more attractive investment environment for internationally active firms seeking more efficient and cost-effective solutions to regulatory compliance. There will be enhanced reliability from regulators that when data is provided to them by market participants, it will be complete, accurate and standardised. It will also reap major improvements in managing risks across financial markets. Data quality will be improved,

Message format

JSON can be considered a simpler format compared to XML, and so arguably easier to manage for smaller and less agile firms, or for market participates that are new to MiFIR transaction reporting and have 'legacy' systems and processes in place to implement. However, market participants have already invested significant resources into the XML message format, with a move towards this harmonised transaction reporting message format across global regimes. As such, a transition to a new JSON format will bring further costs in the near term as well as ongoing costs to manage different message formats across regimes.

There are also structural differences between XML and JSON to be taken into consideration, with JSON being the less structured of the two formats. This would increase potential for inconsistencies between market participants on how the new RTS 22 rules are implemented.

XML has so far proved to be a reliable and suitable messaging format across multiple jurisdictions, handling high volumes of data on a daily basis. That does not mean XML is the only or best message format for transaction reporting and it is correct to examine other options, but while JSON is a potential alternative format, any perceived benefits must be carefully considered against the value of maintaining a messaging format the market are consistently using globally and is successfully supporting reporting requirements.

Of more importance than the format in which a message is reported, is the consistent understanding and implementation of the reported data itself. If the underlying structure of the message will ultimately be the same for both JSON or XML, there is no fundamental change with a move to JSON. It may also be the case that an alternative format preferable to both XML and JSON will become available in the future, so it could be counterproductive to lock-in a single message format within the RTS, and instead it would be preferable for the RTS to allow flexibility as to the required format. Provided the underlying message structure is consistent, and therefore the quality of the data is not compromised, enabling market participants to report using different message formats will have immediate cost and implementation benefits, enable more global consistency, and also provide flexibility to introduce better formats in the future should they become available.

Question 5: Do you use FCA FIRDS? If so, do you access via the GUI or through file download and what is your predominant reason for using FCA FIRDS?

ISDA members typically use FIRDS for multiple purposes across their respective organisations, and different personnel within a member firm may use either or both of the GUI and file downloads for different purposes.

Modality of use will vary depending on the size of the firm using FIRDS.

Predominant use would typically be to assess reportability of a given financial instrument, and this would typically be done programmatically by querying downloaded data.

Nonetheless, it is important that GUI access is maintained. Smaller firms may rely on this, and even larger firms will make use of the GUI, for example to address ad hoc queries from clients.

Question 6: Should CPMI firms be subject to UK MiFIR transaction reporting requirements for MiFID activity they conduct? Please explain why.

ISDA does not have an opinion on whether CPMI firms should be subject to MiFIR transaction reporting requirements for their MiFID activity, but to the extent this does happen, then our views on single sided reporting as outlined in Q20 are relevant here.

Question 7: What difficulties do you have in determining whether a financial instrument is TOTV, if any? Please make your response asset class specific, if applicable.

ISDA notes that it is well documented that the application of TOTV to OTC derivatives has had significant issues. This discussion paper itself notes that determining "whether an OTC derivative shares the same reference data details as a derivative traded on a trading venue can be time-consuming".

We further believe that inconsistencies in the reporting of OTC derivatives to FIRDS compromises the ability of firms to accurately determine whether instruments they have traded are TOTV.

This is exacerbated by the nexus with the need to obtain ISINs for the reporting of OTC derivatives reference data, and the inclusion of trade level data (and not just pure instrument data) within OTC derivatives ISINs.

We note that under policy statement PS24/14, the FCA has removed TOTV as the determinant of which OTC derivatives are in scope for transparency (which ISDA supports). While perhaps the main driver of this was the lack of value of transparency provided for OTC derivatives outside of the new clearing obligation based scope, ISDA believes that the complexity of TOTV assessment also adversely impacts the provision of transparency for those OTC derivatives from which the market truly benefits.

We also note that in corresponding changes currently in flight in the EU, the delegated regulation amending MiFIR states both that in respect of transparency, "For certain derivatives,

that concept [TOTV] has proven to be problematic due to their lack of fungibility and the lack of appropriate identifying reference data. For that reason, the scope of derivatives transparency should rely not on the concept of 'traded on a trading venue', but, rather, on predefined characteristics of the derivatives."; **and** that in respect of transaction reporting, "The concept of 'traded on a trading venue' has proven to be problematic in the case of over-the-counter (OTC) derivatives for the purposes of transaction reporting, for the same reason it has proven to be problematic for the purposes of transparency requirements." ISDA concurs with this assessment.

While we believe that determination of TOTV is problematic for all asset classes of OTC derivatives, this is particularly the case for those instruments that can have a high level of customisation, such as interest rate swaps and FX options.

Another observation is that UK FIRDS contains both UK TOTV instruments and EU TOTV instruments. We question whether it is necessary to include EU TOTV instruments within the UK MiFID transaction reporting requirements, and instead reduce the scope of UK FIRDS to UK TOTV instruments only. This would streamline the regime and reduce complexity and costs to market participants.

Question 8: Does the daily rolling ISIN issue impact your firm? If so, please explain for which asset classes and sub-asset classes. We would welcome any data you can provide on associated costs.

ISDA members are heavily impacted by the daily rolling ISIN issue.

Between January 2018 (when MiFIR went live) and December 2024, over 147 million ISINs were created for OTC derivatives.

Asset classes most affected are interest rate derivatives (in particular interest rate swaps), equity derivatives and FX derivatives. It should be noted that in the case of equity derivatives, the rolling ISIN issue is greatly exacerbated by the requirement to create ISINs for each underlying single stock, index and basket; and for options, by the need to create ISINs for any new strike price.

The joint ISDA/AIMA/EBF response to the European Commission's consultation on the selection of a identifier for transparency in OTC derivatives (published in January 2024 and entitled *AIMA-EBF-ISDA-response-to-EC-consultation-on-the-OTCD-identifier-final-clean-090124.pdf*) states "If we consider the broader scope of OTC derivatives covered by the current MIFIR post-trade transparency regime, this is also an issue for equity derivatives (56 million ISINs* (over half of all ISINs issued since MIFIR went live in 2018 as of November 2023, according to ANNA-DSB, despite representing just over 1% of notional amount outstanding and around 0.5% of gross market value of the overall OTC derivatives market). The large

numbers of ISINs issued herein are partly due to the maturity date issue but also due to the heterogenous nature of equity derivatives. The maturity date issue has also contributed to generating large numbers of ISINs (29 million – around 25% of all ISINs generated since MIFIR went live as of November 2023) in FX derivatives*."

*As of January 2025, there had been 74 million ISINs created for equity derivatives; 40 million for interest rate derivatives; and 33 million created for FX derivatives.

Question 9: Would reporting the UPI for instruments in scope under UK MiFIR Article 26(2)(b) and (c) require firms who would not otherwise have to obtain UPIs to do so?

No. All instruments in scope for reporting under UK MiFIR Article 26(2)(b) and (c) are also in scope for reporting under UK EMIR, which mandates the provision of a UPI where an ISIN does not exist.

It should also be noted that there is an inherent relationship between ISINs and UPIs – each ISIN rolls up to a UPI, and both are obtained by similar calls to ANNA-DSB. Therefore, while there would inevitably be costs associated with transitioning to obtaining UPIs instead of ISINs, firms currently reporting for MiFIR (and therefore EMIR) will have the technical infrastructure in place to support any such transition.

Question 10: What would be your preferred identifier for OTC derivatives in the transaction reporting regime? Please indicate why and explain which types of OTC derivative it should be applied to.

Subject to a thorough cost-benefit analysis and a proportionate timeframe for transition, ISDA supports the use of the UPI as the identifier for reporting of OTC derivatives of all asset classes.

The primary reason for this is the rolling ISIN issue, which as referred to in our response to Question 8, is further exacerbated for equity derivatives by the sheer volume of underlying stocks, indices and baskets, and the requirement to create new ISINs for any new strike price for equity options. Inherent in this are high operational costs (for investment firms as well as trading venues), and sheer proliferation of data.

The ISDA/AIMA/GFMA paper entitled *Transition to use of the Unique Product Identifier (UPI) as the basis for OTC derivatives identification for different MiFIR purposes* dated 9 April 2024 says : "A system which retains the rolling ISIN for some products whilst removing it for others will give rise to unnecessary complexity (even representing a cost-related disincentive to new entrants to the European capital market)". While this paper was produced for the European Commission, the point applies equally to the UK.

If the cost-benefit analysis shows a move to UPI to be desirable, without compromising data quality, or indeed enhancing the quality of data received by the FCA, (which ISDA believes

would prove to be the case), the impact could be managed by transitioning to the UPI in phases, with the asset classes most severely affected by the rolling ISIN issue moving to the UPI first.

Accordingly, the two approaches in Table 6 of the discussion paper that propose using an ISIN in some shape or form should be discarded.

In respect of the approaches in Table 6 that propose using the UPI, ISDA considers that the approach proposing that the scope of reportable instruments should cover all derivative contracts should be discarded, as it would effectively increase the scope of MiFIR transaction reporting to align with EMIR (see our response to Question 11 below).

For clarity, we have struck out those approaches we feel should be discarded in this representation of Table 6:

Approach	Maintain TOTV concept	Identifier for OTC derivatives	Additional data elements required
~~Maintain status quo, with additional guidance on TOTV concept~~	~~Yes~~	~~ISIN~~	~~No~~
UPI+ with additional data elements reported under RTS 22 and RTS 23	Yes	UPI	Yes
UPI+ with additional data elements reported under RTS 22 only, with the scope of reportable instruments covering UPIs admitted to trading or traded on a trading venue	Modified to the UPI rather than the ISIN	UPI	Yes
~~UPI+ with additional data elements reported under RTS 22 only, with the scope of reportable instruments covering all derivative contracts~~	~~No~~	~~UPI~~	~~Yes~~
~~ISIN modification~~	~~Yes~~	~~Modified ISIN~~	~~Dependent on the nature of ISIN modification~~

Closer analysis of the two remaining options is needed to draw out their pros and cons. We also do not want to rule out the possibility of there being other approaches that may be more suitable than those listed within the DP. Therefore, ISDA will carry out further analysis of whether an alternative version of the UPI+ could be better suited to provide the level of detail and transparency required by the FCA, while also simplifying the reporting obligations of market participants. ISDA will share these findings with the FCA in due course, (after the closing date for DP responses).

Question 11: Would you support a change to the scope of reportable instruments to align with UK EMIR?

ISDA does not support a change to the scope of instruments reportable under UK MiFIR to align with UK EMIR.

While in an ideal world, market participants with reporting obligations would report once for all regimes for a superset of instruments in scope for the union of those regimes, and individual regulators would extract the data each requires from that consolidated dataset for their various purposes, clearly that is not on the short to medium term horizon.

Therefore, extending the scope of instruments reportable under UK MiFIR would lead to a notable increase in the number of reports firms would have to produce.

As transaction reporting under UK EMIR and UK MiFIR serve different purposes, this would increase the operational burden on firms, without serving any useful purpose.

As stated in our answer to Question 10 above, this means that ISDA does not support the approach summarised in Table 6 that proposes the use of UPI+ with additional data elements reported under RTS 22 only, with the scope of reportable instruments covering all derivative contracts.

Question 12: Trading venues: is further guidance required on when instrument reference data should be submitted?

ISDA are not responding to this question.

Question 13: Trading venues: Would you support making all instrument reference data reportable only the first time there is a reportable event and for any subsequent changes? Please explain why.

ISDA are not responding to this question.

Question 14: Trading venues: Do you anticipate any issues with applying the concept of admission to trading across all trading venue types? Please explain why.

ISDA are not in favour of the 'admission to trading' concept being applied consistently across all types of trading venues. Regulated Markets (RM) and MTFs should be differentiated, including with respect to the admission to trading regime, with MTFs offering a different role within the market to RM. MTFs will focus more on facilitating liquidity and execution, rather

than setting eligibility criteria. As such, applying the concept of admission to trading to MTFs would unnecessarily impose additional regulatory burden.

Question 15: Trading venues: Do you agree that the obligation to submit instrument reference data should apply from the date on which a request for admission is made? Please explain why.

ISDA are not responding to this question.

Question 16: Trading venues: How do you currently determine and source the request for admission date?

ISDA are not responding to this question.

Question 17: Trading venues: Would defining "request for admission to trading" help determine what date should be applied for this field? If so, please suggest how this could be defined?

ISDA are not responding to this question.

Question 18: Do you support removing the obligation for SIs to report instrument reference data? Please explain why.

Given that the discussion paper on the future of the SI regime contained with the FCA's policy statement PS24/14[4] contemplates that firms will no longer have to identify themselves for derivatives (see paragraph 9.5), (which ISDA has supported in its joint response with GFXD to that discussion paper, *ISDA-and-GFXD-Respond-to-FCA-on-Future-of-SI-Regime.pdf*), it follows that it will no longer be possible for instrument reference data for OTC derivatives to be reported by SIs.

Accordingly, ISDA supports removing this obligation.

Question 19: Would you support the introduction of an opt-in register of UK investment firms willing to act as a receiving firm? Are there any other challenges associated with the transmission mechanism that limit the potential effectiveness of this solution?

ISDA are not responding to this question.

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[4] https://www.fca.org.uk/publication/policy/ps24-14.pdf

Question 20: Do you have any other suggestions that could help reduce the reporting cost for smaller firms?

Reducing the amount of data smaller firms need to report would assist reducing costs. A couple of ways this could be done are considered below.

Single-sided reporting: This concept is in place for other regulatory reporting regimes where only one firm reports, e.g. CFTC. However, MiFID transaction reporting contains additional data that is not part of the existing single-sided regimes, most notable the personal information of individuals.

Ideally, single-sided reporting would be introduced for MiFID transaction reporting, but such a change would need careful consideration to ensure (i) all in-scope transactions, e.g. cross-border transaction, still get reported and (ii) larger firms are not disproportionately disadvantaged by need to assume additional reporting requirements beyond current obligations, in particular the personal information of individuals. Should single-sided reporting lead to smaller firm sharing personal information of individuals with the larger firm, data privacy concerns and risks would be introduced, which would not be desirable to either counterparty and should be avoided.

On the basis that single-sided reporting does not have a negative impact to either what is reported to the FCA, and how firms carry out the reporting, we would be in favour of a single-sided MiFID regime. However, if such a 'pure' single-sided approach would work for MiFID transaction reporting without compromising the data reported and by increasing the reporting burden on firms we believe there is the potential for a single-sided 'plus' solution that could be considered. This approach would require the smaller firm to report its own reference data (which would include the personal information of individuals), but the economic data is submitted by the larger firm only.

Two key elements of consideration with this single-sided 'plus' approach is (i) how the two submissions will be reliably linked, and (ii) no additional fields or data should be required of either counterparty in order to meet the reporting requirements. These points will need careful analysis, but assuming they can be addressed, such an approach could be possible.

Voluntary Delegated Reporting: Although this type of solution has been applied under other reporting regimes to reduce the reporting burdens and costs for smaller firms, ISDA cautions this proposal is not suitable for MiFID transaction reporting. As mentioned above, MiFID requires personal information of individuals responsible for decision making and execution, which is not the case in other regimes where delegated reporting is offered by some market participants.

For the same data privacy risks and concerns mentioned under the single-side approach, as well as the need to develop additional requirements to support any delegated reporting offering, we believe any potential benefits to smaller firms will be more than offset by increased complexity, risk and costs to all parties. For these reasons, ISDA do not believe any form of delegated reporting is suitable for MiFID transaction reporting.

Question 21: Would you support UK MiFID investment firms (including a UK branch of a third country investment firm) being able to act as a receiving firm for non-MiFID investment firms (which are not subject to transaction reporting obligations)?

ISDA are not responding to this question.

Question 22: Trading venues: are there fields or trading scenarios that are particularly challenging to report accurately under Article 26(5)? If so, please provide details.

ISDA are not responding to this question.

Question 23: Trading venues: do you currently report negotiated transactions under Article 26(5)? If so, do you face any difficulties reporting these transactions? If not, would you anticipate any difficulties reporting these transactions?

ISDA are not responding to this question.

Question 24: Would you support reporting under Article 26(5) for all UK branches of third country firms? Please explain why.

We acknowledge the potential to streamline reporting requirements via this proposals. Removing the reporting obligations for UK branches of third country investment firms when executing on a UK trading venue, and for the UK trading venues to report transactions executed on their systems by third country investment firms, would also bring greater clarity on the legal obligations of the parties to a transaction. Such a move is encouraged and in line with the FCA's intentions to reduce the burden to the industry without compromising the quality of data reporting.

While the intentions put forward in the DP are welcomed, concerns have nonetheless been raised that the proposal may lead to some unintended consequences. A primary concern is whether venues may require firms to essentially send a fully formed transaction report in order for the venue to then submit the transaction message to an ARM. We understand that such practices are already the case in other markets and if the same were applied to OTC derivatives, any benefits to UK branches would be negated. An alternative approach considered by ISDA

and its members that could alleviate or at least lesson this potential outcome is to give non-UK investment firms the optionality to either report on behalf of itself or for the venue to report the transactions. This approach would likely require some form of additional agreement between firms and trading venues, so would itself introduce additional requirements, but could lead to a more efficient reporting process overall.

Ultimately, given firms have different views on whether this proposal will introduce a simpler and more streamlined process, or whether it could result with introducing unintended consequences, ISDA would welcome a discussion with the FCA on ways to ensure the intent aligns with the outcome.

Question 25: Do you have a preferred option for improving the usefulness of the TVTIC? Are there other options we should consider?

Our preference is for trading venues to disseminate the TVTIC as a clearly labelled single piece of information (option 1). This option is more likely to ensure the consistent receipt of the TVTIC value by the parties to a trade, and although it would require some system and process updates (as noted in the DP), it will lead to more consistent reporting of the TVTIC.

There is perhaps some merit though in prescribing how the TVTIC should be constructed (option 2) to ensure standardisation of the identifier across trading venues, and enable a firm to produce the TVTIC itself if it were in non receipt of the identifier from the venue. Such standardisation of the format and structure would be compatible with our preference for the TVTIC to be first and foremost provided as a separate and single piece of information.

Question 26: Do you think changing the name and content of RTS 22 Field 5 would improve data quality?

ISDA believes that simplification and clarity are beneficial. Updating the name of field 5 and its content to make the requirement clearer is likely to improve data quality.

Question 27: Do you agree that an investment firm should be able to report the underlying client instead of a trust LEI in all instances where the identity of the client(s) is known? Should we allow the use of the appropriate national identifier for the client(s) in this scenario?

Standardising the identifier for the underlying client regardless of whether or not there is a trust agreement in place would make is simpler to link such parties without introducing unduly complex requirement to investment firms.

Using the national identifier for this purpose is an appropriate approach to take.

Question 28: Would you support simplification of the requirements for the buyer and seller field when trading on a trading venue where the counterparties are not known at the point of execution?

We would support this proposal. As noted in paragraph 5.22, it will require a change to how many market participants currently populate the buyer and seller fields when the counterparty is not known at the point of execution, However, a consistent approach to this scenario of only ever populating the MIC of the trading venue will simplify the requirement and market participants would be expected to already have the MIC values available to populate.

Question 29: Do you have any suggestions for how data quality could be improved for transactions involving transmission?

We agree the current language, where 'transmission' is used for different scenarios (as reflected in paragraph 5.25) does lead to confusion. A consistent use of the term 'transmission' would assist with bringing a more standard interpretation across the industry, and this should be supplemented with clear examples of reporting expectations within FCA guidelines.

Question 30: What challenges do you have reporting the quantity type and price type tags for particular asset classes, if any? What further guidance could we issue to help firms?

We encourage the FCA to produce guidance to address the expected combinations of quantity type and price type for different reportable products. While we do not put forward any strong preferences for particular combinations, we urge any such guidance to reflect standard market practices as a baseline in order for the data submitted to be most relevant, and minimise the reporting impact on market participants.

It would also be beneficial for this guidance to consider package products and how they may be treated differently, particularly in respect to the price field proposals under Question 37.

Question 31: Do you anticipate any challenges with aligning the reporting of the price for single name equity swaps with the reporting of forwards with a CFD payout trigger? Could this be applied to swaps with multiple underlying instruments?

Aligning the price for single name equity swaps with forwards with a CFD payout would more closely align with EMIR, and so we are in favour of this.

However, where there are multiple underlying instruments, it may not be possible, or at least it would be far more complex and open to error, to adopt this same approach.

Question 32: Would you support removal of the indicator fields from the transaction reporting regime? Please explain why.

We support the removal of the indictor fields identified in paragraph 5.34. As has been laid out in paragraph 5.35, these fields provide limited value towards the remit of MiFID transaction reporting and so in order to meet the objective of streamlining the regime where possible, it is correct that they should be removed.

We are also in agreement that attributes contained within a CFI value should not need to be reported within a separate field. For example, where a CFI value is populated in field 43 for an option transaction, it should be possible to leave fields 50 (Option Type), 53 (Option Exercise Style) and 56 (Delivery Type) blank when they can be extracted from the CFI itself.

Question 33: What difficulties, if any, would you anticipate in being able to provide a linking code for aggregated transactions? Which of the options outlined would you prefer and why? Do you have alternate suggestions to improve data quality for transactions which use INTC?

Either option would require additional development, but the requirement for the FCA to link aggregated transactions is understood.

Where possible, we would prefer not to introduce new fields. This more closely aligns with Option 2 in the DP of populating the Buyer and Seller fields with an INTC code. However, there are valid concerns from some market participants that this approach introduces more complexity compared to Option 1 which introduces a new and separate field.

While there may not be a clear stand-out preference across market participants, we urge the FCA to not impose strict criteria on the format and / or syntax of an INTC code. It is reasonable to limit the number of characters and character types, but otherwise the structure of the code should be left open to each market participant.

Question 34: Do you anticipate any difficulties in reporting DTIs for an instrument or underlying? Are there other solutions that could allow us to identify when trading is in a tokenised security or has a tokenised security as an underlying?

The proposal for the inclusion of the Digital Token Identifier (DTI) is understood as a means to differentiate tokenised financial instruments from the more traditional non-tokenised instruments (as outlined within the CP). What is less clear however, is how the need to differentiate financial instruments that are issued on Distributed Ledger Technology (DLT) falls within the remit of MiFIR. We agree the transactions themselves are in scope for reporting, and by introducing a DTI the FCA will be able to track the financial instrument across several blockchains. While different DLTs may have differing risks, this in itself arguably does not provide additional insight to identify potential market abuse.

DLT financial instruments are still a relatively immature and so the benefits of introducing the DTI at this stage should be carefully considered. As this market develops, it may well transpire that the DTI will not always be relevant for all financial instruments, which may result in suboptimal data being reported and / or additional costs. For example, we do not see it as likely that in the foreseeable future, OTC derivatives will be either tokenised or recorded on blockchains. A more pragmatic approach could be to allow time for the DLT market to mature and settle, thereby enabling a more informed decisions to be made on how DLT financial instruments are identified.

Assuming however the DTI is introduced as a field for transaction reporting, we believe conditionality should be added to the ISIN field. Our understanding is that depending on the 'type' of DTI, there may be a one-to-one or a many-to-one mapping between the ISIN and the DTI, (where in the many-to-one scenario, multiple DTIs can roll up to a single ISIN). As such, an ISIN value will always be an imbedded attribute of a DTI. Therefore, we propose that when a DTI value is provided within a transaction message, the ISIN field should be left blank.

Additionally, if the DTI does become a required field, we request clear and comprehensive level 3 guidance be provided alongside the related fields to ensure the requirements are fully understood.

Question 35: Do you support the inclusion of a new client category field? Please explain why.

We note that paragraph 5.62 gives an example of the need for this field in order to "increase use of transaction reporting data to monitor for potential consumer harm". This is seemingly linked to Consume Duty[5], and while this information may assist the FCAs surveillance of a firms adherence to Consumer Duty, the data would not be relevant for market abuse supervision. To add Client Category as a new field would be to expand the purpose of transaction reporting beyond its remit, adding additional burdens and costs to firms, particularly those not subject to the Consumer Duty.

Therefore, given Client Category is outside of the scope of MiFID transaction reporting and would increase regulatory burden to market participants rather than reduce it, we do not support the addition of this field.

Question 36: Would you support either of the above options to enhance our oversight of DEA activity? If so, do you have a preference?

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[5] https://www.fca.org.uk/firms/consumer-duty

We favour Option 2 as this avoids the creation of a new field and is the more streamlined approach.

Question 37: Would you support the inclusion of two price fields? Please explain why.

We encourage the consistent application of terminology across reporting regimes. To that end, we propose that "the simultaneous execution of transactions in 2 or more financial instruments for a single price" is defined as being a 'package transaction' rather than a 'complex trade'. This would bring the definition in line with EMIR.

This aligned approach with EMIR would also mean the proposed field names should be 'Package identifier' and 'Package transaction price' as opposed to 'Complex trade component ID' and 'Complex trade price' respectively.

Bringing this alignment to the terminology and the field names will simplify the interpretation, implementation and operational management of package transactions.

In regards to the proposal itself, we are supportive of the introduction of a package price field. As highlighted within the DP, this allows for the reporting of the single price agreed for the package, as well as capturing the price of each individual instrument.

However, paragraph 5.75 correctly notes that there may not always be individual leg prices, i.e. there is only a single price for the overall package. Conversely, there may be prices for the individual legs, but not a single price for a package. Therefore, to avoid falsely manufacturing package or individual instrument prices, it is imperative that the field conditionality allows the option for Price (#33) to be left blank when 'Package transaction price' field is populated, (when there is a single package price), and vice versa for 'Package transaction price' field to be left blank (when there is no single package price).

Question 38: Would you have concerns with providing full names and dates of birth for the individuals within the firm responsible for investment decision or execution decision? Please explain why.

We oppose the proposal to report full names and dates of birth of individuals. To do so would raise data protection concerns, particularly as that information would be disseminated to a number of intermediaries such as ARMs, service providers and ultimately the FCA. Managing information of individuals is a key concern to market participants.

The DP notes that the current CONCAT of fields 57 and 59 can result in the same value but different full names. While this is a possibility, addressing this scenario by introducing the requirement to report full names and date of birth seems disproportionately excessive.

Question 39: What difficulties, if any, do you encounter when submitting transaction reports for transactions in FX derivatives? Please provide details on how data quality could be improved in this area.

Several members expressed the view that OTC FX derivatives should be taken out of scope in their entirety, as they do not have an underlying financial instrument, and therefore are not relevant for the purposes of monitoring for and taking action against market abuse. While no consensus was reached, there was sufficient support for this view to suggest that, given the potential for significantly reducing the reporting burden, further engagement between the FCA and the industry on this point may be beneficial.

Question 40: For all parties involved in chains with intermediary brokers, please can you provide further information on the trade flows and your understanding of reporting obligations.

ISDA are not responding to this question.

Question 41: What guidance on reporting of chains with intermediary brokers can we provide to improve data quality?

ISDA are not responding to this question.