



FCA/Bank of England Consultation Paper:

Changes to reporting requirements, procedures for data quality and registration of Trade Repositories under UK EMIR

Executive Summary

FIA welcomes the opportunity to respond to the FCA and Bank of England consultation on changes to reporting requirements, procedures for data quality and registration of Trade Repositories under UK EMIR. FIA's response focuses on the reporting of Exchange Traded Derivatives (ETDs) in compliance with reporting obligations proposed by the FCA and Bank of England. By way of executive summary, the following comments represent FIA's feedback and recommendations on a number of proposals set out within the Consultation Paper:

Reporting of ETDs under EMIR -

Applying the same set of reporting rules to OTC and ETD products fails to account for the nuances between these derivative classes. A long-standing flaw of EMIR requirements has been the obligation to report transaction-level data for ETDs. Data contained within ETD transaction-level reports does not provide regulators with oversight of systemic risk in ETD markets, yet it places a significant burden on reporting firms to report this data and rectify reconciliation breaks. For the reporting of ETDs, FCA and Bank of England are encouraged to consider placing priority on the reporting of position data over transaction-level data. Gaining oversight of systemic risk in ETD markets stems from data derived from industry reports at position-level.

The proposed introduction of mandatory reporting under UK EMIR signifies that regulatory authorities are beginning to acknowledge the excessive burden placed upon market participants to fulfill their reporting duties. EMIR remains unique compared to global regulatory reporting obligations in requiring both counterparties to a trade to report the contract to a trade repository - a "dual sided" reporting obligation. In addition, whilst the G20 statement focused entirely on risks associated with OTC markets, European regulators (including UK) were unique in including ETDs within the scope of EMIR reporting requirements. We welcome the introduction of mandatory reporting under UK EMIR and recommend FCA and Bank of England to consider taking additional steps to strike the balance between the need for essential data designed to serve its desired purpose (i.e. what information is deemed essential to provide regulatory authorities with oversight of systemic risk in ETD markets?). As such, in line with the mandatory reporting obligations proposed within the consultation paper, authorities should reassess the reporting of ETDs in order to reduce the burden and cost faced by market participants.

The proposed introduction of mandatory reporting also raises questions whether the reconciliation process, as it currently stands, is fit for purpose. We are convinced that reconciliation should be applied only to those fields which are deemed vital to facilitate oversight of systemic risk. It is not sufficient to

associate low reconciliation rates with low accuracy of data. In most scenarios, discrepancies can be correlated to differences in interpretation.

Futures and options executed on 3rd country, non-equivalent markets –

Strict adherence to the Level 1 EMIR definition of OTC derivative contracts means that futures and options executed on 3rd country, non-equivalent markets are classified as OTC derivatives rather than ETDs. Although ETD and OTC differ significantly, our understanding is that futures and options executed on 3rd country, non-equivalent markets are expected to be reported as OTC contracts. FIA is concerned that reporting an ETD to look like an OTC derivative may lead to some data being omitted, misreported or reported inconsistently across market participants. To avoid regulators receiving poor data, and in order for regulators to be able to differentiate between systemic risk in OTC markets and ETD markets, we recommend UK regulators to provide clear guidance of how futures and options executed on a non-equivalent third country exchange are to be reported using OTC derivative terms. FIA members stand ready to work with regulators to develop guidance on how such contracts should be reported. As a longer-term solution, we encourage HMT to amend the primary legislation to allow for such trades to be reported as an ETD as this will provide regulators with more accurate and meaningful data.

Global harmonisation of derivative reporting regimes-

We support ongoing efforts to harmonise global reporting regimes through the adoption of global standards and identifiers. Regarding the proposals set out within the consultation paper, FIA cautions against the creation and use of multiple overlapping and competing identifiers. While a clear delineation exists between the use of ISIN and UPI, the FCA and Bank of England are encouraged to consider the ongoing need to report CFI Codes. The reference data captured by the CFI code can be derived from the ISIN (or UPI) therefore eliminating this duplicative reporting obligation would be a step towards further streamlining reporting obligations.

Q1: Do you expect the proposed 18-month implementation period for counterparties and TRs to implement the proposals as detailed in this CP to pose any challenges? If yes, please provide as much detail as possible on the expected challenges and any views you have on how those challenges could be mitigated.

FIA members welcome the 18-month implementation period. With that being said, market participants request that all Level 3 guidance and Technical Specification Documents (including the XML schema and validation rules) be finalised and published prior to the start of the 18-month period. This will allow market participants to maximise the 18-month implementation period.

Furthermore, it should be recognised that the proposals detailed within the CP will require an extensive upheaval of existing reporting logic and changes to the current process for satisfying obligations under UK EMIR. We ask that the FCA and Bank of England remain cognizant that this re-write of reporting rules under UK EMIR is likely to have an impact on the reconciliation of derivative data reported to TRs immediately following the introduction of the new reporting rules.

As the FCA and Bank of England are no doubt aware, changes proposed under UK EMIR form part of a litany of changes facing global regulatory reporting regimes over the coming years. Given that each regime will require an extensive implementation roadmap with technical and operational builds required to

comply with the new rules, the FCA and Bank of England are encouraged to set an implementation date which avoids periods where firms implement code freezes (i.e. year-end) or where firms are leading up to a time when code freezes will be implemented. Go-live should take place on a Monday as this allows market participants to utilise the prior weekend to transition to the new reporting requirements in advance of go-live on the Monday.

Q2: In relation to the amendments to the table of reportable fields, do you expect the proposed 6-month period for counterparties to update their outstanding derivative reports in line with the new requirements to pose any challenges? If yes, please provide as much detail as possible on the expected challenges and any views you have on how those challenges could be mitigated.

We agree with a 6-month period for counterparties to update outstanding derivatives in line with the new requirements.

Q3: Do you agree with our proposal to align the table of reportable fields under UK EMIR with the CDE guidance issued by CPMI-IOSCO to the extent that it is applicable in the UK? If no, please explain the rationale for your answer.

FIA members support ongoing efforts to align reporting rules through the use of global standards. The use of such standards will improve the accuracy, usability and comparability of data while also reducing the burden faced by market participants when complying with a multitude of global reporting regimes. With that being said, it should be noted that alignment with the CDE guidance issued by CPMI-IOSCO is inconsistent amongst global policymakers. This will limit the potential benefits offered by harmonisation of reporting rules.

In addition to the above, FIA members are keen to remind policymakers that a one-size-fits-all approach to reporting obligations applying to ETD and OTC derivative contracts has its limitations. CPMI-IOSCO's CDE guidance has been prepared and drafted with OTC derivatives in mind. Where applicable, this response highlights areas where the CDE recommendations do not translate to ETD contracts.

Q4: Do you agree with our proposal to align the technical standards on reporting under Article 9 UK EMIR, including the table of reportable fields, with ESMA's approach to the extent that it is applicable in the UK? If no, please explain the rationale for your answer.

FIA members agree with the proposal to align the technical standards on reporting under Article 9 UK EMIR with ESMA's approach insofar that such efforts will likely reduce compliance, operational and technical costs when implementing the necessary changes to reporting logic and internal processes. For a multitude of reasons, a full re-write of the EMIR reporting rules for UK EMIR is not the best course of action at this time.

There are areas within the CP, however, where the FCA and Bank of England are encouraged to consider a different approach compared to the technical standards under EMIR Refit. One such area relates to the mandatory reporting obligation whereby the new rules mandates that an FC reports all OTC contracts on behalf of its NFC- counterparty. We believe that reporting on behalf of the NFC- adds little value beyond what will already be submitted by the FC when satisfying its own reporting obligations. As such, the FCA

and Bank of England are encouraged to adopt a single-sided reporting when an FC enters into an OTC contract with an NFC- counterparty.

Looking beyond the introduction of the changes to UK EMIR as detailed within the CP, FIA members are interested to better understand the FCA/Bank of England's long-term strategy for data reporting under UK EMIR. Has the FCA considered areas where diverging rulesets may be beneficial for market participants and regulatory authorities? Post financial crisis, regulatory reporting obligations (including EMIR) were designed with OTC derivative markets in mind. Historically, ETD markets have always been fundamentally more transparent than OTC counterparts as ETDs were traded on exchange, centrally cleared and frequently reported to regulators. Since its conception, the adoption of identical reporting requirements for OTC and ETD has impacted the accuracy of reported data and overburdened market participants. FIA members recommend that the FCA and Bank of England consider implementing the need for market participants to report ETDs at position-level only. A position-level reporting regime more accurately reflects the nature of ETDs, which are standardized contracts that are "compressed" into a net position at the end of each day. Given that lifecycle events and margin/collateral changes take place at position level, such events cannot be reported at transaction level. Implementing a requirement for market participants to report ETDs only at position level provides regulators with the ability to analyse systemic risk of ETD markets while significantly reducing the burden on reporting entities.

Q5: Do you agree with our proposal relating to the 'execution timestamp' field? If no, please explain the rationale for your answer.

FIA members request that more guidance be provided on the accurate reporting of the 'execution timestamp' field. As the FCA and Bank of England are aware, ETD positions are netted through an end-of-day process and, as such, are not 'executed' on the market. As a result, market participants are unsure of the added value this data offers and have opted to leave this field blank for ETD position reporting.

Additional guidance would be appreciated on what the FCA anticipates being reported when a position trades/is netted to zero (i.e. the position is flat). When that position is re-traded into, would the FCA expect to see the original Execution Timestamp or would this data be renewed to account for the position being re-opened? FIA welcomes the opportunity to discuss the reporting of net zero positions in more detail in order to achieve consistent reporting across the market.

Q6: Do you agree with our proposal not to include the 'intent to clear' option when populating the 'cleared' field? If no, please explain the rationale for your answer.

Agreed

Q7: Do you agree with our proposal not to include the 'settlement location' field? If no, please explain the rationale for your answer.

Agreed

Q8: Do you agree with our proposal to amend the definition of the 'venue of execution' field? If no, please explain the rationale for your answer.

Agreed

Q9: Do you agree with our proposal not to include the 'CP rating trigger indicator' and 'CP rating threshold indicator' fields? If no, please explain the rationale for your answer.

Agreed

Q10: Do you agree with our approach to clarify that the 'confirmation timestamp' and 'confirmed' fields are only applicable for OTC non-cleared derivatives? If no, please explain the rationale for your answer.

Agreed

Q11: Do you agree with our proposal to remove the 'beneficiary ID' and 'trading capacity' fields? If no, please explain the rationale for your answer.

Agreed

Q12: Do you agree with our proposal to add new fields relating to PTRR, including the 'PTRR ID' and 'type of PTRR technique' fields? If no, please explain the rationale for your answer.

While FIA members agree with the proposals and the alignment with ESMA's approach under EMIR Refit, the FCA and Bank of England are encouraged to provide further guidance on the expectations, including a list of examples that fall within the scope of a PTRR exercise, for the reporting of the 'PTRR ID' and 'type of PTRR technique' fields. Worked examples/scenarios would be appreciated.

Q13: Do you agree with our proposal to introduce a new 'Position UTI' field? If no, please explain the rationale for your answer.

In order to ensure that reporting obligations are proportionate while offering regulatory authorities with the necessary oversight of systemic risk in derivative markets, further dialogue is required on the proposal to introduce the Subsequent Position UTI field. The reporting of this field will be technically challenging while offering limited additional oversight to regulatory authorities.

When reporting data relating to cleared trades, Clearing Members are required to consume the position UTI from the CCP. Historically, this process has been marred by inconsistent methods of dissemination, technical issues and timing constraints which has impacted the ability to accurately report the UTI at position level. The proposed requirement to enrich the position UTI within the underlying trade report(s) will require market participants to be in possession of the relevant file(s) from the CCP, conduct the necessary reconciliation process relating to position level reporting and enrich the underlying trade reports. This process, ostensibly incorporating trade reports into position level reconciliation, is likely to impinge upon firms' ability to submit trade reports within the timeframe to comply with reporting rules.

It is important to understand what additional benefit(s) this Subsequent Position UTI will offer the regulator and the practical use for which the FCA intends to use this data. Does the FCA plans to reconcile transactions against positions using the Subsequent Position UTI data?

What are the regulator's expectations in the scenario where a position goes flat/is netted to zero? In the event that the position is traded into (with a new position UTI), the Subsequent Position UTI will offer limited benefit as the positions relating to the same counterparties and product will be represented by different position UTIs. Similarly, a reallocation between positions will impact the regulator's ability to have a clear history of the trades which make up the position(s). FIA members are concerned that the potential use and benefits offered by the introduction of the Subsequent Position UTI are outweighed by the technical, operational and compliance burden of implementing this new requirement.

Q14: Do you agree with our proposal to include the new 'Derivative based on cryptoasset' field? If no, please explain the rationale for your answer.

While FIA members have no specific objections to the introduction of this new field, we encourage the FCA and Bank of England to consider whether, at a future date, it is possible to capture this information within the underlying reference data. This would prevent misalignment/inconsistency between reporting entities, especially given that derivatives based on cryptoassets are likely to become more complex over time.

Q15: Do you agree with our proposal to amend the way in which the 'intragroup' field is populated for the purposes of reporting under Article 9 of UK EMIR only? If no, please explain the rationale for your answer

The FCA's language, clarifying that all derivative trades entered into by counterparties within the same group, regardless of whether the trade was entered into with a third-country group entity where an Article 13(2) equivalence determination has been made, should be populated with the intragroup field 'Yes', is useful and should remove much of the ambiguity surrounding the reporting of this field.

Q16: Do you agree with our proposals relating to the reporting of lifecycle events? If no, please explain the rationale for your answer.

FIA members welcome the opportunity to review and engage further with the FCA on the permitted combinations of action types and event types as part of the draft UK EMIR validation rules.

Q17: Do you agree with our proposal to add an additional table of reportable fields to include fields relating to margin and collateral? If no, please explain the rationale for your answer.

Agreed

Q18: Do you agree with our proposal to add the above codes to the options for the 'Indicator of the floating rate of leg 1' and 'Indicator of the floating rate of leg 2' fields? If no, please explain the rationale for your answer.

Q19: Do you agree with our proposal for counterparties to notify the Bank or FCA (as applicable) of any material errors or omissions relating to their UK EMIR reporting? If no, please explain the rationale for your answer.

Agreed. FIA members are of the view that the current practice, implemented by the FCA, is fit for purpose and market participants are aware of their obligations to report material errors and omissions.

FIA members welcome further clarification and would like to gain a better understanding of the FCA's strategy with regards to historical amendments to trades. Is there an obligation for market participants to amend inaccurate data within reports? Subject to the FCA's feedback, is this obligation considered to be time-limited and/or limited to material errors and omissions?

Q20: Do you agree with our proposal for counterparties to have arrangements in place for the remediation of any reconciliation breaks? Do you think there is a need for further guidance specifying the process and timeframes for remediation?

Agreed. FIA members appreciate the need to have internal policies in place to remediate reconciliation breaks. With that being said, many breaks remain as a consequence of ambiguous reporting rules where misinterpretation is common and, in many cases, justifiable. FIA members look forward to working with the FCA and Bank of England to reduce the level of ambiguity within reporting rules to enable data to be reported accurately and consistently.

Q21: Do you agree with our proposals relating to the mandatory delegated reporting requirements between an FC and an NFC-? If no, please explain the rationale for your answer.

The mandatory reporting rule introduces an obligation upon FCs to report both sides of an OTC derivative transaction when trading with an NFC-. While this obligation predominantly does not apply to ETD activity, our interpretation of the rules is that the mandatory reporting requirements will capture listed business activity where this relates to futures and options executed on a 3rd country, non-equivalent market (i.e. derivatives listed on an exchange not listed on the FCA register of regulated markets).

The desired impact of the mandatory reporting obligation is to reduce the overall burden on NFC- firms, however, the rules fall short of this given that certain responsibilities remain solely with the NFC- entity. By implementing a single-sided mandatory delegated reporting obligation for FCs trading with NFC- firms, the regulator would achieve the desired outcome while retaining oversight of systemic risk in the derivative market.

Q22: Do you agree with our proposal relating to the use of standardised XML schemas based on the end-to-end reporting solutions in the ISO 20022 standards? If no, please explain the rationale for your answer.

FIA members support ongoing efforts to align reporting rules through the use of global standards in an effort to reduce any disconnect between global reporting regimes. The use of standardised XML schemas based on the ISO 20022 standards is looked upon to be the direction of travel with many market participants required to build out this solution in order to comply with changes under EMIR Refit. Nevertheless, this proposal will require an extensive build for market participants given that the vast majority of firms have reported ETDs using CSV files since the conception of EMIR reporting.

The proposal for the XML schema to be applied to the end-to-end process means that firms must build to send and receive in this format (i.e. market participants will receive files from the TR in XML format). It is critical that the XML schemas are finalised by the start of the implementation period to allow market participants as much time as possible to develop and implement their reporting infrastructures in line with the new rules.

Q23: Do you agree with our proposal to relating to the use of LEIs and framework for updating LEIs? If no, please explain the rationale for your answer.

FIA members have no specific objections but are reminded of issues experienced with entities outside of the EU/UK that are not subject to strict rules regarding the validation and maintenance of LEIs. Market participants continue to experience issues under SFTR with respect to lapsed LEIs.

Q24: Do you agree with our proposals relating to the use of UTIs? If no, please explain the rationale for your answer.

FIA members have no specific objections but wish to clarify one element of the UTI generation waterfall. The waterfall accurately states that for cleared derivatives, other than derivatives between two CCPs, the UTI shall be generated by the CCP for the clearing member. Given that ETDs, irrespective of jurisdiction, are centrally cleared, confirmation from the FCA that this applies to all CCPs and is not restricted to only those registered within the UK, would help to remove any ambiguity on this point.

Q25: Do you agree with our proposals relating to the use of UPIs and ISINs? If no, please explain the rationale for your answer.

FIA members agree that ETDs traded on, or admitted to trading on, a Trading Venue are expected to have a valid ISIN and that the ISIN continues to be the most efficient and practicable identifier for Exchange Traded Derivatives. Given the maturity of the ISIN as a global identifier, the FCA is encouraged to take steps to remove the need to report underlying reference data fields for products identified with an ISIN. In addition, the FCA and Bank of England are encouraged to consider the ongoing need to report CFI Codes. The reference data captured by the CFI code can be derived from the ISIN (or UPI) therefore eliminating this duplicative reporting obligation would be a step towards further streamlining reporting obligations.

Q26: Do you agree with our proposal to amend the TR registration framework under UK EMIR, including to align with the registration framework under UK SFTR? If no, please explain the rationale for your answer.

Q27: Do you agree with our proposals relating to the process for TRs updating LEIs in the event of a corporate restructuring? If no, please explain the rationale for your answer.

Q28: Do you agree our proposals provide an effective process for inter-TR reconciliation? Please provide any additional views, if applicable.

Q29: Do you agree with our proposal to implement a standardised framework for TRs relating to common response messages? Please provide any additional views, if applicable.

While we agree with the proposal to implement a standardised framework for TRs relating to common response messages, we believe that additional flexibility should be available for TRs to send reports in other formats beyond only XML. FIA appreciates the feasibility of this suggestion is likely to be a commercial decision taken by each TR individually based on the needs and requirements of their client base.