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Mr Craig McBurnie
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Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney, NSW 2000
By email: otcd@asic.gov.au

Re: Consultation Paper 361 Proposed changes to simplify the ASIC Derivative Transaction Rule (Reporting): Second Consultation (CP361)

Dear Craig,

Bloomberg appreciates the opportunity to provide feedback to the Australian Securities and Investments Commission (ASIC) on CP361. Bloomberg appreciates ASIC's ongoing engagements with market participants to share updates and capture market views. We also welcome ASIC's efforts in working with global regulators to undertake revisions of reporting rules with an aim to drive greater standardization across jurisdictions. We encourage ASIC and other regulators to continue with the communications to harmonize report standards and implementation timelines before finalization of the rules.

Please find below our comments to the draft guidelines.

In the meantime, if there is any way in which I or Bloomberg can be of assistance going forward, please do not hesitate to get in touch.

Yours sincerely,

Head of APAC Government and Regulatory Affairs
Bloomberg LP

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1. General comments

Bloomberg welcomes the opportunity to provide feedback on CP361. Through our services, we have a unique perspective on the pain points of the industry globally and where regulators can introduce changes that not only increase their ability to carry out their regulatory oversight duties, but also ease the operational burdens to reduce risk and cost and increase data quality for the industry

Bloomberg offers several products across the derivatives trade lifecycle: we provide order management services to both buyside (AIM) and sellside (TOMs) firms, our UK/Netherlands affiliates operate Multilateral Trading Facilities (MTF) & MIFID ARM and APA. We provide data enrichment on instruments through our Global Data service.

Through our Regulatory Reporting Services business, we offer Regulatory Reporting Hub (RHUB), a trade and transaction reporting solution that offers integrated, end-to-end reporting across a wide range of regulatory regimes, including MiFID II, SFTR, EMIR, MAS as well as to ASIC. In addition to RHUB, we offer our Assurance platform, an automated, independent control framework with a flexible architecture that supports continuous, cost-effective quality, completeness, and accuracy surveillance, testing and enhanced transparency.

In addition to the responses to the specific consultation topics, Bloomberg would also like to highlight key issues that we believe are areas for improvement.

Product Identification

One of the main issues the industry faces is the lack of standardisation of the product schema itself, and this will require greater international momentum in order to establish globally agreed standards.

As such, Australian authorities should take this opportunity to move towards a roadmap for standardising the product schema, which will support other agendas such as efficiency in the post-trade operations. There are multiple initiatives within international standard-setting organisations such as the G20, BIS, ISDA etc. that could accelerate this standardisation. Once achieved, this will reduce operational risk around the implementation of many of the requirements raised in this consultation such as the implementation of product identifiers. As noted below we strongly support that Australia moves to the use of the Unique Product Identifier (UPI) for all products falling within the scope of reporting. We believe that the EU approach of mixing and matching OTC derivatives ISINs, with the use of UPIs only for all those products which do not have an ISIN, is the wrong approach. Instead, in line with global regulatory standards, Australia should move to the UPI for all products within the scope of the reporting regime.

Access of information to service providers

Collaboration with regulators and industry participants on engagements like the Harmonisation Guidance through CPMI-IOSCO have proved that when information is readily accessible to all, and discussion and debate on implementation guidance is in an open forum, the results can be impactful.

When information is readily accessible to all and not just certain entities, it allows for more competition in the service provider space, which will lead to better products and reduced cost. It also enables firms of varying sizes to introduce robust control over reported data without requiring large technical builds.

Governance

Consultations are key to ensuring regulators and market participants have a mutual understanding of reporting requirements and expectations. However, in order to ensure ongoing quality, there needs to be consistent engagement between the regulators such as ASIC and market participants. In addition, coordination with global regulators, engagement with industry associations and key market infrastructures (like Regulatory Oversight Committee (ROC) & ISO 20022 governance bodies) also need to be considered.

Please find below our comments relating to the sections and topics to which we wish to respond specifically.

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2. Section C: The Unique Product Identifier (UPI)

The UPI, as defined by international regulators, is assigned at a more meaningful level for global data aggregation than the current implementation of ISIN for OTC derivatives which is commonly used in EU reporting.

We contend that the UPI is generally a much better solution for OTC derivative identification. The UPI is expected to begin to be issued by the designated ISO Registration Authority (RA) the Derivatives Service Bureau (DSB), during the course of 2023. As such we support the plans of ASIC to require the reporting of the UPI.

The UPI is a standalone standard (ISO 4914), developed specifically at the behest of global regulators, with implementation overseen by the ROC. It should be viewed as a separate standard from the ISIN (ISO 6166), even though in terms of OTC derivative ISINs some UPI data elements will be a subset of those issued for the relevant OTC ISINs. The RA which will issue the UPI has stated that although UPIs will also be created when the same RA creates a related OTC ISIN, the reverse will not be true, such that UPIs will be created with no associated ISIN.

Data quality around the UPI can be further advanced by ensuring that a choice of identifiers is permitted in the data set for the identification of underlying assets.

Consideration should be given to a broader range of options for how underliers are identified. In IRS products for example, an underlier benchmark is often very unlikely to have an ISIN assigned, but in most cases will have a Financial Instrument Global Identifier (FIGI).

We note particularly that ASIC is proposing to require a 'underlier ID – non UPI' for certain asset classes for reporting of underlier information in addition to the UPI. We would suggest that FIGI be allowed as an option for this data element for the relevant asset classes.

FIGI, a unique, publicly available identifier that covers financial instruments across asset classes that arise, expire, and change on a daily basis, was originally developed by Bloomberg to help solve licensing challenges and shortcomings in data organizations and governance, that persist in the current regional-based security identifier numbering approaches[1]. FIGI became a free, open data standard in 2014 after Bloomberg assigned all rights and interests in FIGI to the Object Management Group ("OMG"), an international non-profit technology standards consortium[2].

FIGI is in the public domain with no commercial terms or restrictions on usage, and it is available free of charge for use by all market participants. Since 2021 FIGI is recognised by the US National Standards body (ANSI) as an official US financial instrument identification standard, and as such is now being considered by US regulators for use in various regulatory reporting requirements.

One of the many benefits of the FIGI is that it enables interoperability between other identification systems and does not force the use of a single identification system. Enabling interoperability between different identification systems may actually lower costs when interacting between legacy systems, which may depend upon a single identifier, and newer systems, which typically have a more modern architecture. This interoperability reduces complexity, dependencies, and the costs of interacting across different user groups and communities that have different needs. This allows for better management of data, increases data quality, and facilitates the sharing of critical and universal information among different user communities without the costs associated with forcing changes to core systems and processes.

With reference to point 219 when an underlier identifier is not supported by the UPI system, we propose that provision should be made for the use of FIGI, and/or other relevant identifiers by OTC derivative asset class, in the reporting of the underlier asset in OTC derivative reporting generally.

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[1] https://www.omg.org/figi/

[2] Press Announcement: "What's in a Name? The Bloomberg Global ID Is Reborn as the FIGI" (Oct. 9, 2014), available at https://www.bloomberg.com/company/press/whats-name-bloomberg-global-id-reborn-figi/.

We would suggest that ASIC, via the ROC, ensures that the DSB supports a range of relevant identifiers which provide unique identification across a wide range of product underliers. This should include the use of FIGI, which has a very wide coverage of commodity and equity indices, which we note are of particular concern to ASIC.

Further details on FIGI can be found at https://www.omg.org/spec/FIGI/ , and the full range of openly available assigned FIGI codes can be found on the OpenFIGI.com web site.

An example Open FIGI search relating to equity and commodity derivatives indices can be found at:

> https://www.openfigi.com/search#!?marketSector=Index&facets=SECURITY_TYP:,,Commodity%20Index%7CEquity%20Index&page=1
>
> On the web page, users could select "Additional Columns" to obtain the long name of the index. Access to the full range of openly available FIGI codes (over 750 million unique identifiers have been issued across asset class, equity, bonds, commodities, indices, loans etc.) can also be achieved by using an automated API service available on the site, as well as the manual search facility.

We would be pleased to provide further details, and to work with ASIC on FIGI coverage of relevant underliers in the context of ASIC trade reporting requirements.

3. Section D: The Legal Entity Identifier (LEI)

Bloomberg applauds ASIC's decision in the Consultation to promote the use of the Legal Entity Identifier (LEI). We support ASIC to require a current, renewed LEI as the only allowable entity identifier in OTC derivative transaction reporting for relevant entities. The industry needs a globally accepted entity identifier to reduce counterparty risks, operational risks, and to save costs in managing entity data. Over 200 rules or regulations are now recommending or requiring the use of the LEI.

As an accredited Local Operating Unit (LOU) of the Global Legal Entity Identifier System, Bloomberg Finance LP would like to comment on the following aspects of the Consultation:

- *277 (c) require the entity identifiers of other foreign counterparty 2s to be LEIs but not necessarily duly renewed LEIs;*
- *296 A counterparty 2 or beneficiary 1 that is not an Australian entity or ASIC reporting entity would be a foreign entity, other than a foreign entity that is an ASIC reporting entity. Such a foreign entity may or may not have a requirement to renew its LEI under regulatory provisions in its home jurisdiction. The draft ASIC Rules requirement is to report an LEI that need not be a renewed LEI. This aligns with ESMA's rules for foreign entities that are not ESMA reporting entities.*

  Bloomberg acknowledges ASIC's intention of aligning with global regulators including with ESMA in this case. However, we see tremendous value in renewing LEI. The annual renewal ensures the legal entity data is up-to-date and accurate. We would recommend that ASIC reconsider this aspect of their LEI requirements and also require the foreign counterparties to have a renewed LEI, a message that we continue to share with global regulators

- *286 (b) if the entity does not have an LEI, a designated business identifier or a client code of the entity, provided that: (i) an LEI is applied for within two business days; and (ii) as soon as practicable, the reporting entity uses all reasonable endeavours to report that LEI for the reportable transaction.*

  While Bloomberg appreciate ASIC's flexibility of allowing reporting entities a short grace period to obtain an LEI, we request that ASIC to provide further clarification in this portion of the proposal to explain how this policy would be monitored and enforced.

4. Section E: The ASIC data elements

Question E1: We generally agree with the proposal in E1(c) for the trade repository to supplement client and regulatory reports with the reporting timestamp. This information is key in order for the industry to assess the timeliness of their reporting. We would emphasize that derived data should be limited from the trade repository to operational data related to submissions and processing. Any additional derivation will run the risk of eroding data quality with globally reported data as well as internal system data.