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By email: otcd@asic.gov.au

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Dear Craig McBurnie

Response of IG Markets Limited and IG Australia Pty Ltd to CP 334: Proposed changes to simplify the ASIC Derivative Transaction Rules (Reporting): First Consultation

We thank ASIC for the opportunity to provide our feedback on the abovementioned Consultation Paper. We are supportive of ASIC's work on harmonising the rules to international standards as well as simplifying the rules, to ensure that they remain fit-for-purpose. Our responses to the questions raised in the Consultation Paper are provided below.

Background

By way of brief background, IG Australia Pty Ltd (IGAU) has been operating since July 2002, providing local services in connection with the products offered by IG Markets Limited (IGM) (AFS Licence No. 220440) in Australia. IGAU has held an AFS Licence (No. 515106) since 2 June 2020, and issues Contracts for Difference (CFDs) to Australian clients since November 2020. IGAU hedges client transactions on 1:1 basis with IGM.

IGM is incorporated in England and Wales and is a registered foreign company in Australia. IGM is the world's No 1 provider of CFDs[1]. IGM also has two sides to its business; the client side and a market-facing side where IGM enters into CFDs with other financial counterparties in order to hedge and manage risk relating to its client activity. IGM has commenced the process of transferring its Australian business to IGAU.

The ultimate holding company of IGAU and IGM is IG Group Holdings PLC (IG Group) which is a public company limited by shares and incorporated in England and Wales. A technology-driven global leader in online trading and an established member of the FTSE 250, IG Group has a 46-year history of providing trading opportunities to clients around the globe, with operations in 17 countries across Europe, Africa, Asia-Pacific, the Middle East and the US.

[1] Based on revenue excluding FX (published financial statements, June 2020).

SECTION C: THE UNIQUE TRANSACTION IDENTIFIER (UTI)

C1Q1. Do you agree with this proposal?

We agree with this proposal.

C1Q2. Do you consider that the UTI Guidance concerning the impact of the transaction events on the UTI is sufficiently clear or are there uncertainties that we should take into account when drafting the text for the ASIC Rules?

It would be useful if ASIC prescribed a list of transaction events which would require a new UTI. In the majority of circumstances, we use the same UTI for modifications. However, due to system limitations, in rare situations where the net position changes direction (for example, a transaction that consists of buying 50 contracts (Buy 50), followed by a sell transaction for 100 contracts (Sell 100) on the same trade, resulting in a new transaction of Sell 50), we currently have to issue a new UTI in this instance.

We would appreciate if ASIC could consider 'net position change of direction' scenarios when setting out the text of UTI rules for transaction events in the ASIC rules, and permit the abovementioned situation to be added to the permitted list of reasons for a new UTI to be issued.

C3Q1 Do you agree with this proposal?

We agree with this proposal.

C3Q2. Do you consider that either option 1 or option 2 or both should not be adopted in the ASIC Rules?

We are of the view that Option 1 could create ambiguity and confusion due to its complexity. There have been known issues with buy/seller determinations in EMSA reporting that have come about as a result of pairing and matching. Operationally, this would be more difficult for us to implement if we had to import UTI references from clients in situation where we need to use a temporary reference for deadline reporting purposes, whereby amendments will be sent at a later time.

We are therefore in support of Option 2a as we can seemingly liaise with our clients as to who the UTI generating party will be.

C3Q4. Noting that the proposal focuses on aligning with the final EU rules, do you consider there are other specific jurisdictions where aligning with UTI rules should be of greater focus?

We are in support of ASIC aligning with the final EU rules.

C10Q1. Do you agree that we should propose such requirements?

We are concerned that several issues could arise if counterparties are required to generate a "temporary" UTI which, potentially within a few hours, would need to be replaced.

There would be significant time, cost and development work involved to ensure readiness, for what could be a scenario that is never used. The cost of creating the infrastructure and processes to implement this requirement would seem to be disproportionate to the problem it is intended to solve and may in fact only compound the problems.

We therefore disagree with this proposal.

SECTION D: THE UNIQUE PRODUCT IDENTIFIER (UPI)

We note that there are no questions asked in relation to Section D, however we are concerned with the proposal to implement the CPMI IOSCO UPI Guidance to specify UPIs in derivative transaction reporting.

We currently report transactions via UnaVista who then sends transactional information on to DTCC. This reporting solution for ASIC requires a 'Unique Product Identifier (UPI)' from an ISDA taxonomy list (ISDA-OTC-Derivative -Taxonomy) to populate field 'Product ID'. The reporting solution does not require CFI codes used in similar EMIR. For UPI listed under equities, there are dedicated codes of 'Equity:ContractForDifference:PriceReturnBasicPerformance:***********' but no similar codes that mention CFDs exist under different asset classes in the taxonomy provided. It also appears that DTCC have combined ASIC fields of 'Unique product identifier' and 'Contract type' into 'Product ID' and thereafter map this field to 'Contract Type'.

We believe the current ASIC UPI guidance for CFD products is not clear. The only approach that appears to be feasible for CFDs over non-equity asset classes is to extrapolate based on the UPI codes available from the ISDA taxonomy list. CFI codes are not accepted or used in the DTCC reporting solution.

We propose a change to either indicate clear guidance over which UPI codes should be used for CFD like products over different asset classes to equities from the ISDA taxonomy list. In addition, a change so that a UPI retrieval process administered by DSB covers CFD products. Finally, a change to make CFI codes a separate mandatory submission. This should detail clear mappings for how CFI codes can properly represent CFD like products.

SECTION E: THE CRITICAL DATA ELEMNTS (CDE)

E1Q1. Do you agree with this proposal?
We consider it would be helpful to know which of the new mandatory fields are relevant to our product types (CFDs) before we can comment on this proposal.

Nevertheless, we would like to propose the inclusion of the data elements related to dates and timestamps set out in Table 7 to be included in the new ASIC Rules.
We note that paragraph 191 reads as follows:

> *'Reporting timestamp' and 'execution timestamp' replace the corresponding data elements in the current ASIC Rules. Note that in the second round of consultation we intend to propose that all timestamp data elements be UTC time rather than AEDT/AEST.*

The current ASIC regulations state the following for 'reporting timestamp':

> *The time and date (expressed as AEDT/AEST as applicable - see Rule 1.2.1) the Reportable Transaction is reported to the Derivative Trade Repository.*

DTCC quote this current regulation but ask that we submit in in ISO8601-UTC-DateTime format which is in contradiction to the current ASIC Rules. Through recent enquiries, DTCC have informed us that ASIC accept UTC timestamps.

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We would therefore welcome clarity on the proposed change to UTC time reporting, the daily snapshot/trade cut-off time being AEST/AEDT, or UTC and the business day times and T+1 reporting deadline.

E1Q2. In relation to 'effective date' do you consider that:

(a) There is a need to clarify the meaning of 'effective date';
We would welcome clarification on the full descriptions that apply to different product types (including CFDs).

E1Q4. Do you consider that you will have particular interpretation or implementation issues with the data elements set out in Table 7?

It would be useful to know which of the new mandatory fields are relevant to our product types (CFDs) before we can comment on any interpretation or implementation issues.

E2Q1 – E21Q1
It would be useful to know which of the new mandatory fields are relevant to our product types (CFDs) before we can comment on these proposals and any interpretation or implementation issues we may face.

E21Q2. Do you suggest that we should model the form of a technical specification on one or more existing technical specification related to transaction reporting?
We believe that ASIC should consider modelling the form of technical specification that closely adheres to the ESMA requirements.

SECTION F: THE LEGAL ENTITY IDENTIFIER (LEI)

F1Q1. Do you agree with this proposal?
We agree with the proposal to require a LEI be valid and duly renewed. However, we would appreciate clarity on whether the Reporting Entity is required to record the expiry date of a LEI on behalf of the non-reporting counterparty that requires the LEI, or whether the obligation to maintain a valid and duly renewed LEI is the responsibility of the non-reporting entity.

Nevertheless, we currently have controls in place that monitor when a LEI is approaching expiry. UnaVista also reject invalid LEIs and therefore expired LEIs are not reported to ASIC.

F1Q2. Do you consider that you will have particular interpretation or implementation issues with the proposed LEI requirements?
We currently update previously reported transactions that do not have a valid and duly renewed LEI with a duly renewed LEI. Subject to our response to F1Q1, we do not have any implementation issues with the proposed LEI requirements.

F2Q1. Do you agree with this proposal?
We agree with this proposal.

F2Q2. Do you consider that you will have particular interpretation or implementation issues with the proposed LEI requirements?
We do not consider there will be any interpretation or implementation issues with this proposal.

SECTION G: SCOPE OF REPORTABLE TRANSACTIONS AND REPORTING ENTITIES

G1Q1. Do you agree with this proposal?
We welcome clarity on what ASIC considers to be a spot instrument, to determine whether an instrument is reportable or not. Due to a lack of specific guidance, this has been an ongoing debate in the industry for many years.

G1Q2. Do you consider that the Singapore and Hong Kong definitions for a spot contract are an appropriate basis for an equivalent definition in the ASIC Rules? Are there other definitions that you consider we should also take into account?
Under MiFIR, ESMA has defined a spot currency dependent upon whether it includes a Major or a Minor currency pair, where it is generally less than 2 trading days but no more than 5.

We welcome a similar approach although request clarity where certain instruments approach expiry and are rolled into the next contract, and whether they would be included in the definition. For example, an opening leg for a forward FX contract due to settle in 20 days does not fall within the scope of the definition outlined above. However, as expiry reaches, most clients will close out this position and roll into the next period's forward FX contract. The closure of this position could be within two trading days of expiry, but we do not consider this transaction to be reportable.

G2Q1. Do you agree with this proposal?
We do not have any comments with respect to this proposal.

SECTION H: ALTERNATIVE REPORTING AND DELEGATED REPORTING

H1Q1. We request that reporting entities that are current users of alternative reporting identify themselves to us and engage in discussion with us about their alternative reporting practices. In particular:

(a) To which ASIC prescribed repository do you report?
(b) How do you 'designate' the reporting as information that has been reported under the ASIC Rules?

We currently utilise the alternative reporting permission to report trades under IG Markets' Australian business. These transactions are reported for EMIR via UnaVista and are flagged with an ASIC code. However, as we are in the process of transferring IG Markets' Australian business to IG Australia Pty Ltd, we do not believe we will be impacted by the removal of the alternative reporting permission.

IG Australia Pty Limited reports its own trades. These transactions are reported to DTCC via UnaVista and will not utilise the alternative reporting permission.

H2Q 1. In the first consultation we seek to gather information about the practices of reporting entities in overseeing their delegates in order to better inform any future proposals we may make in relation to delegated reporting in the second round of consultation. In particular:

(a) What are the specific processes and practices that you rely on to determine if the delegate is complying with the terms of the delegation agreement and to ensure that complete, accurate and current reporting is being carried out on your behalf?

Please see our response above; we currently do not utilise the delegated reporting permission.

If you have any questions or would like to discuss our comments further, please do not hesitate to contact me.

Yours sincerely

Melissa Le Fevre
Compliance Manager
IG Australia Pty Ltd & IG Markets Limited