Harmonisation of critical OTC derivatives data elements (other than UTI and UPI) – second batch – consultative report

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General comments on the report:

Citadel LLC ("Citadel") appreciates the opportunity to provide comments on the Consultative Report relating to the harmonisation of key OTC derivatives data elements. Citadel is a significant participant in the OTC derivatives markets and firmly supports the successful implementation of the G20 reforms. As such, it is critically important that global regulators and policymakers have access to high quality, standardised data that can be used to evaluate implementation progress and to inform future policy decisions.

2.1 Reporting timestamp

Comments on the data element "reporting timestamp":

2.2 Execution timestamp

Comments on the data element “execution timestamp”:

We agree that the execution timestamp should reflect the date and time that the transaction was executed (and not some other time, such as the time of submission to clearing or to a middleware platform). However, we believe that further guidance is required in order to ensure data consistency. For example, for transactions executed via voice, some trading venues and market participants may be using the timestamp of when the executed transaction was entered into an electronic system instead of when the transaction was actually agreed to on the phone. In addition, for transactions executed via the request-for-quote trading protocol, some trading venues may be using the timestamp of when the RFQ process started instead of when the transaction was actually executed.

Separately, we have concerns about the proposal to specify a new execution time for transactions that are centrally cleared, representing the time when the novated transaction was created. Using the original execution time would more accurately reflect the economics of the trade, since its price and terms were negotiated when the original trade was executed, not when it was accepted for clearing. In addition, it is important to note that several jurisdictions have established straight-through-processing requirements for cleared OTC derivatives that mandate submission to clearing within a specified time after execution. For example, the CFTC requires intended-to-be-cleared swaps executed on or pursuant to the rules of a SEF to be submitted to clearing within 10 minutes of execution and MiFID II RTS 26 requires intended-to-be-cleared swaps concluded on a trading venue electronically to be submitted to clearing within 10 seconds of execution (and within 10 minutes of execution if concluded by voice). It is critical that regulators are able to monitor compliance with these requirements, and the most effective way to do so is to ensure the necessary information is available in the trade reports of cleared trades. As a result, the execution time of a cleared trade should reflect when the original trade was executed instead of when such trade was successfully cleared, which will be separately recorded in the trade report as the clearing timestamp.

2.3 Final settlement date

Q1: With reference to the definition proposed for the data element “final settlement date” (Section 2.3), is it sufficiently clear that the settlement date for options and swaptions is the date on which the option or swaption would settle if it was exercised on the expiry date? If not, should additional language be added to the definition to clarify that?

Other comments on the data element “final settlement date”:

2.4 Settlement currency

Q2: With reference to the definition proposed for the data element "settlement currency" (Section 2.4), is it sufficiently clear that the settlement currency of swaptions is the currency of the underlying swap? If not, should additional language be added to the definition to clarify that?

Other comments on the data element "settlement currency":

2.5 Confirmed

Comments on the data element "confirmed":

2.6 Day count convention

Comments on the data element "day count convention":

2.7–2.8 Payment frequency period; payment frequency period multiplier

Q3: With reference to alternatives proposed for the data element "payment frequency period" (Section 2.7):

(a) Are the advantages and disadvantages of the proposed harmonisation alternatives included in the report appropriately defined? If not, which aspects should be revised and how?

(b) Which of the proposed harmonisation alternatives should be supported and why? Is alternative 2 sufficiently broad to capture all the allowable values that are relevant for an OTC derivatives transaction? If not, which allowable values are missing? Should the list of allowable values under alternative 2 also include the value "intraday"? Please provide examples in which the additional allowable values that you propose would be relevant for an OTC derivatives transaction. Is it preferable to expand the list in alternative 2 with the missing allowable values or to opt directly for the most extensive list of allowable values available in alternative 1?

Other comments on the data elements "payment frequency period" and "payment frequency period multiplier" (Sections 2.7–2.8):

2.9–2.12 Counterparty 1 (reporting counterparty); counterparty 1 type; counterparty 2; counterparty 2 type

Q4: In the consultative report on the first batch of data elements (other than the UTI and UPI), the Harmonisation Group proposed the harmonisation of the "identifier of the primary obligor". Based on the feedback received during the public consultation, the Harmonisation Group is considering referring to the same concept with the term "beneficiary". With reference to data elements "counterparty 1 (reporting counterparty)", "counterparty 1 type", "counterparty 2" and "counterparty 2 type" (Sections 2.9–2.12):

(a) Is it clear that in some jurisdictions the counterparty and beneficiary are always the same entity while in other jurisdictions they may or may not coincide?

For example, in the US the counterparty would always coincide with the beneficiary; in the EU this is not always the case as eg in a transaction concluded at the level of the umbrella fund, that fund would be identified as the counterparty, and the sub fund as the beneficiary.

Is it necessary to further clarify the term "counterparty" or is it clear enough?

(b) Are there cases in which a transaction involves multiple counterparties that are jointly liable for the whole amount of the transaction? If so, how do you believe that multiple counterparties should be represented?

(c) In addition to reporting counterparty 2 type, what approach should be taken for natural persons not acting in a business capacity as counterparty 2?

Other comments on the data elements “counterparty 1 (reporting counterparty)”, “counterparty 1 type”, “counterparty 2” and “counterparty 2 type” (Sections 2.9–2.12):

2.13 Report-submitting entity

Comments on the data element "report-submitting entity":

2.14 Broker of counterparty 1

Comments on the data element "broker of counterparty 1":

2.15 Central counterparty

Comments on the data element "central counterparty":

We note that the allowable values for this data element contemplate that the separate data element "Cleared" can be completed using "Yes", "No", or "Intent to clear". We believe it is important that intended-to-be-cleared OTC derivatives are reported in a manner that differentiates them from uncleared derivatives and therefore are supportive of the inclusion of an "Intent to clear" value as proposed by CPMI-IOSCO in the consultation on the first batch of data elements. Reporting intended-to-be-cleared transactions as "Not cleared" would appear to make it difficult to distinguish such trades from those that actually remain uncleared. This would hinder the ability of regulators to monitor compliance with relevant regulatory requirements, such as mandatory clearing obligations and straight-through-processing requirements that apply to intended-to-be-cleared derivatives.

In addition, we note that counterparties will agree on the CCP to submit an intended-to-be-cleared derivative prior to executing the transaction, as this choice may have an impact on pricing. As a result, the central counterparty field should be able to be populated for all intended-to-be-cleared derivatives, and doing so may assist regulators with linking the initial transaction report to subsequent reports indicating that the trade has been successfully cleared.

2.16 Clearing member

Comments on the data element "clearing member":

2.17 Platform identifier

Comments on the data element "platform identifier":

2.18 Inter-affiliate

Q5: Should the definition of the data element "inter-affiliate" (Section 2.18) take into account the possibility that there is no local definition of affiliated entities under the local regulation of counterparty 1 (reporting counterparty), or is this redundant?

Other comments on the data element "inter-affiliate":

2.19 Booking location of counterparty 1

Q6: With reference to the data element "booking location of counterparty 1" (Section 2.19), is it clear that the location where the transaction is booked for counterparty 1 refers to the location where profit and losses are allocated (be it the location of the headquarters, domestic branch or international branch)?

Other comments on the data element "booking location of counterparty 1":

2.20 Location of counterparty 1's trading desk

Q7: With reference to data element "location of counterparty 1's trading desk" (Section 2.20), is it sufficiently clear who is being referred to as the trader "responsible for executing the transaction"?

Other comments on the data element "location of counterparty 1's trading desk":

We support the inclusion of this data element. As global regulators and policymakers continue to consider the cross-border application of specific regulatory requirements, it is important that data exists regarding the location of personnel that are involved in the execution of an OTC derivative (in addition to data regarding the location of the legal entity where the transaction is booked). In conjunction with considering whether to provide additional guidance regarding how to complete this data element, we recommend taking into account guidance that has been proposed by US regulators regarding the phrase "arrange, negotiate, or execute". In addition, we would support the inclusion of a similar field for counterparty 2.

2.21–2.22 Strike price; strike price notation

Q8: With reference to data elements "strike price" and "strike price notation" (Sections 2.21 and 2.22) is the proposed format length for "strike price" (Num(18,13)) sufficiently big for strike prices denominated in any currency? If not, what would be an appropriate format length, both for characters before the decimal point and characters after the decimal point?

Other comments on the data elements “strike price” and “strike price notation”:

2.23 Option lockout period

Comments on the data element “option lockout period”:

2.24–2.25 Option premium; option premium currency

Q9: With reference to data elements “option premium” and “option premium currency” (Sections 2.24 and 2.25), should an option premium payment date be added, to take into account that the option premium may sometimes be paid at the end of the transaction?

Other comments on the data elements “option premium” and “option premium currency”:

2.26–2.27 CDS index attachment point; CDS index detachment point

Comments on the data elements “CDS index attachment point” and ”CDS index detachment point”:

Other comments:

In addition to our comments above, we would like to highlight three areas that we believe deserve attention from a data standardisation perspective.

First, we urge global regulators and policymakers to ensure all of the transaction reports relating to a single cleared OTC derivative can be linked, including any original alpha report (representing the intended-to-be-cleared derivative prior to clearing) and subsequent beta and gamma reports (representing the same derivative after acceptance for clearing). As highlighted by ESMA in its recent discussion paper on the trading obligation for derivatives under MiFIR, the current inability to link these reports in some jurisdictions hinders regulators in accurately assessing trading activity in a particular instrument and determining how much of the market has transitioned to central clearing.

Second, data reporting elements for cleared OTC derivatives must take into account the straight-through-processing rules that have already been enacted in several jurisdictions. As discussed in our response to Question 2.2 above, these straight-through-processing rules require submission to clearing within a specified timeframe after execution. Therefore, regulators must have access to the data necessary to monitor compliance with these requirements. In addition to an accurate execution timestamp, transaction reports for cleared OTC derivatives should specify the time when the transaction was submitted to clearing and the time when the transaction was accepted for clearing by the CCP. Both of these data elements can be provided by the relevant CCP on its transaction reports and will better enable regulators to monitor compliance with straight-through-processing rules.

We also note that for cleared OTC derivatives executed on regulated trading venues, the concept of executing an original alpha swap that is submitted to clearing and then extinguished and replaced by cleared beta and gamma swaps (representing the separate (i) clearing member 1 to CCP and (ii) clearing member 2 to CCP legs) often does not reflect the actual workflow in practice. Straight-through-processing rules often provide that an intended-to-be-cleared derivative executed on or pursuant to the rules of a regulated venue will be considered void if it is rejected for clearing by the CCP. In addition, many trading venues offer functionality that allow for anonymous execution, meaning that the trading counterparties immediately face the CCP and do not know the identity of the other counterparty. The concept of reporting an original alpha swap that exists prior to clearing is inconsistent with these market practices.

Finally, we urge global regulators and policymakers to enhance the reporting of package transactions. OTC derivatives are commonly executed as a part of a package containing more than one instrument, and it is important that transaction reporting enables regulators to identify trading activity in specific types of packages. This information will assist regulators in evaluating how certain regulatory requirements should apply to package transactions. In order to accurately identify package transactions, we support a reporting flag indicating that an instrument is being transacted as part of a package, along with information on how many legs are associated with the specific package transaction and the instruments involved. In addition, since packages are priced and executed as a single trade, ideally one price for the entire package would be reported rather than requiring market participants to impute a price for each leg.