



Comments

On CPMI-IOSCO's Consultative report on Harmonisation of key OTC derivatives data elements (other than UTI and UPI) – first batch

Register of Interest Representatives

Identification number in the register: 52646912360-95

Contact:

Dr. Patrick Büscher

Telephone: +49 30 20225-5346

Telefax: +49 30 20225-5345

E-Mail: patrick.buescher@dsgv.de

Berlin, 15-10-09

The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent approximately 1,700 banks.

Coordinator:

German Savings Banks Association
Charlottenstraße 47 | 10117 Berlin |
Germany

Telephone: +49 30 202225-0

Telefax: +49 30 20225-250

www.die-deutsche-kreditwirtschaft.de

Comments on CPMI-IOSCO's Consultative report on the Harmonisation of key OTC derivatives data elements (other than UTI and UPI) – first batch

A. Introduction and summary of key observations and concerns

The German Banking Industry Committee (GBIC) is grateful to be given the opportunity to comment on CPMI-IOSCO's Consultative report on the "Harmonisation of key OTC derivatives data elements (other than UTI and UPI) – first batch". While we appreciate the work presented by CPMI-IOSCO we have some observations which we would like to outline in the following.

B. Responses to the consultative questions

Q1 With reference to alternatives proposed for data elements included in the group "Date" (data elements 1.01, 2.01) and "Timestamp" (data element 8.03 in List 1 and data element 2.02 in List 2)

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

We think it is in the counterparties' discretion how granularly they set the effective date at which the obligations under their contract come into effect. Counterparties cannot be obligated to stipulate specific details in a derivatives contract only by virtue of certain reporting requirements.

Generally, for every kind of timestamp the format YYYY-MM-DD is preferred. Supplementing the Data Element by a time designation would create significant operational problems since the moment of recording is very much dependent on the technical procedures applied by the counterparties involved (e.g. manually vs fully automated) which might lead to a mismatch in the reports assigned to a trade.

(b) Is the proposed default value sufficiently unambiguous? Will users of TR data be able to distinguish between the default value for timestamps and reported timestamps? If this would not be possible, what alternative do you suggest?

No comment.

(c) Which of the proposed harmonisation alternatives should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

We would strongly advocate Alternative 1 since parties of a OTC derivatives transaction do not invariably agree upon a certain point in time at which the obligations under their contract come into effect.

Q2 With reference to alternatives proposed in the allowable values for the data element "Cleared":

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

We are uncertain whether the information necessary to comply with Alternative 1 will be at all times available in the counterparties' systems.

Comments on CPMI-IOSCO's Consultative report on the Harmonisation of key OTC derivatives data elements (other than UTI and UPI) – first batch

(b) Which of the proposed harmonisation alternatives should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

We favour Alternative 2 as it provides for unambiguous field population.

(c) Are the proposed alternatives sufficient to accommodate the potential need to distinguish between direct and indirect clearing?

Both alternatives fail to distinguish transactions between a clearing member and a client from those between a client and sub-client.

Q3 With reference to the definition of “ID of the primary obligor 1” (data element 5.01) and “ID of the primary obligor 2” (data element 5.02):

(a) Would the guidance be sufficiently clear in the case of original and cleared trades, taking different clearing models into consideration?

No comment.

(b) Would the guidance be sufficiently clear in the case of trusts or collective investment vehicles?

No comment.

Q4 With reference to the definition for “Notional amount”:

(a) Should guidance be complemented by a definition of “leg 1” and “leg 2” or are market conventions already clear? In the former case, which definition would you suggest? If relevant, please provide an asset-class specific answer.

Leg1 and Leg2 are not well defined. Regarding Interest Rate Derivatives, for example, the following tie-breakers are suggested:

- 1) fix → Leg 1, float → Leg 2
- 2) Smaller size of payment frequency → Leg 1, larger interval of payment frequency → Leg 2

Further guidance would be appreciated in the fields of equity derivatives since market practices vary significantly.

(b) As regards FX derivatives, the solution proposes only two notional amounts based on the assumption that for FX swaps the spot and the forward leg are represented as two separate transactions with separate UTIs linked via a linkage data element. Should the Harmonisation Group take into consideration an additional alternative? If yes, which one and why? For example, should the Group require a total of four FX notional amount data elements namely two notional amount data elements to represent the two currencies associated with each leg of the swap?

Comments on CPMI-IOSCO's Consultative report on the Harmonisation of key OTC derivatives data elements (other than UTI and UPI) – first batch

The assumption that each leg of a transaction should be assigned its own UTI can only be upheld if also the provision of law which establishes the reporting obligation regards a transaction's leg as a distinct reportable transaction.

(c) Should the Harmonisation Group in the future decide to provide harmonisation guidance also for the notional amount of commodity derivatives, which aspects should it take into account? How should this potential harmonisation proposal be defined for different commodity derivatives?

No comment.

Q5 With reference to alternative 1, which harmonises both the actual "Notional amount" (Data elements 6.01 and 6.02) and the "Original notional amount" (Data element 6.04), versus alternative 2, which harmonises only the actual "Notional amount" (Data elements 6.01 and 6.02):

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

No comment.

(b) Which of the proposed harmonisation alternative should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

A mapping of "Actual Notional Amount" and "Original Notional Amount" would be welcome since regulations are often ambiguous on "Notional amount" and "Current notional amount". We would therefore opt for Alternative 1.

Q6 With reference to alternatives proposed in the allowable values for the data elements "Notional currency" (alternative 1 and 2):

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

No comment.

(b) Which of the proposed harmonisation alternative should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

Alternative 2 is favoured because there is a market need for derivatives in RMB/CNH which should not be ignored by regulators.

Comments on CPMI-IOSCO's Consultative report on the Harmonisation of key OTC derivatives data elements (other than UTI and UPI) – first batch

Q7 With reference to the data element “Valuation amount”:

(a) Are the two proposed alternatives agreeable? Please specify for which types of derivatives which of the alternatives should apply.

Yes, both interpretations of valuation are admissible.

(b) Should the following factors, upfront payment and daily settlement of the derivatives transaction, be reflected in the valuation amount? If yes, please specify how.

Upfront payments need to be well-defined and well-separated from collateral payments. All preliminary payments that are agreed upon to be partial settlements, like variation margin payments in ETDs should be reflected in the valuation amount. Additional information in contrast should not be reflected in the valuation amount.

Q8 With reference to alternatives proposed for included in the group “Valuation” (data elements 8.04 and 8.05):

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

We remain uncertain about what is meant by "date and time of last valuation" and wonder which timestamp should be reported:

- The moment when the valuation calculation is finished?
- The last timestamp of a market value used in the calculation?
- The moment in time when the valuation value was extracted from the database?

Not all valuations can be calculated on the spot, many rely on market values for underlying assets which may not have a daily valuation available. More guidance is needed for specifying which timestamp to report here. The proposal, unfortunately, does not resolve this issue.

(b) Which of the proposed harmonisation alternatives should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

For the valuation source, we support Alternative 2. Nevertheless, in case of ETDs, the CCP valuation will constantly be used for variation margin payments and settlement purposes.

Promoting the Early Termination as a timestamp (Section 3.2.1 of the Report) is not helpful in terms of reconciling reports. This is because counterparties will usually not agree on a specific point in time but only a date per which the trade is to be terminated. Therefore, guidance will be needed for a default value when no specific point in time is available or when the termination point in time is entered later into the system.

Comments on CPMI-IOSCO's Consultative report on the Harmonisation of key OTC derivatives data elements (other than UTI and UPI) – first batch

Q9 With reference to alternatives proposed for the data element "Direction":

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

No comment.

(b) Which of the proposed harmonisation alternative should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

We would support Alternative 2 as it relies on more unequivocal criteria.

(c) Are the proposals sufficiently robust for transactions with multiple legs? With reference to Alternative 1, can the counterparty side (buyer/seller) clearly identify the parties paying each relevant payment stream? With reference to Alternative 2, is the payer of payment streams an applicable concept for all payment streams? Responses illustrated with worked examples where applicable would be appreciated.

Defining the "Buyer" and "Seller" is vital in the light of experiences gathered with EMIR. The first alternative, however, is weak because its arguments derive from product types which are not necessarily well specified (e.g. "basis swaps") whereas it should reflect the event (e.g. "float-to-float" payment) to define a payment's direction.

The second alternative has a weakness insofar as it relies on the LEI for the payers. Not every counterparty has a LEI and not every counterparty is allowed by law to obtain a LEI.

* * *