

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

Respondent name:	ICE Trade Vault
Contact person:	Melissa Ratnala, Carolyn Van den Daelen, Tara Manuel
Contact details:	Melissa.Ratnala@theice.com and 713-890-1210; Carolyn.VandenDaelen@theice.com and 44-020-7429-4515; Tara.Manuel@theice.com and 770-857-4735

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General comments on the report

ICE Trade Vault Europe Limited and ICE Trade Vault, LLC (collectively referred to as "ICE Trade Vault") appreciate the opportunity to respond to the above-referenced consultative report by Committee of Payments and Market Infrastructure and International Organization of Securities Commissions (jointly, "the Harmonisation Group").

As commented on the previously published first and second batches of this consultative report, ICE Trade Vault fully supports the efforts undertaken by the global leaderships in the derivatives market and harmonisation of the transaction data reporting. Harmonisation of these data elements brings not only an efficiency to the industry participants and Trade Repositories who operate and report derivatives data in various regulatory jurisdictions, but also achieves consistency of data for regulatory purposes across different jurisdictions.

ICE Trade Vault hereby submits the below as its responses solicited in this third batch of the consultative report. We appreciate the work of the Harmonisation Group towards our common goal of data standardization. We would welcome the opportunity to further collaborate with the HG and discuss any of data elements in the Consultation. Should you need further information regarding the responses below, please contact ICE Trade Vault at the contact provided.

General Comments:

1. Explicitly clear, robust definitions and examples for each data element:
It would benefit all industry participants if the final technical guidance included robust definitions for each data element. Adding more robust definitions in addition to examples in the final Technical Guidance would reduce inconsistencies in the interpretation of each data element and improve the quality of the data reported to repositories.

2. Guidance that allowable values not be padded:
We suggest that the HG recommend that allowable values not be padded with zeros. Table 3 "Format details" for the example Num (25,5) should explicitly prescribe in 'Additional explanation' that using zeros (0) to fill places should not be permitted.

For example, 12345.67 should not be reported as 000012345.67 or 00012345.670 for a Num (8,3) format. Our view is consistent for data elements 2.37, 2.38, 2.42, 2.43, 2.46, 2.48, and 2.51.

We believe this will help reduce reporting inconsistencies and increase the chance of matching in dual-reporting regimes. This is currently the standard in electronic confirmation matching and works well.

3. Validations and guidance when a data element is not applicable for a particular transaction:
It is currently unclear for each data element what to report if the data element is not applicable for a particular transaction. We suggest that the Allowable value for each data element specifies what is allowable for reporting for these instances. For example, for 2.49 Option premium, the only allowable value listed is "Any number greater than zero." If the transaction is not an option, and therefore the data element is not applicable, we believe what is meant is that 'blank' is an acceptable allowable value for reporting, but because it is not explicitly stated, there is possibility for inconsistencies in reporting. We suggest the CDE guidance provides a prescriptive recommendation within allowable values for each data element, for whether "Not Applicable" or a 'blank' field would be permitted. This is critical information for the Trade Repositories to implement consistent standard in reporting.

"Not Applicable" (or "N/A") as an allowable value implies that the party has actively determined that the data element does not apply to the transaction and implies a level of due diligence that may not be capable of automation in firms' systems for every single data element. As such, blank and "N/A" should be treated differently and called out as such in the reporting requirements.

4. Handling of currency fields:
We appreciate the group trying to address offshore currencies. We believe this can be achieved by either allowing additional values which may need to be added over time or adding an additional data field "Location of settlement" to allow for the designation of whether a currency is onshore or offshore for settlement purposes.
In addition to offshore currencies, parties will need a way to report digital currency values such as bitcoins which may fall under the reporting rule in some jurisdictions (e.g., CFTC)

2.1 Collateral portfolio

Comments on the data element "collateral portfolio":

No Comment

2.2 Collateral portfolio code

Q1: With reference to the alternatives proposed to capture information on portfolio code(s) (Section 2.2):

- (a) In your view, how prevalent is the situation in which different transactions concluded under the same Master Agreement are associated with different CSAs (for initial margin posted, initial margin received and variation margin)?

No Comment

- (b) The definition proposed in Alternative 1 is based on the assumption that, in the event of default, the entirety of the collateral provided under the given Master Agreement would be used to cover the loss of the non-defaulting counterparty, whether or not separate CSAs (for initial margin posted, initial margin received and variation margin) might be linked to that Master Agreement and whether or not all the transactions concluded under that Master Agreement would be associated with each of these CSAs. Is this assumption correct? If not, please clarify how the respective obligations would be resolved in the case of default. Please provide examples.

No Comment

(c) Are the differences in authorities' use of the two alternatives clearly illustrated in Table 2?

No Comment

(d) Which of the proposed harmonisation alternatives should be supported and why?

No Comment

Other comments on the data element "Collateral portfolio code":

No Comment

2.3 Portfolio containing non-reportable component

Comments on the data element "Portfolio containing non-reportable component":

No Comment

2.4–2.28 Data elements related to margins

Q2: The purpose of the data element "Initial margin settlement timing" (Section 2.10) is to allow authorities to better understand the difference between "Initial margin required to be posted by the reporting counterparty" (Section 2.17) and the "Initial margin posted by the reporting counterparty" (Section 2.5) as this difference may be due to the timing of when the required margin is determined and when the margin is posted. In the absence of information on the margin settlement timing, the difference in the margin required and margin posted amounts could be interpreted as over- or under-collateralisation. Information on the settlement timing of margin collected would serve the same purpose for global aggregation of initial margin collected (Sections 2.8 and 2.19).

- (a) Are there challenges linked to the data element "Initial margin settlement timing" as defined above? Is there an alternative, more effective, way to represent this information, such as the date on which the initial margin posted (or collected) has been settled?

No Comment

- (b) How prevalent is the existence of different settlement timings (T+0, T+1, T+2, T+3) within a given jurisdiction? Would the settlement timing for the initial margin posted differ from the one for initial margins collected?

No Comment

Other comments on the data elements related to margins:

No Comment

2.29 Indicator of intraday variation margin calls

Comments on the data element "Indicator of intraday variation margin calls":

No Comment

2.30 Collateralisation category

Comments on the data element "Collateralisation category":

No Comment

2.31–2.35 Data elements related to counterparty rating trigger

Q3: With reference to the data elements "Counterparty rating trigger indicator", "Counterparty rating threshold", "Incremental collateral required", "Threshold rating for automatic termination provision" and "Closeout payment for automatic termination provisions" (Sections 2.31–2.34):

- (a) For each alternative of the data element "Counterparty rating trigger indicator", do definitions and allowable values accurately reflect provisions contained in collateral agreements or master agreements covering OTC derivative transactions to protect parties from counterparty credit deterioration? How prevalent currently are counterparty collateral rating triggers or comparable automatic-termination provisions in collateral agreements or master agreements? How, if at all, have recent changes to market practices affected the

prevalence or the form of counterparty collateral rating triggers or comparable automatic termination provisions?

No Comment

- (b) Are the advantages and disadvantages of the proposed harmonisation alternatives of the data element "Counterparty rating trigger indicator" appropriately defined? If not, which aspects should be revised and how? Which of the proposed harmonisation alternatives should be supported and why?

No Comment

Q4: With reference to the alternatives proposed for the data element "Counterparty rating threshold" (Section 2.32):

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

No Comment

- (b) Which of the proposed harmonisation alternatives should be supported and why?

No Comment

Q5: The definition of the data element "Incremental collateral required" (Section 2.33) relies on the assumption that the effects of multiple-notch downgrades are roughly linear. Are there instances in which the effects increase more than linearly with the number of notches in a hypothetical downgrade? If so, how could multiple scenarios be encompassed in the definition?

No Comment

Other comments on the data elements "Counterparty rating trigger indicator", "Counterparty rating threshold", "Incremental collateral required", "Threshold rating for automatic termination provision" and "Closeout payment for automatic termination provisions" (Sections 2.31–2.35):

No Comment

2.36 Clearing obligation in the jurisdiction of the reporting counterparty

Comments on the data element "Clearing obligation in the jurisdiction of the reporting counterparty":

As many reporting parties prefer to have a single reporting message across jurisdictions, we recommend that it be considered to add a prefix to this field to indicate in which jurisdiction/reporting rules the clearing obligation is applicable.

There should also be a standard field by reporting regulation for clearing exemption which may be a "Y/N" field or each regulator may have a list of allowable values.

The definition that "both" counterparties are subject to the mandatory clearing may cause some confusion in reporting.

2.37–2.41 Data elements related to “Price”

Q6: With reference to the data element “Price” (Section 2.37), are there OTC derivative transactions products where the price or a concept of price is not captured under the “Price” data element or any other data element including “Fixed rate”, “Spread”, “Strike price”, “Option premium” and “Other payment type (upfront payment)”? If so, please provide detailed examples of those products. Would the industry benefit from additional guidance for the “price” data element?

In certain Commodities asset class transactions, in order to calculate a fixed rate whereby market participants are indifferent between paying (receiving) the fixed rate over time or paying (receiving) a rate that can fluctuate over time, the value of the swap is set equal to 0 (zero) at origination.

For certain Commodities swaps, the price is not known at time of execution. For example, if a Gas swap is set against an index, with a fixing date in the future, then the price would not be known at the outset of the swap. The Index or reference price would be on the swap.

We therefore propose the below Allowable values for 2.37 Price be added:

If Price Notation = 0: Any value equal to zero.

If Price Notation = 3: Price not known at time of execution.

Q7: With reference to the data element “Price notation” (Section 2.40), is it clear and unambiguous which price notation (amount or percentage) should be applicable to each price? If not, which ones? Are there additional price notations that should be allowed? If so, which ones? Would the industry rather benefit from additional guidance for the “price notation” data element?

We believe some clarification is needed related to 2.40 Price notation:

- We suggest the technical guidance specify that 2.39 Price currency would not apply in cases where 2.40 Price Notation is a Percentage, for clarity.
- For allowable value 2, we propose that a decimal number, and not a percentage, be used related to Allowable value, which is more aligned with market practice for Price.

In terms of additional price notations, ISDA has made previous submissions to regulators on the need to allow more than the values, including (but not limited to) amount, percentage, basis points and currency. We note that spread is also a form of price notation that will be captured under data element 2.43.

Q8: With reference to the data element "Price unit of measure" (Section 2.41):

- (a) Can commodity derivatives be negotiated in different unit of measures for the price and quantity? If so, would industry support two separate data elements for the (1) Price unit of measure and (2) Quantity unit of measure?

Yes, commodity derivatives can be negotiated in different unit of measures for the price and quantity. For example, a party could contract crude oil in tonnes, but pay for the contract in US\$ per barrel.

It is important to have two separate data elements for Price unit of measure and Quantity unit of measure. This is how clearinghouse products are currently defined and how commodities trades are electronically confirmed today.

- (b) The list of allowable values in Table 4 in Annex 1 encompasses all the values included in ISO 20022's Unit Of Measure Code and four additional values.
- (i) Are the values useful for reporting the Quantity Unit of Measure and the Price Unity of Measure?
 - (ii) If not, which ones are less useful and why?
 - (iii) Are there other values that should be added? Which ones, and why?
 - (iv) Are there duplicates or similar values that should be removed?

The below is a listing of the current unit of measures traded in the commodities markets and reflected with confirmations:

bbl
BCF
BITCOIN
Board Feet
bu
California Carbon Allowances
CAR
CFI
Charter Day
CHF
cm
CNY
Cross State Air Pollution Rule TR NOx Annual Allowance
Cross State Air Pollution Rule TR NOx Annual Allowance
Cross State Air Pollution Rule TR NOx Ozone Season Trading Program Allowance
Cross State Air Pollution Rule TR NOx Ozone Season Trading Program Allowance
Cross State Air Pollution Rule TR SO2 Group 1 Allowance
Cross State Air Pollution Rule TR SO2 Group 1 Allowance
Cross State Air Pollution Rule TR SO2 Group 2 Allowance
Cross State Air Pollution Rule TR SO2 Group 2 Allowance
CRT
CWT
DIGITAL CURRENCY
DMT
ERU
ETF Level
EU Allowances
EU Credit
EUAA
FTO
gal
GJ
GWh
HKD
Index Level
Index Point
Index Value
kg
kl
KRW
KW
KWh
L
lba
Long Gilt Future
MCF
MJ
MMBtu
mt
MW
MMWh

Other comments on the data element "Price", "Price schedules", "Price currency", "Price notation" and "Price unit of measure":

For "Price schedules" and their applicable fields it is important that there is consistency in reporting across jurisdictions. Currently there are major discrepancies such as where under REMIT reporting and other jurisdictions, a field with varying price and quantity is reported under a single UTI and that same trade would have to be reported under multiple UTIs under EMIR.

It should be clear that for commodities trades where multiple settlements but a single price and quantity per period exist, do not need to be reported as schedules, and that schedules only need to apply when the price and/or quantity vary per schedule.

2.42–2.50 Data elements related to "Fixed rate", "Strike price" and "Option premium"

Q9: With reference to the data element "Spread notation" (Section 2.45), is it clear and unambiguous which notation (amount or percentage) should be applicable to each spread? If not, which ones? Are there additional spread notations that should be allowed? If so, which ones? Would the industry benefit from additional guidance for the "spread notation" data element?

The requirements need to be clarified when fixed rate would be applicable.

Other comments on the data element "Fixed rate", "Spread", "Spread currency", "Spread notation", "Strike price", "Strike price currency", "Strike price schedules", "Option premium", "Option premium payment date":

For option premium, this field should be allowed to be zero. Also, it may be reported as a "schedule" and as such should be added as an option when applicable.

2.51–2.52 Data elements related to "Exchange rate"

Comments on the data element "Exchange rate" and "Exchange rate basis":

There should sufficient guidance on the validation rules that should be in place to determine when it would be mandatory for 2.51 Exchange Rate to be populated.

For example are they only applicable to FX trades or may it be applicable on a commodities swap where the price currency and settlement currency are not in the same currency? Today for these trades a published currency index (e.g., bloomberg) is referenced on the confirmation.

There may also be FX trades which do not reference two currencies and instead reference an FX index price.

2.53–2.54 Notional amount and Notional amount schedules

Q10: With reference to the data element "Notional amount" (Section 2.53), are there particular cases where the notional amount may not always be known when a new transaction is reported and may be updated later? If so, which ones?

In the case of "TAS" (trade at settlement) trades, the notional may not be known at execution.

Other comments on the data element "Notional amount" and "Notional amount schedules":

It should be clearly defined how to report resets of notionals on commodity index swaps as well as up and downsizes as they can occur numerous times on one trade/ UTI (e.g., should each of these be added as a new schedule when occur, or should the overall notional be updated when applicable).

2.55–2.57 Data elements related to “Total notional quantity”

Comments on the data element “Notional quantity schedules”, “Total notional quantity” and “Quantity unit of measure”:

No comment

2.58–2.63 Data elements related to “Other payments”

Comments on the data elements “Other payment amount”, “Other payment type”, “Other payment currency”, “Other payment date”, “Other payment payer”, “Other payment receiver”:

No comment

2.64–2.71 Data elements related to “Packages”

Q11: With reference to the data element “Package trade price” (Section 2.66), could it be agreed that two possible situations may arise: (i) a package price does exist because all the transactions that represent individual components of the package are priced jointly, or (ii) a package price is not available because all the transactions that represent individual components of the package are priced individually? Is more clarity needed regarding the reporting of “Package trade price” and prices of individual components?

Today, grouping, packages, structured trades, complex transactions, baskets, strategies and custom baskets are exceptionally complex transactions. The variety of definitions, pricing, timing, components, and approaches to decomposition is staggeringly disparate across market participants, including regulatory authorities. There will be no resolution to the lack of clarity around reporting of these transactions unless a central authority such as the HG determines and puts forward definitive, clear and comprehensive technical guidance which covers what constitutes a package or complex trade, how reporting parties should decompose the trade for reporting, and what is expected to be reported in order to harmonize approaches. It is imperative that the definition, including examples, is clearly laid out by this group and accepted by all regulatory reporting jurisdictions so parties are aware of how to accurately report these types of trades.

Other comments on the data elements “Package ID”, “Package trade price”, “Package containing non-reportable components”, “Package trade price currency”, “Package trade price notation”, “Package trade spread”, “Package trade spread currency” and “Package trade spread notation”:

It is important that package information be reported at time of execution and not at a later date to meet with real time reporting obligations in certain jurisdictions. This includes the need to a package notional amount to correctly determine public distribution timelines.

For Package ID, the ESMA field “Complex Trade Component Id” field in EMIR reporting should not be used as it does not meet the UTI field standards for format and length which the Package ID should. It should be clear that the UTI creator be responsible for generating an identifier similar to the UTI ID for package trade reporting.

2.72 Prior UTI

Q12: With reference to the data element “Prior UTI” (Section 2.74), how is “Prior UTI” represented when clearing and allocation happen at the same point in time? And how is “Prior UTI” represented when clearing

and compression happen at the same point in time, as a single event? Do such cases of clearing and compression and clearing and allocation as a single event happen frequently?

In CDS, clearing and allocations may occur at the same time and as such should be accounted for in reporting.

Other comments on the data element "Prior UTI":

Prior UTI would not be applicable in many-to-many events and as such separate pre and post event identifiers should be used. (pull from earlier letter on how to do)

2.73–2.77 Data elements related to "Custom baskets"

Q13: With reference to the data element "Basket constituents unit of measure" (Section 2.74) the list of allowable values in Table 4 in Annex 1 encompasses all the values included in ISO 20022's Unit Of Measure Code and four additional values.

- (a) Are the values useful for reporting the "Basket constituents unit of measure"? If not, which ones are less useful and why?

Depending on the definition this group determines for "custom baskets," please see comments for field 2.41 on Q8(b).

(b) Are there other values that should be added? Which ones, and why?

No comment

Q14: With reference to the data element "Custom basket code" (section 2.75)

(a) would it be preferable to separate the information on the LEI of the basket issuer and the unique alphanumeric code assigned by such issuer to the custom basket? If so, please explain why this would be preferable for global aggregation.

Custom baskets by design are bespoke and customized to the requirements and objectives of the specific client. As such, they are usually one of a kind. Requiring a "Custom basket code" identifier for baskets which are singular in existence will not yield meaningful results when aggregating data. This data element should be eliminated.

- (b) are there types of custom basket for which the "issuer of the custom basket" is not clear? If so, please provide detailed examples of those custom baskets. Would the industry benefit from additional guidance for the term "issuer" in the "Custom basket code" data element?

See above answer

- (c) are 52 alphanumeric characters after the LEI of the basket issuer enough?

See above answer

Other comments on the data elements related to custom baskets:

For commodities trades, baskets typically entail a weighted percentage of an index price, as such the percent and index should both be reported.

Other comments

No comment