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October 9, 2015

**Comments on the Consultative Report: *Harmonisation of Key OTC Derivatives Data Elements (Other than UTI and UPI) – First Batch*,
issued by the Committee on Payments and Market Infrastructures
and the Board of the International Organization of Securities Commissions**

Japanese Bankers Association

We, the Japanese Bankers Association (“JBA”), would like to express our gratitude for this opportunity to comment on the consultative report: *Harmonisation of Key OTC Derivatives Data Elements (Other than UTI and UPI) – First Batch*, issued on September 2, 2015 by the Committee on Payments and Market Infrastructures (“CPMI”) and the Board of the International Organization of Securities Commissions (“IOSCO”). We respectfully expect that the following comments will contribute to your further discussion.

[General Comments]

As being indicated by participants in the Workshop of CPMI-IOSCO WG Harmonisation of key derivatives data elements held in Basel in March 2015, the following aspects should be fully considered in discussing harmonisation of transaction data elements to be reported.

- (i) Burdens in practice and costs for regulatory compliance (including the transfer of costs at trade repositories (TRs)) to be incurred by private financial institutions, i.e. the reporting entity
- (ii) The level of benefit of risk management by authorities to be achieved by harmonisation relative to associated costs (including those incurred by the private sector)
- (iii) Setting of timelines for format changes that would not impose an excessive burden on the reporting entity by also taking into account the above (i) and (ii)

Further, while questions in the consultative report mainly relate to the format and data elements, it is necessary to consider the following aspects before discussing such matters.

- (iv) Harmonisation of the definition of derivative transactions which are subject to reporting
- (v) Conflict between laws/regulations concerning confidentiality in each jurisdiction and provision of transaction data by financial institutions, etc.

(vi) Limitation of data to which national authorities have access in light of the above (v)

In this view, harmonised data elements should be limited to what consensus will be achieved between authorities and private sectors and what are necessary for data aggregation. These should also exclude “challenging” elements.

[Specific Comments]

Out of questions 1 to 9 presented in the consultative report, we would like to comment on the following 8 questions and would appreciate your consideration.

Question 1: 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)
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Q1. (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?

(Our comment)

We understand that current transaction data reporting across jurisdictions basically follows Alternative 1, therefore, we consider this method to be preferable.

Q1. (c): Which of the proposed harmonisation alternatives should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?
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(Our comment)

Given that Alternative 2 is not necessarily required under current transaction data reporting, this would be a “challenging” element and is not appropriate for harmonisation. Therefore, Alternative 1 should be adopted.

Under current business practices, counterparties confirm the effective date and end date, but do not the effective time and end time, consequently there is no practice where credits and debts occur effect or lapse at a certain point of time. Therefore, recording accurate time would cause a significant burden unless transactions are executed on an electronic trading platform, etc.

Further, under the trust scheme in Japan, though a trust bank acting as a trustee is deemed as a counterparty, its main role is to provide back office services, including management and cash settlement for activities conducted by the manager and the dealer according to instructions. Since the transaction is executed under the name of the trust bank and the trust bank is counterparty to the transaction, it will be liable for TR reporting. The

trust bank obtains only trade date data from the manager but do not receive or manage transaction execution time data. Moreover, there is no market practice to manage the timestamp of the end date in any transactions. Given these, a heavy workload would be needed to establish a reporting framework, for example, developing a market practice and individual banks' systems.

Question 2: With reference to alternatives proposed in the allowable values for the data element "Cleared":

Q2. (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?

(Our comment)

Alternative 2 is more appropriate as a harmonisation approach as clearing models are not always consistent across jurisdictions/central counterparties ("CCPs"). Since the clearing model used by the Japan Securities Clearing Corporation ("JSCC") is not the same as the Principal/Agent Model used in EU and the U.S. Moreover, centrally-cleared transactions are not included in the scope of transaction data reporting in the first place in some jurisdictions, including Japan.

Q2. (b): Which of the proposed harmonisation alternatives should be supported and why? Under which circumstances would the alternative(s) be difficult to implement?

(Our comment)

Alternative 2, which only requires to indicate whether a transaction is centrally cleared or not, should be adopted.

Given that Client Clearing approaches other than the Principal Model and Agency Model may be used in some jurisdictions, Alternative 1 is not considered as appropriate.

Question 3: 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):

Q3. (a): Would the guidance be sufficiently clear in the case of original and cleared trades, taking different clearing models into consideration?

(Our comment)

We understand that the use of the legal entity identifier ("LEI") will facilitate data aggregation and risk capturing. We, however, would like to note that the treatment of LEI should be discussed in line with international discussions on LEI and LEI implementation processes on a national level.

Further, since some jurisdictions prohibit private financial institutions from providing

information that can identify counterparties, it would be necessary to address the issues of confidentiality and access rights between authorities.

In this view, even if it is conclusively decided to use LEI, it is considered that transition arrangements will be necessary until the above issues are solved. Such arrangements include allowing financial institutions to use alternative global common codes and allowing non-financial institutions to use codes specific to respective jurisdictions.

Q3. (b): Would the guidance be sufficiently clear in the case of trusts or collective investment vehicles?
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(Our comment)

The definition set out in the guidance is considered as clear, provided that our following understanding is appropriate “in the case of funds, such as trusts, ID identifies the trustee (trust bank) which is the nominee of the fund, rather than the final beneficiary of the fund”.

Under the trust scheme, it would be difficult to disclose information on the beneficiary and the trustor even for supervisory reporting purposes unless it is permitted by law, etc., because the trustee acts as the nominee under the trust contract and hence the trust itself is isolated from the bankruptcy risk of the beneficiary and the trustor, and also is subject to a confidentiality agreement.

Question 4: With reference to the definition for “Notional amount”:
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Q4. (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.
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(Our comment)

The guidance provides several definitions for “Notional amount”, but do not cover all products. Therefore, it needs to be complemented. (e.g. OTC bond options)

Question 5: 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):
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Q5. (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?

(Our comment)

Given that the “Original notional amount” is not mandatory under the current transaction data reporting, and notional actual/current amount referred to in data elements 6.01 and 6.02

can capture the risks, Alternative 2 is appropriate and harmonisation is not necessary.

Question 7: With reference to the data element “Valuation amount”:

Q7. (a): Are the two proposed alternatives agreeable? Please specify for which types of derivatives which of the alternatives should apply.

(Our comment)

The data element “Valuation amount” needs to be discussed by taking into account that requiring this data would impose significant costs and burdens on those financial institutions in jurisdictions where the current transaction data reporting does not require such a data element.

Further, aggregation of the data element “Valuation amount” between authorities needs to be carefully considered also from the perspective of confidentiality.

Question 8: With reference to alternatives proposed for included in the group “Valuation” (data elements 8.04 and 8.05):

Q8. (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?

(Our comment)

“Valuation method” and “Valuation source” need to be carefully considered because such information is not mandatory under the current transaction data reporting.

Further, when the trust scheme uses Client Clearing, Alternative 2 is not practicable because the trustee (i.e. trust bank) who is the reporting entity does not obtain the CCP valuation data.

This is due to the practice where the clearing broker provides the CCP valuation data solely to the management company which executes the transaction, and not to the trust bank (even though it is a party to the contract). Establishment of a reporting framework for such data will require, among other things, development of a market practice and individual banks’ systems.

Question 9: With reference to alternatives proposed for the data element “Direction”:

Q9. (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?

(Our comment)

Identifying the reporting counterparty as a buyer or seller enables easier understanding

but will impose a burden on the reporting entity in practice because it differs from the approach being taken under the current transaction data reporting.

Annex 1:	Table 1:	Overview of the “Annex 2 list” data elements considered and their grouping/
	Table 2:	Examples of data element requirements to support authorities’ functional mandates

(Our comment)

The data element 4.01 “Settlement method” is not mandatory in transaction data reporting in some jurisdictions. Therefore, it is not appropriate for harmonization.