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TO:
European Securities and Markets Authority
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3 August 2012

Re: Discussion Paper on Draft Technical Standards for the Regulation on OTC Derivatives, CCPs and Trade Repositories

The Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association welcomes the opportunity to comment on behalf of its members on ESMA's consultation paper. The GFXD was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 22 global FX market participants[1], collectively representing more than 90% of the FX market[2]. Both the GFXD and its members are committed to ensuring a robust, open and fair market place and welcome the opportunity for continued dialogue with European regulators.

The FX market is the world's largest financial market. Effective and efficient exchange of currencies underpins the world's entire financial system. Corporations and investors regularly participate in the market for operational needs: to reduce risk by hedging currency exposures; to convert their returns from international investments into domestic currencies; and to make cross-border investments and raise finance outside home markets.

Many of the current legislative and regulatory reforms will have a significant impact upon the operation of the global FX market and we feel it is vital that the potential consequences are fully understood and that new regulation improves efficiency and reduces risk, not vice versa. The GFXD is committed to ensuring a robust, open and fair market place and welcomes the opportunity to set out its views in response to your discussion document.

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[1] Bank of America Merrill Lynch, Bank of New York Mellon, Bank of Tokyo Mitsubishi, Barclays Capital, BNP Paribas, Citi, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Lloyds, Morgan Stanley, Nomura, RBC, RBS, SociétéGénérale, Standard Chartered Bank, State St., UBS, and Westpac
[2] According to Euromoney league tables

Annex III – OTC Derivatives

Criteria for the determination for the classes of OTC derivative contracts subject to the clearing obligation

We support the criteria listed for consideration by ESMA in its mandatory clearing determinations. ESMA should specifically take into account the systemic relevance of the relevant market and any unique characteristics in that market to help ensure that the application of a clearing obligation would not result in undue risk being assumed by the market and overall financial system. The overriding objectives for regulators internationally, including ESMA, should be to implement measures that are proportionate to the systemic risks being addressed.

Systemic relevance of FX market. The FX market, which is the world's largest financial market, is a central component of the global payment system. FX is at the heart of all international commerce and underpins the other financial markets and the global economy generally. The Bank for International Settlements (BIS) estimated that the average daily market turnover in FX increased to $4 trillion in April 2010, up from $3.3 trillion in April 2007.[3]

FX instruments are different from OTC derivatives. The unique factors limiting risks in the FX forwards and swaps market include fixed terms (i.e. non-contingent outcomes), the physical exchange of currencies, the well-functioning settlement process (CLS) and the shorter duration of contracts. FX forwards and FX swaps are typically physically settled by delivery of the underlying currency with settlement risk as the main counterparty risk. As noted in the EMIR recitals, directing certain OTC derivative products to clearing may not be appropriate; while CCP clearing specifically addresses counterparty risk, it may not be the optimal solution for dealing with FX forwards and FX swaps where the main risk is settlement risk.

Regulatory requirements on FX instruments should not increase systemic risk. FX forwards and FX swaps should attract lower regulatory capital and margin requirements, if any at all, than other uncleared trades to reflect the lower level of risk of these instruments compared to OTC derivatives generally. Margin and capital requirements for such products should either not apply, or should be set at levels that do not incentivise clearing for such products, because this could very well increase rather than decrease potential systemic risk, especially in times of crisis.

Because CCPs mitigate against mark-to-market / replacement cost risk, key unintended consequences of mandating clearing for FX forwards and FX swaps include potentially undermining the efforts that have been made in addressing settlement risk to date (i.e., use of CLS as a settlement risk mitigating service); creating a single point of failure where none exists today; and increasing costs and risk for corporate and buy-side end-users of FX.

The complexities around introducing CCP clearing into the FX market are significant – specifically:

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[3]BIS, Monetary and Economic Department, *Triennial Central Bank Survey: Report on global foreign exchange market activity in 2010* (Dec 2010).

- The large currency and capital needs that would arise if CCPs were also responsible for guaranteeing settlement given the sheer size and volume of trades in the FX (forwards and swaps) market.
- The operational challenges and potentially disruptive effects that arise from introducing a layer of clearing between trade execution and settlement. These would significantly outweigh the marginal benefits from central clearing.

CCPs would require immediate access to sufficient liquidity in all currencies to be able to meet in full the settlement obligations of a defaulting member, and in a manner that does not put the CCP itself and its members at significant risk during stressed market conditions. The specific settlement characteristics of the FX market (being the requirement physically to settle principal rather than just the difference in values) make this issue significantly more acute than in other asset classes. This is a formidable challenge for which, to date, no satisfactory solution has been found. Introducing CCPs into the FX market without ensuring that they only bear risks that they can properly manage would clearly increase, rather than decrease, potential systemic risk, especially in times of crisis.

The analysis described above focuses heavily on the FX forwards and swaps markets, particularly with a view to ensuring international harmonization of clearing and margin regimes. We note that in the discussion around the recent issuance of product definition rules by the CFTC, there was some debate as to whether FX non deliverable forwards should be treated in a similar manner as FX forwards (and therefore potentially exempt). We believe that any progress in this debate should, for similar reasons, be taken into consideration across other jurisdictions.

Public register

We support the more granular grouping of OTC derivatives within product types and details to be provided in the public register. Approving FX derivatives by currency will enable consideration of the pace of development at competing CCPs to ensure market participants have a choice of venues to ameliorate systemic risk and encourage competition.

With respect to phased-in implementation, we strongly urge ESMA to consider the interaction of this regulatory review / determination process with the infrastructure arrangements needed to allow markets to continue to function in an orderly manner. In determining an appropriate timeframe for applying any mandatory clearing determination, ESMA should consider how to minimise the operational risks involved in moving to cleared markets. CCPs need to develop a track record of safe and sound clearing processes for any given swap, group, category, type or class of swaps during the voluntary clearing phase before clearing is made mandatory.

Risk Mitigation Techniques for OTC Derivative Contracts Not Cleared by a CCP

Timely confirmation

1. Definition and scope of confirmation requirements

We welcome ESMA's indication that the confirmation procedure and timelines are intended to refer to the sending of the confirmation to a counterparty and not receipt of the corresponding confirmation or of signed legal terms. However we would request that, additionally, ESMA

recognise current confirmation market practices in the FX market which have been developed over time and are considered both robust and subject to low incidence of exceptions. These may also be relevant for certain other asset class products.

In FX, trade confirmations will be delivered by a dealer to its counterparty. However, the confirmation may not always be required to be signed, countersigned or formally accepted by the counterparty i.e. counterparties may agree to "negative" or deemed affirmation, such that trade terms are deemed accepted without further action by the counterparty. This is achieved through the execution of master confirmation or similar agreements which state that the unilateral confirmation terms delivered by the dealer are binding unless an exception is raised within the prescribed period set out under their agreement. This procedure is especially practical in the high volume foreign exchange market, particularly with short tenor trades, and allows counterparties to avoid having to countersign or formally accept each and every trade, yet retain the right to raise issues with the terms as relayed by the dealer.

In order to accommodate this, we request that the text of article 1 RM in Annex II be amended to reflect that the timely confirmation obligation be satisfied by the sending of a unilateral confirmation from one party to another, rather than requiring both parties to send a confirmation. This deals explicitly with FX market practice and also has the benefit of dealing with the concern that whilst market participants have control over the generation of confirmations, execution may be dependent upon both parties complying with the proposed rules i.e. a counterparty cannot control execution by its counterparty. We would also welcome clarification that intragroup transactions are not intended to be captured by the timely confirmation requirements and that this should relate only to confirmation of risk positions held with external counterparties.

We would suggest the following amendment:

> 2. <u>Where</u> an OTC derivative contract <u>is</u> concluded <u>between</u> ~~with a~~ financial counterpart<u>yies</u> ~~or a~~ and non-financial counterpart<u>yies</u> that meet~~s~~ the conditions referred to in Article 10(1)(b) of Regulation (EU) No xxxx/2012 [EMIR] and ~~which~~ is not <u>either (i)</u> cleared by a CCP ~~shall be confirmed~~ <u>or (ii) an Intragroup transaction, a confirmation will be sent</u>, where available via electronic means, as soon as possible and at the latest by the end of the same business day.

It may be helpful for recital 18 to also reflect these concepts as well.

Finally, although not specifically addressed, we believe that where a trade is executed on a venue and the counterparties to the trade deem execution and confirmation to occur simultaneously then this should also satisfy the requirements for timely confirmation. We believe this may also be helpfully clarified as part of the recitals.

2. Time limits for non-electronic confirmations

Provided that the clarification around what constitutes confirmation as described above holds, we largely welcome the new deadlines that have been set for confirming transactions. Current FX market best practice for electronic trades sets a two hour service level agreement (SLA) for the issuance of confirmation messages. Since the majority of FX transactions are confirmed

electronically via SWIFT, these typically would fall within the same day requirement for sending confirmations.

However, there is a smaller population of trades requiring paper confirmation processing. These might relate to clients that are unable to support electronic confirmation or may relate to trades with non standard terms, varying in scale from minor non-standard terms all the way through to the more complex trades, particularly options. All of these require some element of manual intervention, particularly in the case of structured, bespoke trades which require a number of internal review processes before the full legal confirmation is sent to the client. For these trades, it is not practical to subject them to the same strict deadlines as for electronic processing, and in some cases dispatch of the confirmation can take place up to ten days post trade date.

Prior to and alongside the regulation being implemented both in Europe and the US, we note that the G14 market participants have been actively engaging with regulators as part of the OTC Derivatives Supervisors Group (ODSG) industry supervisory commitments letter process to agree such confirmation targets across both electronically and non-electronically confirmable trades. This process has yielded continued improvements in confirmation procedures over the past few years. It also aims to increase greatly the number of products confirmed electronically and commits to several process improvements. Regulators involved in this process include the primary supervisors of the G14 banks, including the Federal Reserve Bank of New York, the French Prudential Supervisory Authority (Autorité de Contrôle Prudentiel - ACP), the German Federal Financial Supervisory Authority and the UK Financials Services Authority amongst others.

We believe that in the case of paper trades, ESMA could usefully consider leveraging the work conducted by the ODSG by allowing an initial paper confirmation dispatch deadline of T+10 days to take account of complex, structured trades. ESMA could consider phasing in of shorter timelines for certain types of paper confirmations, for example, trades that require non-standard or additional terms but which are not complex / structured.

3. Portfolio reconciliation

We would ask ESMA to consider that the portfolio reconciliation either not be required or be considered fulfilled where trades are continuously monitored and matched as part of the confirmation, matching and settlement process. In particular, we are referring to the processes undertaken for trades that are submitted to CLS Bank ("CLS") for confirmation, trade pairing and subsequent settlement. CLS is a key piece of market infrastructure set up in 2002 with the express purpose of reducing settlement risk in foreign exchange transactions. Its settlement system today eliminates virtually all settlement risk to its participants. Additionally, CLS's activities are subject to a cooperative oversight protocol arrangement among 22 central banks whose currencies are settled.

Under this process, each counterparty submits a trade for confirmation and trade pairing. Once trade submissions from each counterparty are paired and confirmed, the trade is scheduled for settlement or payment. On the relevant settlement date, CLS calculates a net settlement amount to be exchanged between the two counterparties in each currency pair. Prior to settlement, any update or amendment to the trade is communicated to CLS, which looks to re-match or re-pair the trade with the appropriate counterparty. A failure to match / pair creates a

break in the settlement procedure so that the trade is removed from the payment / settlement schedule. Notifications are sent to each counterparty to notify them that there are unreconciled trades. The process is real-time, continuous and linked (i.e. each side of the trade is 'linked' together at all times). As such, we believe that this process should meet ESMA's goal for reconciliation to "quickly identify any disagreement, especially since portfolio reconciliation should relate to the material terms that identify each particular OTC derivative contract".

Whilst the process described above does not reconcile valuations of trades, all of the trades currently settled in this way are foreign exchange forwards and swaps. As such, all have known liabilities / cash flows from the outset of the trade i.e. there are no contingent liabilities. Additionally, because the FX market is a highly liquid market in which prices are widely available 24 hours a day, market participants can also reliably determine the net amount ore replacement value of their exposure.

We believe this can be taken account of by adding a further line to article 2 RM paragraph 3 that would state:

> "Portfolio reconciliation shall be deemed to be satisfied where a trade is continuously monitored and matched by a third party through to settlement of the trade."

We note that the recital clarifies that portfolio reconciliation may occur with reference to only the valuations of the transaction. We believe this is helpful in reducing the need to reconcile the key terms of a trade. This will allow participants to leverage existing market infrastructure for the purposes of improving reconciliation practices. To avoid confusion, we would recommend a change to the wording of article 2 RM to align with recital 19.

In order to take account of both points, we suggest the following amendment:

> 3. Portfolio reconciliation shall be performed by the counterparties to the OTC derivative contracts with each other, or by a qualified third party duly mandated to this effect by a counterparty. The portfolio reconciliation shall cover either the key trade terms that identify each particular OTC derivative contract ~~and~~ or shall include at least the valuation attributed to each contract in accordance with Article 11(2) of Regulation (EU) N0 xxxx/2012 [EMIR]. The portfolio reconciliation requirement set out here shall be deemed to be satisfied where a trade is continuously monitored and matched by a third party through to settlement of the trade.

Trade repositories

Reporting obligation

We welcome the clarifications that ESMA has included in the draft RTS around responsibilities for reporting and agree with a structure whereby the obligation to report can be satisfied by (i) both counterparties reporting separately (ii) one counterparty reporting on behalf of the other counterparty or (iii) a third party reporting on behalf of both counterparties. This flexibility is critical to enabling the industry to harmonise reporting flows between jurisdictions and so achieve operational efficiencies.

Purpose of reporting

We welcome ESMA's efforts to reduce the reporting burden on market participants by aligning the scope of transaction reporting under MiFID with trade reporting under EMIR and support continued efforts in this regard.

Contents of reporting under parties to the contract

For the fields specifying whether the contract is 'directly linked to commercial activity or treasury financing' (i.e. a hedge) we understand the intention to be that if one counterparty is reporting on behalf of another counterparty to which this applies, there is no obligation on the first / reporting counterparty to verify whether the trade is indeed a hedge. Specifically, the obligation is on the second counterparty to ensure that the correct data is being reported. We assume that similar considerations apply to the 'clearing threshold' field.

Beneficiaries

We welcome ESMA's decision in the draft RTS to require only identification of the structure rather than the underlying beneficiaries, given the complications involved.

Codes

We welcome ESMA's approach to adopting, where available, internationally agreed standards in respect of identifiers such as the LEI. We believe it is in the interests of regulators and participants alike to harmonise standards for LEIs and product and trade identifiers.

We believe this principle of harmonisation should extend to common definitions for each of the data items required by different regulators. This will help avoid confusion and allow for an international, standard reporting language (e.g. FPML) to be used. Otherwise participants may be required to persist and transmit two or more different elements for the same data field e.g. price.

The consultation paper acknowledges the difficulties of reconciliation of data. Where multiple repositories prevail, regulators will need to be able to interpret and aggregate data across a number of differently formatted outputs, which can be inefficient at best. Timely access to and interpretation of a comprehensive data set will be important in times of market crisis; this will be enhanced where regulators have access to consistent data sets if required to seek trade and position data from a number of repositories.

As regards taxonomies, we note that the draft ITS sets out a proposed taxonomy under article 4(2). The FX industry has proposed a taxonomy to apply for FX transactions that, for the purposes of EMIR, would cover forwards, non deliverable forwards, non deliverable options, simple exotics and complex exotics. This has been published by ISDA, along with proposed taxonomies for the other asset classes[4]. We believe that these taxonomy fields would be more appropriate for foreign exchange and, as with the approach on identifiers, we believe it would be sensible to harmonise the taxonomy used under EMIR with other jurisdictions to enable consistent data analysis and grouping. A common reference to such a taxonomy would also allow the taxonomy to evolve over time in the same way for different jurisdictions.

Trade identification

In the preamble, ESMA notes that if an 'identifier with a universal character is available' it should be used, although acknowledges that the industry is still working towards this. We support the use of a common format that will enable identifiers to be re-used across different jurisdictions. In order to support this, we would ask that the format for the identifier field be expanded to a floating (maximum) length of 42 alphanumeric characters (this will enable potential common usage with identifiers under Dodd Frank reporting in the US, which currently comprises a ten character alphanumeric namespace and 32 digit trade identifier).

Under the structure of the RTS, the identifier is found under the 'common data'. According to recital 3 of the draft RTS, this data should be agreed by both parties, implying that a single common ID must be used. The workflows around agreeing a common identifier are particularly complex for the FX industry given that it has by far the greatest volume of bilaterally executed trades and, given the diverse nature of the infrastructure, which is not confirmed through a central third party which could be used to assign a common ID. This reflects the fact that the FX industry has developed specialized and bespoke infrastructure to support its differing client bases.

As discussed in our response to the previous consultation paper, there are several points at which a trade identifier might be exchanged:

- At point of execution (whether bilateral, via platform or via broker)
- At point of trade recap or affirmation
- At point of confirmation
- Through an acknowledgement message from a trade repository notifying a counterparty that a trade has been alleged against that counterparty

Ideally, exchange of identifier information will occur as close to point of execution as possible and ideally would be issued by the execution platform (if executed on a platform). However, this will depend on the method of execution (platform, broker, bilateral) and confirmation. It may also mean that counterparties to a trade report a trade to the trade repository *before* they have swapped identifier information. There is also then the issue of *which* counterparty's identifier should be deemed the unique identifier.

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[4] http://www2.isda.org/identifiers-and-otc-taxonomies/

With that in mind, the GFMA's Market Architecture Group has been developing a proposed protocol for the exchange of trade identifiers and is in the process of discussing this with market participants. This document is available on our website at http://www.gfma.org/initiatives/foreign-exchange-(fx)/fx-market-architecture/.

Key to this protocol is the concept that a trade record can contain each counterparty's (unique) trade identifier – referred to here and in our paper as the "your ref / our ref" protocol.

The process works as follows: Where trades are executed bilaterally or off-platform, firms may assign their own unique identifier. This same identifier would be used where the trade is reported to multiple trade repositories (i.e. for different jurisdictions). Counterparties exchange identifiers through one of the points of exchange set out above and the relevant trade records are updated at the trade repository.

For jurisdictions where the concept of a reporting party exists (e.g. the US) a trade repository can then determine the reporting party and the appropriate identifier to use as the unique transaction identifier. In jurisdictions where dual sided reporting is supported e.g. under EMIR, a regulator is able to enquire of a specific trade by utilising either counterparty's identifier, both of which will link to the same trade. This has the advantage of creating operational consistency for all trades, limiting the number of identifiers a firm has to manage across multiple regulators, alleviating the need for firms to implement reporting party rules specific to any jurisdiction and limits the number of identifiers parties will need to manage on any given trade.

As such, we believe this field should not have to be agreed between the counterparties where the 'your ref / our ref' protocol is utilised. This could be achieved either by (i) requiring the agreement of Common Data only where reasonably possible, practicable or where a functionally equivalent alternative has been implemented or (ii) by moving the identifier field(s) to the counterparty data block. Furthermore, in order to assist data reconciliation across trade repositories, we would ask that a second counterparty ID field be included as an optional field in the data specification.

Data on exposures

As we have discussed previously, the reporting of exposure data and collateral presents an enormous challenge for the industry. Firms generally do not have a tight linkage between collateral and trading systems. Forcing a tighter integration between market risk and collateral systems on a trade by trade basis would be highly disruptive to the primary architecture of most FX front offices and would require significant change to the reporting infrastructure to provide meaningful data.

Whilst the full requirement as envisaged under the technical standards is therefore difficult, the industry as a whole is working on an alternative solution. Given the portfolio nature of collateral, ISDA is submitting a proposal as to how more meaningful collateral / exposure reporting can be achieved. Accordingly, we support and refer you to the ISDA response in this regard.

As an aside, we note that the collateral data as envisaged is part of the common data, which should be agreed between both counterparties. Since this data may be different for each counterparty (e.g. in the case of one-way collateralisation) this may be impossible.

<u>Master agreement type and date</u>

The requirement to report data relating to the master agreement type and date will add additional burden to trade reporting. Such information is generally stored on separate systems i.e. not those from which reporting of other trade attributes occurs. Mapping and enrichment of data would therefore be required and we are not clear on the additional value to be gained from such information to be included with each trade, rather than interrogated on a case by case basis as necessary. We would request that ESMA considers potentially phasing in this requirement at a later date and respectfully note that the CFTC in its final rule has dropped the requirement for these data fields.

<u>Article 7 – reporting log</u>

Certain of the reporting log requirements are onerous and could delay the rate at which firms capture and process amends, particularly given the volume of trades that are undertaken in FX. Specifically, the requirement to identify the person requesting the change and the reason for that change are difficult from a data capture perspective. Most firms do not have the level of detail requested in their audit records and it is not clear what use this information would be. As a matter of course the trade record at a repository will show all the lifecycle and amendment events that happen to a trade so that regulators can "replay" the life of the trade.

There is a secondary issue regarding the treatment of multiple amendments prior to reporting on T+1 and whether each change should be aggregated into the audit trail or whether only the last change should be reported.

Transparency and data availability

<u>Public information</u>

We welcome ESMA's approach in ensuring that only public aggregated data is made available that does not enable identification of individual counterparties or trades.

In respect of the timeframes for making aggregate data available, the GFXD is working with the ODRF and central banks and market participants to determine appropriate levels and frequency of publicly available aggregated data. We would suggest that the output of these discussions may usefully be taken into account by ESMA, particularly around the frequency of reporting.

Annex V & VI – Data Fields

This section sets out some general comments on the data fields before setting out specific comments on the individual data fields themselves.

<u>Agreement of Common Data</u>

As regards the Common Data, we note from recital 3 of the draft RTS that "[t]o avoid inconsistencies in the Common Data that is reported in Table 2, each counterparty to a trade should ensure that the Common Data reported is agreed between both parties to the trade." This is likely to be problematic to achieve for two reasons.

Firstly, not all of the Common Data fields are exchanged as part of the trade confirmation. This may be the case, for example, with respect to the collateral fields. Secondly, a number of the fields may be recorded differently in the two counterparties systems, particularly in the case of time stamps. For execution timestamp, in the case of a bilateral or voice trades, the two counterparties may record the time of trade as different due to slight differences in internal system clocks. In the case of confirmation or clearing, a confirmed or cleared flag may be sent to each counterparty. Each counterparty will record the time that the trade is considered confirmed or cleared based upon the time of receipt of the flag. This again may be different between the two because of different latencies in processing systems. Furthermore if, as we understand, ESMA intends the confirmation to comprise the sending of the confirmation (see our comments under the 'Timely Confirmation' section above), this field will be different between the two counterparties as confirmations will be sent at different times.

As such we believe the recital could be clarified such that the requirement to agree the Common Data need only happen where this is reasonably possible and need not occur prior to the submission of data to a trade repository. Please note separately the comments made above in respect of common identifiers.

<u>Use of industry standards</u>

In respect of reporting of the data fields, significant work is ongoing by the industry to standardise trade descriptions. In order to harmonise reporting across multiple jurisdictions, we believe that where possible that data fields utilise a common reporting language e.g. FpML.

Data fields

	FIELD	DETAILS TO BE REPORTED	FORMAT	Comment
	Parties to the contract			
1	Reporting timestamp	Date and time of reporting.	ISO 8601 date format / UTC time format.	
2	C/P ID	The reporting counterparty shall be identified by a unique code or, in the case of individuals, by a client code.	Legal Entity Identifier (LEI), interim entity identifier, BIC or Client Code.	
3	ID of the other C/P	Unique identifier for the other counterparty of the contract.	Legal Entity Identifier (LEI), interim entity identifier, BIC or Client Code.	
4	Name of C/P	Corporate name of C/P, i.e. name of financial C/P; non-financial C/P; or individual.	Free Text, 50 alphanumerical digits. If in the LEI, or an interim entity identifier, no need for this field.	
5	Domicile of C/P	Information on the registered office, consisting of full address, city and country.	Free Text, 500 alphanumerical digits. If in the LEI, or an interim entity identifier, no need for this field.	
6	Corporate sector of C/P	Nature of the company activities / status (bank, insurance company, etc.).	Taxonomy (B=Bank, I=Insurance company), if not in the LEI database.	We note these terms are not standardised across the industry.
7	Financial or non-financial nature of C/P	Indicate if the C/P a financial or non-financial counterparty in accordance with Article 2 (8,9)of Regulation No (EU) No xx/2012 [EMIR].	F=Financial Counterparty, N = Non-Financial Counterparty	
8	Broker ID	In case C/P uses a broker to execute the contract, this broker shall be identified by a unique code.	Legal Entity Identifier (LEI), interim entity identifier, or BIC.	
9	Reporting entity ID	ID of the reporting entity.	Legal Entity Identifier (LEI), interim entity identifier, or BIC.	
10	Clearing member ID	In case of give-up.	Legal Entity Identifier (LEI), interim entity identifier, or BIC.	
11	Beneficiary ID	If the beneficiary of the contract is not a C/P to this contract it has to be identified by a unique code or, in case of individuals, by a client code.	Legal Entity Identifier (LEI), interim entity identifier, BIC or Client Code.	
12	Trading capacity	Identifies whether the contract was executed on own account (on own behalf or behalf of a client) or for the account of, and on behalf of, a client.	P=Principal, A=Agent.	

	FIELD			
13	C/P side	Identifies whether the contract was a buy or a sell from the reporting C/P's perspective. This field shall be left blank for contracts where the relevant information has been provided in field No. 37 (Direction).	B=Buyer, S=Seller.	
14	Trade with non-EEA C/P	In case the C/P has entered into a trade with a non-EEA C/P who is not subject to the reporting obligation.	Y=Yes, N=No.	Query whether this is derivable from field 5 – domicile of C/P if it is not part of any LEI data?
15	Directly linked to commercial activity or treasury financing	For non-financial C/P; Information on whether the contract is objectively measurable as directly linked to the non-financial counterparty's commercial or treasury financing activity, as referred to in Art. 10(3) Regulation No (EU) No xx/2012 [EMIR].	Y=Yes, N=No; changes over the lifetime of a contract need to be reported. In case the hedge is no longer justified, the report should be amended.	We would like to clarify that this field is optional for financial counterparties but mandatory for non-financial counterparties.
16	Clearing threshold	For non-financial C/P; information whether the counterparty is above the clearing threshold referred to in Art. 10(3) Regulation No (EU) No xx/2012 [EMIR].	Y=Above, N=Below	
	FIELD	**DETAILS TO BE REPORTED**		
	Section 2a - Contract type			
1	Taxonomy	The taxonomy used for describing the classification of the reported contract.	Taxonomy to be defined either by the industry or subsidiary solution defined by ESMA.	We believe this should be an agreed industry taxonomy (see our comments under 'codes' above)
2	Product ID	The contract shall be identified by using a unique product identifier.	Unique Product Identifier (UPI) or information in accordance with Article 4.	Likewise, until a UPI exists, we believe the industry taxonomy should be used for reporting.
3	Underlying	The underlying shall be identified by using an unique identifier for this underlying. In case of baskets or indices, an indication for this basket or index shall be used where an unique identifier does not exist.	ISO 6166 International Securities Identifying Number (ISIN) / Legal Entity Identifier (LEI), B= Basket, I=Index.	
4	Currency	The currency of the notional amount or the currency to be delivered or, for currency derivatives, the currency to be delivered.	ISO Currency Code.	
	Section 2b - Details on the transaction			
5	Trade ID	An internationally agreed UTI.	Up to 20 numerical digits.	We believe this should be up to 42 alphanumeric digits to enable the potential recycling of unique identifiers use in other jurisdictions.

New	Counterparty trade ID	The counterparty's trade ID (OPTIONAL FIELD)	Up to 42 alphanumeric digits	We believe this would be helpful to include as an optional field to support the concept of our ref / your ref identifier exchange. Note – this should be optional to provide flexibility around reporting workflows across all asset classes.
6	Venue of execution / OTC	The venue of execution shall be identified by an unique code for this venue, or that the contract was concluded OTC.	ISO 10383 Market Identifier Code (MIC) where relevant, XOFF for listed derivatives that are traded off-exchange or XXXX for OTC derivatives.	
7	Price / rate / spread	The price per derivative excluding, where applicable, commission and accrued interest.	Format (C=Cash, P=Percentage, Spread=S) and amount (xxxx,yy).	
8	Notional amount	Face value of the contract, i.e. value of the deliverables.	Up to 20 numerical digits (xxxx,yy).	
9	Price multiplier	The number of derivatives represented by one contract.	Up to 10 numerical digits.	Relevance of this field is not clear for OTC derivatives
10	Quantity	Number of contracts included in the contract.	Up to 10 numerical digits.	Relevance of this field is not clear for OTC derivatives
11	Up-front payment	Amount of any up-front payment.	Numerical digits in the format xxxx,yy.	
12	Delivery type	Whether the contract is settled physically or in cash.	C=Cash, P=Physical, O=Option Available to counterparty.	
13	Execution timestamp	The time and date a contract was executed or modified, indicating time zone.	ISO 8601 date format / UTC time format.	Agreeing this field is problematic for bilateral / voice trades (see our comments above under "Agreement of Common Data"). We would suggest that where both parties are reporting – this field should reflect the relevant counterparty's execution timestamp. Where one party is reporting on behalf of another counterparty then this should reflect the reporting party's execution timestamp.
14	Effective date	Date when obligations under the contract come into effect.	ISO 8601 date format.	
15	Maturity date	Date when contract expires / exercise date.	ISO 8601 date format.	
16	Termination date	If different from maturity	ISO 8601 date format.	
17	Settlement date	Date of settlement of the underlying.	ISO 8601 date format.	
18	Master Agreement type	Rreference to any master agreement, if existent (e.g. ISDA Master Agreement; Master Power Purchase and Sale Agreement; International ForEx Master Agreement; European Master Agreement or any local Master Agreements).	Free Text.	We believe this field should be dropped from the reporting requirement given the complexities involved in reporting. Such information would of course be available to regulators as necessary.

19	Master Agreement date	Reference to the date of the master agreement version, if any (e.g. 1992, 2002, …).	ISO 8601 date format.	We believe this field should be dropped from the reporting requirement given the complexities involved in reporting. Such information would of course be available to regulators as necessary.
	Section 2c - Risk mitigation / reporting			
20	Confirmation	Whether the contract was electronically confirmed, non-electronically confirmed or remains unconfirmed.	Y=Non-electronically confirmed, N=Nonconfirmed, E=Electronically confirmed.	
21	Confirmation on timestamp	Date and time of the confirmation.	ISO 8601 date format, UTC time format.	Note – this may not be an agreed time (see our comments above under "Agreement of Common Data")
	Section 2d - clearing			
22	Clearing obligation	Whether the reported contract is subject to the clearing obligation under Regulation (EU) No. X/2012 [EMIR].	Y=Yes, N=No.	
23	Cleared	Whether clearing has taken place.	Y=Yes, N=No.	
24	Clearing timestamp	Time and date clearing took place.	ISO 8601 date format / UTC time format.	Note – this may not be an agreed time (see our comments above under "Agreement of Common Data")
25	CCP	In case of a contract that has been cleared, the unique code for the CCP that has cleared the contract.	Legal Entity Identifier code (LEI), interim entity identifier, or BIC of the CCP clearing the contract.	
26	Intragroup	Indicates whether the contract was concluded as an intra-group transaction, defined in [Art. 3] of Regulation No (EU) No xx/2012 [EMIR]	Y=Yes / N=No.	
	Section 2e - exposures			
27	Collateralisation	Whether exchange of collateral occurred to cover the contract in accordance with Article 11 of Regulation No (EU) No xx/2012 [EMIR].	U=uncollateralised, PC= partially collateralised, OC=one way collateralised or FC-fully collateralised.	
28	Collateral basis	Whether the exchange of collateral occurred on a portfolio basis.	Y=Yes / N=No.	
29	Collateral type	Type of collateral that is posted to/by a counterparty.	C=cash, = securities, B=bonds, M=mixed, O=Other	
30	Other collateral type	Any other type of collateral that is posted by a counterparty	Free text.	
31	Collateral amount	Amount of collateral that is posted by a counterparty	Indicates the amount of collateral that is posted by a counterparty	

32	Currency of collateral	Currency of the amount of collateral that is posted by a counterparty	E = Euros, US = US dollars, UK = Pound Stirling, O = Other	Suggest this should use ISO currency codes
33	Other currency of collateral amount	Other currency of the amount of collateral that is posted by a counterparty	Free text.	
34	Mark to market value of contract	Revaluation of the contract, specifying the difference between the closing price on the previous day against the current market price.	Format (C=Cash, P=Percentage, S=Spread) and amount (xxxx,yy).	
35	Mark to market date of contract	Date of the last mark to market valuation.	ISO 8601 date format / UTC time format.	
36	Master netting agreement	Type of master agreement in place covering netting arrangements, if different from the master agreement identified in field 18	Free text.	
	Section 2f - Interest rates	**If a UPI is reported and contains all the information below, this is not required to be reported**		
37	Direction	Whether the reporting counterparty is receiving or paying the fixed rate. In case of float-to-float or fixed-to-fixed contracts this field has to be filled as unspecified.	P=Payer of fixed rate, R=Receiver of fixed rate, U=Unspecified, In general, if the principal is paying or receiving the fixed rate. For float-to-float and fixed-to-fixed, it is unspecified. For non-swap or swaptions, the instrument that was bought or sold.	
38	Fixed rate	Level of the fixed rate leg.	Numerical digits in the format xxxx,yy.	
39	Fixed rate day count fraction	The actual number of days in the relevant fixed rate payer calculation period.	Numerical digits in the format xxxx,yy.	
40	Fixed leg payment frequency	Frequency of payments for the fixed rate leg.	D=daily, W=weekly, M=monthly, Q=quarterly, S=semi-annually, A=annually, or Dxxs, if a certain number of days, xxx being the specific amount of days (e.g. D010=10 days).	
41	Floating rate payment frequency	Frequency of payments for the floating rate leg.	D=daily, W=weekly, M=monthly, Q=quarterly, S=semi-annually, A=annually, or Dxxs, if a certain number of days, xxx being the specific amount of days (e.g. D010=10 days).	
42	Floating rate reset frequency	Frequency of floating rate leg resets.	D=daily, W=weekly, M=monthly, Q=quarterly, S=semi-annually, A=annually, or Dxxs, if a certain number of days, xxx being the specific amount of days (e.g. D010=10 days).	

43	Floating rate to floating rate	An indication of the interest rates used which are reset at predetermined intervals by reference to a market reference rate.	Numerical digits in the format xxxx,yy.	
44	Fixed rate to fixed rate	An indication of the interest rates used which do not vary during the life of the transaction.	Numerical digits in the format xxxx,yy.	
45	Fixed rate to floating rate	An indication of the fixed and floating rate used.	Numerical digits in the format xxxx,yy.	
	Section 2g - Currency	**If a UPI is reported and contains all the information below, this is not required to be reported**		
46	Currency 2	The cross currency, as different from the currency of delivery.	ISO 4217 Currency Code.	
47	Exchange rate 1	Exchange rate at the moment of the conclusion of the contract.	Numerical digits in the format xxxx,yy.	
48	Exchange rate 2	Exchange rate at the moment of the conclusion of the contract.	Numerical digits in the format xxxx,yy.	
49	Value date	The date on which both currencies traded will settle.	ISO 8601 date format.	Is this different to settlement date – field 17?
50	Forward exchange rate	Forward exchange rate on value date.	Numerical digits in the format xxxx,yy.	
51	Exchange rate basis	Quote base for exchange rate.	Numerical digits in the format xxxx,yy.	Format should not be numerical digits but in the form of currency 1 / currency 2 or vice versa
	Section 2h - Commodities	**If a UPI is reported and contains all the information below, this is not required to be reported**		
	General			
52	Commodity base	Name of the commodity group.	AP=Agricultural Commodities, E=Energy, F=Freights, P=Paper, M=Metals, PM=Precious Metals, O= Other.	
53	Commodity details	Details of the particular commodity.	Free text.	
54	Load type	Product delivery profile: baseload, peak, off-peak, block hours or other which correspond to the delivery periods of a day.	Free text.	
55	Delivery point or zone	Physical or virtual point where the delivery takes place.	Free text, field of up to 20 characters.	
56	Delivery start date and time	Start date and time of delivery.	ISO 8601 date format.	
57	Delivery end date and time	End date and time of delivery.	ISO 8601 date format.	

58	Border Energy	Identification of the border or border point of a transportation contract.	Free text.	
59	Daily or hourly quantity	For energy commodities, daily or hourly quantity in MWh which corresponds to the underlying commodity.	Free text.	
	Section 2i - Options	**If a UPI is reported and contains all the information below, this is not required to be reported**		
60	Option type	Indicates whether the contract is a call or a put from the reporting counterparty's perspective.	P=Put, C=Call.	
61	Option style (exercise)	Indicates whether the option may be exercised only at a fixed date (European, Bermudan and Asian style) or at any time during the life of the contract (American style).	A=American, B=Bermudan, E=European, S=Asian.	
62	Strike price (cap/floor rate)	The strike price of the option.	Numerical digits in the format xxxx,yy.	
	Section 2j -Modifications to the trade report			
63	Action type	Whether the report: · is reporting a derivative contract or post-trade event for the first time, it will be identified as 'new'; · modifies details of a previously reported derivative contract, it will be identified as 'modify' · cancels a specific trade or post trade event, it will be identified as 'cancel'; · Contains any other amendment, it will be identified as 'Other'.	N=New, M=Modify, C=Cancel.	
64	Details of action type	Where field 63 is reported as 'other' the details should be specified here.	Free text.	

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We appreciate the opportunity to share our views on the draft Technical Standards. Please do not hesitate to contact me at +44 (0) 207 743 9319 or at jkemp@gfma.org should you wish to discuss any of the above.

Yours sincerely,

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