



15 December 2023

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Dear Mr McBurnie

**CP361a - ASIC Derivative Transaction Rules (Reporting) 2024: Follow-on consultation on changes to data elements and other minor amendments**

The Australian Financial Markets Association (**AFMA**), the Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association (**GFMA**) and the International Swaps and Derivatives Association (**ISDA**) (collectively, the **Associations**) appreciate the opportunity to provide this joint response to the Australian Securities and Investments Commission's (ASIC) **Consultation Paper 361a - ASIC Derivative Transaction Rules (Reporting) 2024: Follow-on consultation on changes to data elements and other minor amendments**.

Generally, the Items proposed are as expected. Members of the Associations do have some comments to make on the Items in the CP361a Table, which are in the attached table.

In addition several more general queries were raised which we pass on here for guidance from ASIC:

1. **Strike Price:** During the Industry working group of 24 November, ASIC provided clarification that for the 'Price' field, where there is a schedule of prices institutions should report the change of price as a modification. We would appreciate confirmation from ASIC that the same is expected for the reporting of the 'Strike Price' field, where there is a schedule of prices?
2. **Independent amounts:** We thank ASIC for accepting questions from the industry in relation to independent amounts and whether to report these as margin. We would appreciate further clarification from ASIC as to whether there is an expectation to

report segregated independent amounts when they are not an add on to the margin exposure?

3. **Alternative reporting:** Members also sought clarification on ASIC's intention with the Alternative Reporting exception currently prescribed under the draft rules for 2024. Based on comments in past consultations we understood this exception to be under review, however, there is no reference to this in CP361a.

The Associations once again thank ASIC for the diligence it has put into the ASIC Derivative Transaction Rules (Reporting) 2024 update project and the attentive consultation process associated with it. Please contact David Love either on 02 9776 7995 or by email at [dlove@afma.com.au](mailto:dlove@afma.com.au) in regard to this comment letter.

Yours sincerely

A handwritten signature in blue ink that reads "David Love". The signature is written in a cursive, flowing style.

**David Love**  
**General Counsel**

Attachment to CP361a - ASIC Derivative Transaction Rules (Reporting) 2024 - Combined member comments

Table in CP361a	Item	Label / Description	Comments
1	1a	Secondary transaction identifier	The inclusion of this additional field raises a question around the impact this field will have on the UTI generation waterfall provided by ASIC. In instances where we are not the generating party, and an UTI is not available, does ASIC expect this field to be reported?
1	58a 58b 59a 59b	Reporting of additional data field relating to <b><i>upper &amp; lower barrier price</i></b> .	Can ASIC please confirm whether these fields are required to be reported for all asset classes? Under the current rules, the barrier fields are reported where applicable. With the regulatory rewrites taking place across different jurisdictions, and ASIC in the lead body requesting for this data element, there is concern is that this proposal is going against the spirit of global harmonisation – whereby it’s additional data sourcing / work efforts to bring in the data; but the data field is governed / mandated by 1 regulatory body; hence adding onto the regulatory reporting burden / cost to the firm.
1	7a	Counterparty 2 name	Currently, item 7 allows LEI, or another identifier, determined in accordance with subrule S1.3.1(2), to be reported. The ambit of subrule S1.3.1(2) includes Designated Business Identifier and internal entity identifier in the form of Client Code.  Item 7a, which is a newly added field, is a fallback such that if the type of identifier reported for item 7 is not LEI or Designated Business Identifier, then the legal name of Counterparty 2 should be reported instead. The proposal is to reinsert the requirement to identify Counterparty 2 by name (new item 7a), if the type of identifier reported in item 7 is not a LEI or designated business

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			<p>identifier (ABN, AVID or BIC code). This is not a CDE requirement, and but is justified in that it will enable matching among multiple datasets available to it.</p> <p>This proposed phrasing (of item 7a) thus appears <u>to create a gap for internal identifiers</u> underlined above. As such, we would like to seek clarification how this gap may be addressed and whether it should be rephrased to align with the language in item 7 i.e. by replacing “Designated Business Identifier” with reference being made to “subrule S1.3.1(2)”.</p> <p>Rule S1.3.1(2)(a) has the effect that if counterparty 2 is eligible for a LEI but does not have one, it may be identified in item 7 by a designated business identifier or an internal identifier, provided that an LEI is applied for within 2 business days and reported as soon as reasonably practicable after it becomes available.</p> <p>If a reporting entity identifies counterparty 2 in item 7 by an internal identifier in reliance on rule S1.3.1(2)(a), the proposed item 7a will require the entity to be named.</p>
2	25	Platform Identifier	<p>The term ‘<i>financial market</i>’ does not appear to be defined in the ASIC Derivative Transaction Rules (Reporting) 2024. We note that there is a definition for the term ‘<i>authorised financial market</i>’ in Section 1.2.3 of the Rules. Should the updated description in the Platform Identifier’ field reference the defined term of ‘authorised financial market’ instead of ‘financial market’? If not, we would like ASIC to clarify the scope of the term ‘financial market’.</p> <p>Notes on drafting:</p>

Table in CP361a	Item	Label / Description	Comments
			<ul style="list-style-type: none"> <li>• There is no list published by ASIC which clearly identifies which platforms are considered by ASIC to be financial markets (I.e. Denotes Legal Name, MIC or LEI). We note that ASIC currently publishes a list of licenced markets on its website, however this is hard to navigate given that for some licensees there are multiple legal instruments referring to their authorisation, and which are not consolidated into one instrument for easy reference.</li> <li>• Furthermore, in other jurisdictions the concept of a regulated trading venue or financial market is more specific and clearly defined in terms of its scope (e.g. SEFs and DCMs in the USA and MTFs and OTFs in Europe and the UK), and there are also lists published on the regulator websites which list the authorised operators of the various types of trading venues.</li> <li>• Additionally, we note that for one of the allowable values for the Platform Identifier Field, XOFF, it appears that it would be very difficult for this value to be accurately determined if required, given that there is no source of truth in relation to whether a product can be traded on a financial market or not. This is in contrast to the regime under ESMA, where a TOTV status for the product is provided by Anna DSB.</li> </ul>
2	86	Identifier of the floating rate - Leg 2	<p>While this change makes sense there is no corresponding <b>Leg 1 field</b> for reporting (i.e. Indicator of the floating rate - Leg 1) in ASIC rule. While not a question of CP 361a, we note that have raised this point about the lack of corresponding floating rate fields for leg 1. We understand that these leg 2 fields are designed for reporting of non-rate swaps, and hence there is no corresponding floating rate fields for leg 1. However, it has not been clear to the industry and we would appreciate it if ASIC could clarify this in its guidance or in a FAQ as this has been a common question from the industry.</p> <p>The below is the list of fields names which other obligations used. Name of fields from JFSA, MAS, EMIR Technical Specifications</p>

Table in CP361a	Item	Label / Description	Comments
			<u>Jurisdictional Field   Rewrite Data Field</u> Indicator of the floating rate of leg 1   Indicator of floating rate of leg 1 Indicator of the floating rate of leg 2   Indicator of floating rate of leg 2
2	87	Floating rate reference period - Leg 2	We are not concerned with the name change, however we found that there is no corresponding <b>Leg 1 field</b> for reporting (i.e. Floating rate reference period - Leg 1) in ASIC rule. The below is the list of fields names which other obligations used. Name of fields from JFSA, MAS, EMIR Technical Specifications <u>Jurisdictional Field   Rewrite Data Field</u> Floating rate reference period of leg 1 - time period   Floating rate reference period of leg 1 - time period Floating rate reference period of leg 2 - time period   Floating rate reference period of leg 2 - time period
2	88	Floating rate reference period multiplier - Leg 2	Again no concerns with the name change, however we found that there is no corresponding <b>Leg 1 field</b> for reporting (i.e. Floating rate reference period multiplier - Leg 1) in ASIC rule. The below is the list of fields names which other obligations used. Name of fields from JFSA, MAS, EMIR Technical Specifications <u>Jurisdictional Field   Rewrite Data Field</u> Floating rate reference period of leg 1 - multiplier   Floating rate reference period of leg 1 - multiplier Floating rate reference period of leg 2 - multiplier   Floating rate reference period of leg 2 – multiplier

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4	22	Action type: Add <b>NEWT, MODI and CORR as applicable</b>	<p>The proposal says that reflecting the structures of ISO 20022 message definitions, NEWT, MODI and CORR are possible ‘Action types’ when reporting information about collateral ‘arrangements’ in a transaction message.</p> <p>However, only MARU and CORR are possible ‘Action types’ when reporting information about collateral ‘amounts’ in a margin message. Table 5: Proposed consequential changes in Chapter 2: Reporting Requirements Rule Summary of change 2.2.1(1) As a consequence of inserting new subrule 2.2.4(4) – see below – amend ‘Subject to subrules (2) and (3)’ to ‘Subject to subrules (2) to (4)</p> <p>Along the theme of regulatory reporting rules harmonisation; in the CFTC reporting – DTCC SDR only permits action type of MARU for Collateral reporting.</p> <p>In practice, action type indicator value of NEWT/MODI/CORR are irrelevant to represent transaction action status to the SDR from a collateral standpoint – i.e. there is no concept of collateral data being a ‘NEWT’ record to the SDR. It also would not be relevant to send in action type of MODI / CORR for collateral data updates.</p> <p>Our recommendation is to leverage MARU only as action type for collateral data reporting; which also simplifies &amp; unified the reporting requirements across jurisdictions &amp; SDR validations.</p> <p>One member noted their experience for your information:</p> <p><i>There was similar requirement for Korea TR where when a collateral was first reported, action type should be New, then subsequent changes should use Update. We had implementation challenges till today, whereby our reporting system had to track if past submissions have taken place for certain collateral portfolio, if yes, has that submission/resubmission got accepted by DTCC before the system can decide which Action Type to use.</i></p> <p><i>To elaborate a bit more - KRX TR will reject a NEW action type submission if the TR already has this collateral portfolio on record, as we have probably submitted before in</i></p>

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			<p><i>the past. KRX TR will also reject UPDATE action type submission if TR doesn't have an existing record of this collateral portfolio code.</i></p> <p><i>The differentiation of Action Type is challenging to implement and run in BAU :</i></p> <p><i>A. Tech platform has to keep a record of ALL submissions of collateral portfolio code in the past, and if these submissions have been accepted by TR. If true, then use Update action type; if false, then use New action type. TR retains the collateral portfolio code records even if trades on this portfolio have matured/exited. It's technically challenging to scan through all past submissions and submission status before deciding which action type to use, for each record.</i></p> <p><i>B. As part of established BAU process, Operations to check Collateral valuation submissions failure reasons – a lot of times these are related to Action type i.e. can't Update as no existing collateral portfolio record, - or can't send NEW as there is already an existing record. Then Ops have to update Action types and resubmit.</i></p> <p><i>These overhead can be avoided by not mandating a different Action Type based on if it is "entry into an OTC derivative". DTCC can process based on the reporting date/COB dates submitted for collateral valuation.</i></p> <p><u><i>Background on DTCC specification</i></u>  <i>DTCC specs presently (v0.2) does not list out CORR as applicable for MARU</i></p> <ul style="list-style-type: none"> <li><i>• From a similar conversation for VALU submissions on DTCC WG yesterday, this may be intentional on DTCC's side to not include CORR as they feel its complicated for the industry to use CORR.</i></li> <li><i>• They would rather use the timestamp field to identify the latest value to be tied to the position.</i></li> </ul>



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5	2.2.1(4)	<p>Exception for incomplete ISO 20022 message definition</p> <p>Insert a new subrule relating to 'Exception for incomplete ISO 20022 message definition'. The proposed new data element of 'Secondary transaction identifier' and the data elements related to barrier prices are not currently supported in the relevant ISO 20022 message definition.</p> <p>A change request is required to be submitted for international evaluation and approval. In the event that the change request is not approved by the 21 October 2024 commencement of the 2024 Rules, this new subrule provides that reporting entities are not required to report one or more items of derivative transaction information that is not included in the ISO 20022 message definition.</p>	<p><b>We would like to ask ASIC to grant at least 6 months of lead time from the ISO update to act on the reporting of requirements.</b></p>