

ESMA

Division Bank and Insurance  
Austrian Federal Economic Chamber  
Wiedner Hauptstraße 63 | P.O. Box 320  
1045 Vienna  
T +43 (0)5 90 900-DW | F +43 (0)5 90 900-272  
E [bsbv@wko.at](mailto:bsbv@wko.at)  
W <http://wko.at/bsbv>

Ihr Zeichen, Ihre Nachricht vom	Unser Zeichen, Sacharbeiter	Durchwahl	Datum
	BSBV 64/Dr. Priester/Sc	3132	13 February 2015

Re: ESMA - Review of the technical standards on reporting under Article 9 of EMIR

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the entire Austrian banking industry, appreciates the possibility to comment on the ESMA Consultation Paper regarding Review of the technical standards on reporting under Article 9 of EMIR and would like to submit the following position:

**Q1: Do you envisage any difficulties with removing the 'other' category from derivative class and type descriptions in Articles 4(3)(a) and 4(3)(b) of ITS 1247/2012? If so, what additional derivative class(es) and type(s) would need to be included? Please elaborate.**

Two additional derivative classes need to be included, which are typical for ETDs: Bond and Index

**Q2: Do you think the clarifications introduced in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.**

The clarifications will not cause significant new difficulties. We think that even after the implementation of the proposed clarifications there will still be significant reporting differences between market participants. The most efficient way to minimize these reporting mismatches would be, if ESMA publishes reporting examples/guidelines for specific trades.

From the current point of view it seems almost impossible to harmonize the reports as there seems to be too much room for interpretations.

**Q3: What difficulties do you anticipate with the approaches for the population of the mark to market valuation described in paragraphs 21 or 19 respectively? Please elaborate and specify for each type of contract what would be the most practical and industry consistent way to populate this field in line with either of the approaches set out in paragraphs 21 and 23.**

In our opinion the alternative approach (2.2 nr. 23) should be preferred as it seems to be the most simple and unambiguous approach.

**Q4: Do you think the adaptations illustrated in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.**

- Par. 29: please ensure that a "client code" can still be used to identify a private person (retail customer), which do not have a LEI.

Par. 34: it is unclear how to apply this principle to ETD Reporting. Status Quo (RegisTR): If a client opens an ETD position, this position receives a UTI, which will then be used until termination of the ETD. If the client entirely closes the position, the quantity for this UTI will be modified to 0. If the client later again opens a position with the same ETD, we again modify the quantity, using the same UTI as before. Now, how do we have to apply "original notional" and "actual notional" in this case? We assume that every time we create a new Position-UTI, this notional is considered as "original notional" and remains unchanged for the rest of this UTI's life. Is this interpretation correct?

Par. 41: most IT systems handle corrections through cancelling and reporting a new trade. This is in many cases a deeply manifested principle, therefore we ask that this approach can be used further, as an alternative to the new approach.

- Many of the proposed adoptions will improve the data quality of reports. For efficiency reasons we would prefer if all counterparty informations are included in the LEI system and don't have to be reported by the reporting counterparty in separate fields (e.g. "Corporate Sector of the Counterparty"). If this information is directly linked to the LEI of the relevant counterparty it is supposed to be the latest and true information.
- Our comment relates to the question which party is responsible for the generation of the "unique trade identifier" (UTI).

In Art. 1(4) point 2(d)(iii) of its Draft Technical Standard (see Annex V) the ESMA says that "within the same group of entities the seller generates the unique trade identifier".

In our view, it is difficult to clearly determine the seller and the buyer for a number of derivatives transactions. If the ESMA kept the formulation used in the Draft Technical Standard ESMA would need to issue further Q&A for the different derivatives classes. That is why we would be pleased if the ESMA further clarified this requirement with respect to the different derivatives classes

**Q5: Do you think the introduction of new values and fields adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.**

- With respect to par. 45, we consider it more practical to report the branch we actually trade with, instead of the headquarters.
- The introductions will not cause significant new difficulties. We think that even after the implementation of the proposed introductions there will be still significant reporting differences between market participants. The most efficient way to minimize these reporting mismatches would be, if ESMA publishes reporting examples/guidelines for specific trade.

From the current point of view it seems almost impossible to harmonize the reports as there seems to be too much room for interpretations.

**Q6: In your view, which of the reportable fields should permit for negative values as per paragraph 40? Please explain.**

We did not identify a need for change.

**Q7: Do you anticipate any difficulties with populating the corporate sector of the reporting counterparty field for non-financials as described in paragraph 42? Please elaborate.**

We think that the reporting of corporate sector for NFC- would cause significant additional efforts for FC. Therefore, we suggest to include these information in the LEI system, this means that the information has to be provided/updated just once. These would be the most efficient way to administrate that information.

**Q8: Do you envisage any difficulties with the approach described in paragraph 45 for the identification of indices and baskets? Please elaborate and specify what would be the most practical and industry consistent way to identify indices and baskets.**

We envisage difficulties for baskets and indices that don't have an ISIN.

**Q10: The current approach to reporting means that strategies such as straddles cannot usually be reported on a single report but instead have to be decomposed and reported as multiple derivative contracts. This is believed to cause difficulties reconciling the reports with firms' internal systems and also difficulties in reporting valuations where the market price may reflect the strategy rather than the individual components. Would it be valuable to allow for strategies to be reported directly as single reports? If so, how should this be achieved? For example, would additional values in the Option Type field (Current Table 2 Field 55) achieve this or would other changes also be needed? What sorts of strategies could and should be identified in this sort of way?**

When individual components of such strategies are booked separately within the internal systems generating the report a single report will be counterproductive. We thus ask that both, a single report as well as separated reporting should be allowed.

**Article 3b:**

“The collateralisation types under Article 3b (page 40) do not seem to cover all possible instances. We find at least one more instance:

Both counterparties regularly post variation margin, only the reporting counterparty POSTS initial margin. This is true for a) trades with a Clearing Broker, as well as b) client's reports of trades with us.

None of the four reporting instances stated in Article 3b seem to cover that case.”

Yours sincerely,

Dr. Franz Rudorfer  
Managing Director  
Division Bank and Insurance