



European Association of CCP Clearing Houses

**EACH response to the ESMA consultation
on reporting, data quality, data access and
registration of Trade Repositories under
EMIR REFIT**

July 2020

Introduction

The European Association of CCP Clearing Houses (EACH) represents the interests of Central Counterparties (CCPs) in Europe since 1992. CCPs are financial market infrastructures that significantly contribute to safer, more efficient and transparent global financial markets. EACH currently has 19 members from 15 different European countries. EACH is registered in the European Union Transparency Register with number 36897011311-96.

EACH appreciates the opportunity to provide feedback to the ESMA Consultation Paper CP ESMA74-362-47 “Technical standards on reporting, data quality, data access and registration of Trade Repositories under EMIR REFIT” (hereinafter “the consultation”).

EACH members believe the foundation of the proposed amendments to EMIR should concentrate on risk and reporting should only include the data essential for regulators to monitor systemic risk. New obligations and fields which are not essential to risk oversight place a disproportionate burden on reporting firms. Similarly, the reconciliation process needs to limit not increase its scope to focus industry efforts on the reports and fields that matter most to regulators priorities for risk oversight. We believe for ETD risk sits at the position level.

New obligations such as mandatory notifications and break resolution proposed for reporting firms need to be proportionate and based on a risk-based approach to be effective. It is important for ESMA to understand the root causes of current EMIR matching challenges relate more to inconsistent reporting policies and interpretation rather than unintended “errors” and poor data quality. We have made suggestions on the reconciliation and break management process to facilitate addressing reporting differences that arise.

EACH members welcome increased guidance for EMIR and suggest ESMA works collaboratively with the industry to provide more extensive guidance and worked examples of reporting. In particular, it is important to distinguish between ETD and OTC reporting as the data elements in the Critical Data Elements (CDE) guidance were designed for OTC reporting. We have commented on many of the proposals but have not had time to consider all elements within the consultation in detail. We believe a strong dialogue with regulators is essential to improve reporting consistency under EMIR and would like to continue to engage on these proposals.

Section 4.1 – Methods and arrangements for reporting

Sub-section 4.1.1 – Provisions of details of OTC derivative contracts by NFC to FC

Q4. Are there any other aspects related to the allocation of responsibility of reporting that should be covered in the technical standards? If so, please clarify which and how they should be addressed.

As CCPs and financial counterparties (FCs) have separate defined categories as reporting entities under EMIR, it is understood that the EMIR REFIT provisions for mandatory delegated reporting by FCs do not apply to CCPs.

Sub-section 4.1.4 – Ensuring data quality by counterparties

Q8. Which errors or omissions in reporting should, in your view, be notified to the competent authorities? Do you see any major challenges with such notifications to be provided to the competent authorities? If yes, please clarify your concerns.

Introduction

CCPs believe that extensions of the scope of the reporting obligation should take into account the related regulatory burden imposed on the reporting entities. Mandatory notifications increase the cost of compliance and are duplicative considering these events are already reported through error resubmissions and late submissions when errors or omissions are identified.

Proposed Omission Mandatory Notification

It is understood that Regulators have a desire to be informed of significant omissions in reporting where records are not submitted to the TR at all, thus are not evident in the rejection statistics. However, in line with the objective of EMIR, it is only significant omissions (not all omissions regardless of nature or quantum) that would materially impact Regulators' ability to monitor systemic risk. For example, notification of the exclusion of a new derivative from EMIR reporting due to the derivative not being identified as EMIR reportable or a technical issue that excludes a large percentage of records from TR submission may be desirable although many organisations already notify their NCAs of these type of issues identified. Additionally, we note that currently omissions are submitted as late submissions when identified which already alerts NCAs that there was an omission.

Additionally, a notification obligation disproportionately negatively impacts the administrative burden of firms that have better detective controls in place to identify omissions in the first place who already have strong relationships and do notify regulators of significant issues on a voluntary basis, while doing little to tackle the issue of omissions from other firms that do not have strong controls in place to identify the omission in the first place to be in a position to notify their NCA of the issue. Efficient controls use a risk-based approach to prioritise the identification and resolution of significant risks of EMIR compliance breaches due to omissions and many controls use thresholds which vary based on internal and external risk factors of the entity. Significant time and resource would be required to identify, investigate, confirm and disclose all potential omissions regardless of materiality and such a mandate would be out of line with the proportional risk-based approach taken in most best practice risk management frameworks across the industry.

Rather, perhaps it would be more effective for ESMA to issue guidance on best practice controls to prevent or detect omissions and principles for effective prioritisation of reporting risks in line with the use and aims of Regulators receiving the data.

Proposed Misreporting of Errors Mandatory Notification

For misreporting due to errors, the use of the error action type signals to Regulators the identification and rectification of errors in reporting. Therefore we do not believe an additional obligatory notification is required. Furthermore, such an onerous notification obligation to "*for a counterparty or a CCP to promptly notify their competent authority when it becomes aware of misreporting*" would potentially disincentivise investment in effective controls (or higher

thresholds in existing controls) to identify misreporting whilst doing little to change the Regulators awareness of omissions from firms with weak controls where misreporting goes unidentified. We believe that any additional error reporting, if deemed necessary, should cover only those events, which originate from the Counterparty's procedures and result in failure to submit a report (i.e. omission). Error reporting should not cover those events which are already reported to the Authorities, (i.e. errors and omission within a derivative report already submitted to the T.R.) so as to lower information redundancies.

For the purpose of identifying and rectifying misreporting, the definition of misreporting and what constitutes an error would be useful guidance as there is a difference between an error such as two counterparties both identify as the buyer in a transaction (therefore one party has likely erroneously reported) and an inconsistency in interpretation of a field or reporting policy (where likely neither counterparty is in error) as described in our response to question 9 on reconciliation break management.

Furthermore, we believe not all errors are of equal significance to Regulators as not all fields or even reports are of equal importance to the aim of effectively monitoring systemic risk. We would recommend Regulators to prioritise the significance of risk sitting at the position rather than transaction level reports and categorisation of fields for reconciliation and potential enhancement of validation controls to identify potential errors as a more effective use of time and resources.

Additionally, in respect of rectifying historical errors, guidance should clearly state ESMA's expectations for resubmissions of historical data considering for example that resubmission of no longer outstanding records may not be necessary since the corresponding risk has also expired.

Conclusion

In summary, we believe there are more effective ways to manage risks of omissions and misreporting and any inclusion of a notification obligation to Regulators, if deemed necessary by ESMA and NCAs, should be limited to significant omissions only based on materiality set by firms using a risk-based approach and good guidance from ESMA on effective controls and prioritisation principles.

Q9. Do you see any issues with the approach outlined above? Do you see any other challenges with the reconciliation of trades which should be addressed?

Introduction

Resolving the root causes of reconciliation of trades and positions is an area for industry improvement but we suggest a more consistent and practical approach than bilateral procedures between reporting parties and reconciliation break documentation as proposed. We suggest a risk-based approach targeting the root causes of the majority of reconciliation breaks.

At present, many CCPs make an effort to resolve the underlying causes of breaks with members through updating their reporting logic but there are limitations and information asymmetries which limit the effectiveness of conflict resolution today. Our suggestions are aimed at improving standards for reconciliation break management by endorsing a stronger framework across the industry.

Furthermore, as we point out throughout our responses on the reconciliation process, the scope of reconciliation needs to be limited and focused on risk. EACH members recommend that a) reconciliation should only apply to fields essential to monitoring of systemic risk b) a clear distinction be made between OTC and ETD and c) for the reporting of ETDs, we suggest to concentrate on position data as transaction level reporting is of little benefit to regulators while placing a disproportionate burden on reporting firms.

Addressing the Root Causes of Reconciliation Breaks

In consideration of the best approach to address reconciliation breaks, we believe it useful to first consider the root causes of the majority of pairing and matching breaks that CCPs encounter with clearing participants.

For CCPs that generate UTIs for members, the majority of pairing breaks are due to the CCP UTI not being used in reporting. Additionally, another leading cause of pairing breaks is a lack of clear regulatory guidance on reporting policy or flexibility in the level 3 guidance that allows for different reporting optionality that cannot be bi-laterally agreed individually with hundreds of counterparties. Many of the matching breaks are due to differences in interpretation of level 3 guidance for population of fields and issues with TR data sharing where neither party is misreporting. Working out if matching breaks are actually potential misreporting by one of the parties is a time-consuming task considering the majority breaks result from differences in reporting policies as opposed to unintended errors by either party. In our opinion policy coordination is best facilitated by clear and authoritative regulatory guidance that CCPs and members can refer each other to when discussing the pairing and matching breaks. CCPs have limited ability to persuade clearing participants of their interpretation and vice versa. The absence of regulatory guidance and increasing the documentation requirements will not change the fact that compliance and legal teams are hesitant to agree to reporting policy changes with no regulatory authority backing the rationale for the change. Additional proactive engagement of NCA's to educate counterparties and work collaboratively with counterparties in a supervisory and advisory capacity is also more likely to enhance data quality and consistency than reliance on counterparties to persuade one another to make reporting logic changes.

Additionally, it should be noted that the sentence "*it is generally clear that counterparties can only fulfil their reporting obligation by correcting the report after its rejection and resubmitting the report to the TR*" should consider that there are instances where records which are not EMIR reportable were rejected (and should not be resubmitted as they never should have been submitted in the first instance). In addition, it should be taken into consideration that there are differences in how the TRs interpret and implement the ESMA validation rules. This means that some counterparties get acceptances for the same records that their counterparties get rejections for which impairs the accuracy and consistency of both rejection rates and pairing rates as key quality control measures.

Over emphasis and excessive NCA focus on reconciliation itself over the principle of reporting accuracy to reflect the underlying economic reality and risks can undermine the very purpose of reporting. We suggest that it would be more productive for both reporting entities and regulators to focus on resolution of some of the underlying issues for reconciliation with clarified regulatory guidance on reporting policies and field population, better TR

harmonisation and identification of TR data sharing issues and industry-wide action to tackle member UTI consumption challenges.

Risk-based Approach to Resolution of Reconciliation of Breaks

There is a need for a risk-based and proportional approach to resolving reconciliation breaks. CCPs clear trades for hundreds of counterparties and need to focus their efforts on counterparties with the largest number of reconciliation breaks for prioritised outstanding reconcilable reports and key fields to significantly improve the quality and consistency of the most useful data for regulators to monitor systemic risk.

It would also be useful for ESMA to consider the time required by large entities to agree, schedule, test and implement reporting logic changes in line with the change management controls most system changes require. CCPs do not bilaterally agree and have different reporting logic inconsistently for each of its hundreds of clearing participants, nor do CCPs believe doing so is practical or preferable for the reporting entity and this approach would create considerable increased risks of misreporting for Regulators.

Therefore, when breaks do indicate a potential reporting logic change is needed:

- consultation with internal parties such as compliance and legal teams is often needed as well as external bodies such as NCAs where notification or advice is sought and industry bodies for consensus on best practice where level 3 guidance is not clear;
- other counterparties need to be notified of the change to the CCPs' reporting methodology (CCPs have up to six month notification periods for system changes to allow members to make the needed changes, and perform testing ahead of significant system changes);
- technical development teams which support coding reporting logic are not generally the same as operational regulatory reporting and compliance teams. This means that their time must be scheduled and there is time and effort which goes into communicating of changes required and ensuring that the reporting logic changes are prioritised and implemented as requested;
- testing both internally and in TR test environments is required before report logic changes are made to production reports;
- corresponding changes to delegated reporting need to be coordinated; and
- documentation of the change needs to be completed.

Both CCPs and clearing participants have change management controls that mean time is required from the analysis of reconciliation breaks and investigation of the root causes of the issue to resolution. Contacting the same counterparty repeatedly about the same breaks after notifying them of the significant issues does not change this time frame and the steps required. Contacting hundreds of counterparties every month with no materiality threshold or targeted focus is not practical or preferable if the aim is to make significant improvements in report quality or consistency with the counterparties that make up the majority of the reporting differences.

Documentation

It is understandable that firms should be able to document their risk-based approach to reviewing and resolving reconciliation breaks.

However, a very prescriptive approach to break management and obligatory documentation, such as the proposal to keep a log of *every* reconciliation failure, would be a large administrative burden and lack the flexibility needed for reporting entities to pursue a risk-based data quality management strategy with that would yield the highest results for data quality improvements. Additionally, this approach may incentivise record keeping and systematic correspondence with counterparties with the aim of regulatory enforcement defense rather than more meaningful and collaborative interaction to align reporting.

Conclusion

In our view, we do not see the feasibility for reporting entities or utility to regulators in a non-risk-based approach.

The focus should be on improving current to future reporting logic as opposed to historic records for resubmission and there should be a prioritisation on the reports and fields within those reports which have the most use to Regulators. As discussed in our reply to question 8, we believe the emphasis should be on the position level reporting where the risk is and fields should continue to be categorised based Regulators' use of the data.

Section 4.2 – Use of data standards

Sub-section 4.2.1 – Use of ISO 20022

Q12. Do you foresee any difficulties related to reporting using an ISO 20022 technical format that uses XML? If yes, please elaborate.

Whilst EACH members understand the desire for consistency across regulatory reporting regimes, a conversion to ISO 20022 format based on XML is not seen as the highest priority for EMIR reform.

CCPs currently reporting in CSV will incur cost and effort to change format from CSV to ISO 20022. Given the number of significant changes proposed for EMIR RTS and ITS, perhaps the proposed change to ISO 20022, if deemed necessary for EMIR could have a later mandatory implementation date.

Sub-section 4.2.2 – Unique Trade Identifier (UTI)

Q13. Do you expect difficulties with the proposed allocation of responsibility for generating the UTI?

No difficulties with the proposed allocation of responsibility noted for the majority of CCPs which are already generating and disseminating the UTI for both trades and positions.

However, there are a minority of CCPs which provide the logic of the position UTI to members rather than the UTI itself. For these EACH members, there is a cost associated with becoming a position UTI generator.

Q14. Is any further guidance needed with respect to the generation and exchange of the UTI for derivatives reported at position level?

It is clear from existing regulatory guidance that CCPs are responsible for providing position UTIs for consumption by clearing participants.

However, one CCP has challenges in the granularity of position level reporting. For example, house account positions are held at the CCP, whereas the more granular client level position account information is held by the clearing participants. Therefore, there is a clearing member dependency for more granular level position UTI generation and reporting.

Other CCPs have suggested that the implementation timeline for any changes to the UTI construct should be synchronised with other regulators.

Q20. Are there any other rules that should be added to the hierarchy on UTI generation responsibility? To the extent that such rules are not contradictory to the global UTI guidance, please provide specific proposals and motivate why they would facilitate the generation and/or exchange of the UTIs.

The current provisions pertaining to the hierarchy on UTI generation do not foresee the case of inter-CCP trades stemming from interoperability links. In some cases (e.g. SFTR) the CCPs have bilateral agreements in place.

Q21. Do you support including more specific rules provision on the timing of the UTI generation? If so, do you prefer a fixed deadline or a timeframe depending on the time of conclusion of the derivative? In either case, please specify what would be in your view the optimal deadline/timeframe. Please elaborate on the reasons why in your response.

No systemic timing issues in UTI generation have been identified across UTI generating EACH members for trade or position UTIs. Clearing participants are provided the trade UTI on the trade confirmation and the position UTI in a timing manner following the market close to enable consuming counterparties to report in the morning of T+1. Therefore, we do not believe additional mandated rules are necessary.

Although we do not believe additional rules are required, we can comment on the approach and times proposed. A set time is preferable to a variable time based on the market close. The reason is that a set time is easier to create controls for, in order to prevent or detect a compliance breach of any new specific timing rules on CCP UTI dissemination.

If specific rules are set in the regulatory text, the time set should be practical. The time proposed of 12 pm on T is not a reasonable timeframe considering the end of day close of particular US markets. If a set time is considered for a new timing rule, 12 pm on T + 1, at the latest, would be a reasonable to account for technical issues and reasonable delays that may possibly occur. Most CCPs usually generate UTIs on T or early in the morning on T+1 for markets with a late close, however, any new rules should account for the realistic possibility of issues or delays without resulting in a compliance breach.

Additionally, for the avoidance of doubt, we believe the wording in paragraph 75 (quoted below) should be clarified to reflect that CCPs generate the position UTI following the end of day market close:

"For example, in the case of CCP-cleared positions, the CCP should generate the UTI for the clearing member when the position is first created".

The current wording does not specify the end of day position as opposed to the intraday position and does not reflect the time needed for UTI generation acknowledged in later paragraphs on timing.

Q22. Do you expect issues around defining when you will need to use a new UTI and when the existing UTI should be used in the report? Are there specific cases that need to be dealt with?

EACH members welcome the ESMA adoption the CPMI-IOSCO UTI guidance on lifecycle events leading to a new UTI and further specific guidance on lifecycle events not covered in the current CPMI-IOSCO UTI guidance.

Guidance should specify, for both trade UTI and position UTI, which events result in a new UTI generated and a detailed example of how to report each lifecycle event resulting in a new UTI or cases where it is expected that the UTI remains the same. To the extent there are any differences for OTC and ETD reporting, the guidance should provide examples of how to report in both instances.

Worked examples for transaction and position level reporting, as well as clarity on when a new UTI is required, would be much appreciated for the following types of lifecycle events:

- corporate actions (with and without a change in the ISIN of the underlying);
- cascading and splits;
- merge trades, unmerge trades and average price trades (original trades replaced by an average price trade);
- rectify trade and rectify one side of the trade only;
- annul trade due to error or early termination;
- position transfers, give-ups and take-ups;
- netting and partial netting.

Furthermore, it would be useful to clarify where applicable the differences in reporting where lifecycle events occur on T (before end of day reports are created) and reporting expectations for events which occur on T + 1 or later (after initial submission of the prior day end of day state trade or position).

Another UTI related reporting policy issue discussed in industry forums this year has been how to report positions which net to zero but are not terminated. There are policy differences across the industry and it is clear that the existing guidance in the ESMA Q&A is not sufficient. Many CCPs report the position as zero once when it nets to zero and then submit valuations but not position reports on the subsequent days in line with their understanding of the Q&A example in TR Answer 3b. When the position trades again the same UTI is used when the position is reported. However, some reporting firms terminate positions when they net to zero and then report using the previous UTI (rather than a new UTI) when the position is traded again. It is not easy to predict the length of time a position will remain netted, thus we recommend a consistent policy applicable from the point a position is netted be clarified by ESMA with detailed worked examples.

Q23. Do you expect any challenges related to the proposed format and/or structure of the UTI? If yes, please elaborate on what challenges you foresee.

We note that LEI of the generating party is not required for uniqueness of the UTI and we do not believe inclusion of the LEI is necessary or the best use of the 52 character limit and some CCPs will require more than 52 character limit if its inclusion is required. CCPs instead recommend using the MIC code.

For some CCPs that provide the logic but do not generate the UTI for members, it would be preferable for the final guidelines to state that the CCP's LEI MIC code rather than the "generating party" LEI be included in the position UTI. Additionally, some CCPs noted the mandatory inclusion of the LEI would entail system changes and associated risks in lengthening the UTI. Furthermore, we note that some CCPs believe the restriction of special characters in the CPMI-IOSCO UTI guidance is not necessary.

However, as Dodd Frank reporting and EMIR reporting are both undergoing reformation, we would endorse a synchronisation of the construction logic and harmonisation of implementation timelines for UTI and USI. This would create the possibility for some CCPs to use the same identifier for both reporting regimes.

Sub-section 4.2.3 – Unique Product Identifier (UPI)

Q24. Do you have any comments concerning the use of ISINs as product identifiers under EMIR for the derivatives that are admitted to trading or traded on a trading venue or a systematic internaliser?

ISIN availability for EMIR reportable derivatives has not been identified as an issue by EACH members. Some CCPs have raised edge cases regarding ISIN uniqueness, but other CCPs have confirmed they have not encountered uniqueness issues with ISINs.

EACH members are supportive of the continued use of ISINs as product identifiers for EMIR.

Furthermore, EACH members believe there should be further alignment to MiFIR where reporting parties are required to report the underlying instrument reference data only if an ISIN is not reported. This data is not necessary where an ISIN is available and would reduce risks of misreporting and matching issues.

Q25. Do you have any comments concerning the use of UPIs as product identifiers under EMIR? Should in your view UPI be used to identify all derivatives or only those that are not identified with ISIN under MiFIR?

EACH members do not see a need to use UPI as product identifiers under EMIR as ISIN has generally met the criteria required for effective product identification. Therefore, EACH members would prefer use of UPI only for derivatives which are not identified with an ISIN under MiFIR as opposed to use of the UPI to identify all derivatives.

Q26. Do you agree with the assessment of the advantages and disadvantages of the supplementary reporting of some reference data? Are there any other aspects that should be considered?

The main advantage identified for EACH members of replacing the instrument reference data by the UPI would be the increase in reconciliation rates for fields that would be included in the UPI instead of reported separately as matching fields. If supplementary reference data is required regardless of whether or not a UPI is used in the future as a product identifier, there

appears to be little benefit to adding the UPI considering continued use of ISIN is considered fit for purpose.

Q27. Some of the instruments' characteristics that are expected to be captured by the future UPI reference data are already being reported under EMIR, meaning that they have already been implemented in the counterparties' reporting systems. If this data or its subset were continued to be required in trade reports under EMIR, what would be the cost of compliance with this requirement (low/moderate/high)? Please provide justification for your assessment. Would you have any reservations with regard to reporting of data elements that would be covered by the UPI reference data?

The associated cost related to duplicative information is not justified in our view. The cost of compliance with a requirement to continue to report reference data is mostly related to the time and effort to resolve reconciliation breaks, should these fields continue to be matching fields.

If duplicative reference data elements are required regardless after UPI adoption, we suggest that these fields are no longer reconciled as matching fields considering the UPI will be reconciled and data can be cross referenced to the UPI for TR and Regulator data quality validations.

Sub-section 4.2.4 – Use of Legal Entity Identifiers (LEIs)

Q28. Do you foresee any issues in relation to inclusion in the new reporting standard that the LEI of the reporting counterparty should be duly renewed and maintained according to the terms of, any of the endorsed LOUs (Local Operating Units) of the Global Legal Entity Identifier System?

EACH members are supportive of a new reporting standard requiring counterparties to renew and maintain their LEI as this requirement will likely reduce reporting issues due to a clearing participant lapsed LEI.

Regarding the wording in 4.2.2.1, paragraph 129, EACH members would like clarity on ESMA's expectations for GLEIF database checks. As GLEIF database checks are used by TRs in validation of submissions, it would appear redundant for CCPs to pre-check against the same database before TR submission.

Sub-section 4.2.5 – Inclusion of CDEs

Q30. Do you have any comments concerning ESMA approach to inclusion of CDEs into EMIR reporting requirements?

It is understood that the CPMI-IOSCO CDE guidance was designed for OTC rather than ETD reporting. We believe the ESMA should state that CDE Guidance is not applicable to ETD reporting unless stated explicitly in the regulatory text as adopted for ETD for particular fields.

Many CCPs have both OTC and ETD cleared transactions and would appreciate clarification throughout the final guidelines on how field population and revised reporting policies apply to both ETD and OTC reports. At the field level this could be specified in separate columns for

OTC and ETD in the ESMA validation rules similar to the format used by the industry EMIR best practice guidance released in March 2020.

Section 4.3 – Reporting logic

Sub-section 4.3.1 – Reporting of lifecycle events

Q31. Is the list of Action types and Event types complete? Is it clear when each of the categories should be used?

It is difficult to confirm whether this list is complete without more detailed guidance on when each action and event category should be used and exactly which events fall into each category. A full list of applicable events for each event type and worked examples for both action types and event types would be very useful. There is also some clarification needed for when CCPs use the clearing event and if clearing is intended to include all cleared transactions including OTC transactions which were previously bi-laterally agreed among counterparties and subsequently cleared.

Additionally it is unclear when each action type and event type should be used when the transaction falls into more than one option of the available combinations. For example, should early termination be used only if there is no other terminating event type applicable.

Furthermore, it is important to point out that a number of CCPs have trading systems which do not allow for modification at the transaction level. Transactions are booked and reversing entries need to be made as the original trade cannot be modified. Another point to bear in mind for the final guidelines is that some CCPs do not always receive the reason for clearing participant trade cancellations and they cannot always distinguish between clearing participant cancellations due to errors and those due to early terminations.

Q32. Is it clear what is the impact of the specific Action Types on the status of the trade, i.e. when the trade is considered outstanding or non-outstanding?

As requested in the Q31 response, worked examples of the combinations of event types and action types would be useful. Including in the example the impact on the status of trade would be very useful.

It is important to differentiate between ETD and OTC to the extent there are differences in reporting. Note, as ETD trades reported as position components are not considered outstanding, for many CCPs this would mean mostly just OTC transactions are considered outstanding.

Regarding trades considered non-outstanding, clarity is needed on whether these trades should be subject to reconciliation or not and we recommend these transactions are not reconcilable for a number of reasons we have outlined in our response to question 106.

Q34. Are the possible combinations of Action type and Event type determined correctly? Is their applicability at trade and/or position level determined correctly?

The combinations of action types and applicability to both ETD and OTC trades and positions could be supported by worked examples on how and when to report each combination. We

appreciate that ESMA may want to work collaboratively with the industry to produce the detailed guidance and examples requested.

Particularly relevant to ETD reporting, some worked examples from a CCP reporting perspective would be appreciated to clarify the reporting actions required when a transaction is cleared. For example, for ETD transactions that are reported only as a position component there appears to be no applicable event types in the guidance. As the majority of CCPs report ETD trades only once as a position component and then modify the position for subsequent lifecycle events, it would appear the majority of the event types will not be used by CCPs for ETD transaction reporting.

Furthermore, currently most intraday event reporting is optional in the ESMA Q&A and most CCPs report on an end of day state basis. It would be useful to get guidance on how these combinations apply and the sequence of reporting applicable to intraday events.

Q35. Is the approach to reporting Compression sufficiently clear? If not, please explain what should be further clarified or propose alternatives.

It is unclear whether an ETD trade should be initially reported as only position component on T + 1 (no other transaction level reports submitted) or if ESMA expects the trade to be reported as both action type new (event type clearing) and action type early termination (event type inclusion in position) simultaneously on T + 1 when initially reported and forming part of an existing or new position.

Q36. Do you agree with the proposal to include two separate action types for the provision of information related to the valuation of the contract and one related to margins?

While we understand the interest of offering flexibility in terms of reporting Collateral and Valuation amounts separately, it would nevertheless be advantageous to be able to report both in a single report in the cases where a unique snapshot is taken for the purpose of reporting to avoid duplication of reports. Therefore, similarly to when a report has an action type 'New'- whereby it is not mandatory to produce an additional report with action type 'Valuation', when a report has an action type 'Valuation', it should not be mandatory to produce an additional report with action type 'Collateral'.

Q37. Do you agree with the proposal to include the Action Type "Revive"? Are there any further instances where this Action Type could be used? Are there any potential difficulties in relation to this approach?

Flexibility to revive wrongfully errored out submissions is beneficial for EMIR reporting firms. Particularly where one party has errored out the submission wrongfully and the other party has not, which results in unpaired trades or positions.

It is our understanding that this action type is to be mainly used for the purpose of reviving wrongfully errored out submissions. There is some caution though to be exercised if firms use this action type rather than harmonising on reporting policy. For example if firms systematically use the action type to revive previously netted and then unilaterally terminated position UTIs when reviving a previously reported position UTI, where one counterparty revives the old position UTI after unilaterally terminating the position and the UTI generating

counterparty issues a new position UTI, there will be pairing breaks. To avoid pairing breaks, it would be useful to have very prescriptive guidance on when a new UTI is to be generated and the options for use of the revive action type.

Sub-section 4.3.2 – Reporting at position level

Q38. Is the approach to reporting at position level sufficiently clear? If not, please explain what should be further clarified?

Some elements of OTC and ETD position reporting could be illustrated with examples and clarified. As requested in response to Question 22, worked examples of how to report each type of lifecycle event would be very welcome. It is understood that the position is modified for lifecycle events but it is less clear regarding if reversing entries at the transaction level are reported or not, where these lifecycle events occur after initial reporting on T + 1. Furthermore, see Question 35 response regarding use of position component.

Paragraph 182 states that “the reporting at position level should be agreed between the two counterparties, i.e. the two counterparties to a trade should either both include it in a position or both continue to report the relevant lifecycle events at trade level.” CCPs have hundreds of clearing participants and it is not practical to agree bi-laterally with all clearing participants in advance and create a reporting logic bespoke to hundreds of bi-lateral agreements with individual clearing participants. This would also create an inconsistent reporting framework that would make CCPs unable to provide consistent guidance to clearing participants on their reporting policies. We suggest for cleared trades and positions that the CCP determines the method for reporting in absence of ESMA stating a clear preference.

It would be welcome for ESMA to state a preference on when additional position level reporting is appropriate or not and provide examples. As advocated from the industry for many years, we strongly believe it is in Regulators’ interest to focus on position level reporting rather than (not in addition to) transaction level reporting to effectively monitor systemic risk.

Q39. Are all reportable details (as set out in the Annex to the draft RTS on details of the reports to be reported to TRs under EMIR (Annex IV)) available for reporting at position level? If not, please clarify which data elements and why.

EACH members have not had sufficient time to consider in detail the reporting elements in the Annex in order to determine if they are available or not at the position level.

Section 4.4 – Content of the report

Q41. Do you have any general comments regarding the proposed representation of the reporting requirements in the table of fields? Please use the separate excel table to provide comments on the specific fields in the table.

EACH members would like ESMA to clarify which proposed changes apply to ETD contracts, particularly considering that the CDE guidance is generally written for OTC reporting. There were also some overall positive comments on the proposed creation of a third, single-sided

table for margin and some specific comments on particular fields which we included in our responses below.

In general, CCPs would like confirmation which fields are not applicable to CCPs (for example corporate sector and clearing threshold), and where applicable to CCPs, examples for each field of how a CCP is expected to populate the field (for example on reporting obligation of counterparty 2, is TRUE always the value expected from the CCP for cleared transactions).

Please note that EACH members have not had sufficient time to analyse every data element and the corresponding ESMA proposals for reporting. Therefore, members have commented on a few fields but have left many blank. Thus blank is not an indication of passive agreement with the proposal, but rather is indicative of a tight time frame given the challenges for EU market participants related to COVID-19.

Sub-section 4.4.1 – Data elements related to dates and timestamps

Q42. Is the proposed definition adequate? Can you think of any cases where further clarification would be needed or further problems might be expected? What would you expect to be reported as effective date when the trade is not confirmed?

Clarification on the definition for effective date and adoption of the CDE definition is welcome by EACH members.

Q43. Is the proposed definition adequate? Can you think of any cases where further clarification would be needed, or further problems might be expected? What would you expect to be reported as maturity date when the trade is not confirmed?

We welcome clarification on this field as it has been raised by EACH members and other industry bodies as an area of inconsistent reporting between CCPs and members. EACH members support ESMA's proposal to align with the CDE guidance and use the maturity date as populated on the trade confirmation.

Q46. Do you foresee any difficulties with the reporting of Event date? Please flag these difficulties if you see them.

EACH members do not believe the addition of this field is useful and would be duplicative considering the transaction level record for lifecycle events already includes the date of the event (not a date of an agreement to modify a trade).

Sub-section 4.4.2 – Data elements related to counterparties and beneficiaries

Q47. In relation to the format of the "client code", do you foresee any difficulties with reporting using the structure and format of the code as recommended in the CDE guidance? If you do, please specify the challenges.

EACH members have not identified issues with unique and consistent identification of natural persons using the current client code reporting so there does not appear to be a need to pad the field with the LEI of the reporting party.

Q48. Alternatively, would you prefer to replace the internal client codes with national identification number as defined in MIFIR transaction reporting? Please specify the advantages and disadvantages of both alternatives.

The major benefit for EACH members of the use of a National Client Identifier in alignment with MIFIR is the potential for increased quality checks at the TR validation level using an external source as done with LEIs against the GLEIF database.

However, there is not a strong preference stated by EACH members for either approach.

Q54. In cases where the counterparty is not responsible and legally liable for reporting transactions, which entity should be in charge of notifying the TR and what should be the related requirements between the counterparty itself and the entity who is responsible and legally liable for the reporting?

EACH members believe the obligation to communicate the change to the TR should be option 1, where the responsibility for TR notification belongs to the counterparty affected by the event and not the counterparty reporting on its behalf.

Q57. In relation to the field “Trading capacity”, do you have any concerns regarding the elimination of this field? Based on your reporting experience, which trading scenario may be missed if this field is eliminated?

EACH members do not have concerns regarding the proposed elimination of this field.

Q58. In relation to the “Direction of trade”, do you foresee any difficulties with the adoption of CDE guidance approach? Please provide a justification for your response.

EACH members agree with ESMA’s preference for the hybrid approach outlined in paragraph 230. The additional fields option in paragraph 231 may create reporting inconsistencies as some parties may leave some of the new fields blank or use a value to indicate the field is not applicable, resulting in increased reconciliation breaks.

[Sub-section 4.4.3 – Data elements related to clearing, trading, confirmation and settlement](#)

Q60. Do you foresee any difficulties with reporting in case the value “Intent to clear” is not included in the list of allowable values for Field « Cleared » ? Please motivate your answer.

EACH members agree with ESMA’s proposal to not include “Intent to clear”.

Q61. Do you have any other comments concerning the fields related to clearing?

EACH members would like clarity on when a cleared ETD trade should be reported using action type “New” and event clearing as opposed to “Position Component” and if it differs where there is a time delay between reporting of bilateral trade and subsequent clearing.

The scenario in paragraph 234 is specific to where a bi-lateral trade previously reported is subsequently cleared, reported as “Early Termination” and then reported by both counterparties as new trades against the CCP. It is understood in the second scenario in

paragraph 235 that for trades cleared on the same day as the original bi-lateral trades, only the cleared trade would be reported by the counterparties and the CCP.

It is unclear if these trades, in either scenario, can be reported by the CCP as only “Position Component” or if the cleared trades must also be reported as “New”. Currently many CCPs report both of these scenarios for ETD trades as action type “Position Component” rather than “New” at the transaction level.

More broadly, clarity and examples are needed on how CCPs are expected to report all cleared trades.

Q62. The timely confirmation requirement applies only to non-cleared OTC contracts. However, under the rules in force, the confirmation timestamp and confirmation means are reported also for ETD derivatives by some counterparties, leading to problems with reconciliation of the reports. ESMA proposes to clarify that the abovementioned fields should be reported only for OTC non-cleared derivatives. Do you agree with the proposed approach for clarifying the population of the fields “Confirmation timestamp” and “Confirmation means”? Please motivate your response.

EACH members agree with the proposed approach for clarifying that these fields should be reported only for OTC non-cleared derivatives.

Q64. Do you have any comments concerning the proposed way of reporting of the trading venue?

It is noted that some CCPs have experienced issues with ISIN unavailability for some products trading on venues in specific EEA countries, whereby the MIC code but not the ISIN is received.

[Sub-section 4.4.6 – Data elements related to collateral, margins and counterparty rating triggers](#)

Q70. Do you agree that the fields IM/VM Posted/Received fields are provided in with both a pre- and post-haircut value?

EACH members do not support including this information in reporting because it will not provide value added information to regulators for monitoring of systemic risk.

If deemed necessary by ESMA, EACH Members would like clarification on how to populate fields with pre and post-hair cut values. CCPs have highlighted that for variation margin, there is no concept of haircut in the quotation currency, and for initial margin, the haircut depends on the nature of the collateral posted by members.

Q71. Do you agree to change the format of the collateralisation field to one that is compatible with single sided reporting?

For the majority of CCPs, collateralisation appears to be as described in paragraph 265, point h, and collateralisation category number 8 on table 8.

Q72. Do you agree that the fields “Counterparty rating trigger indicator” and “Counterparty rating threshold indicator” are added?

It is unclear whether the CCP's risk management process counts as "counterparty rating trigger indicator" or how this would work in practice with the threshold trigger as proposed.

EACH members do not agree with the inclusion of additional fields for indication of counterparty triggers and thresholds. We believe each organisation has different approaches to managing counterparty risk and collateral which limits meaningful comparability. Furthermore, the integration of data from risk systems creates further complexity and cost to reporting obligations that we believe are not proportionate to benefits of inclusion.

Q74. Is it possible to separate the value of a collateral portfolio exclusively for derivatives?

EACH members concur that the value of the collateral portfolio is not separable exclusively for EMIR reportable derivatives.

Sub-section 4.4.7 – Data elements related to prices

Q78. Do you agree with the clarification in relation to the approach to populating fields which require reference to a fixed rate? If you believe that an alternative approach would be more effective and ensure a consistent approach is followed by reporting counterparties, please explain that approach.

CCPs believe further clarification is needed in the definition, as the Fixed Rate fields only apply to interest rates.

Sub-section 4.4.8 – Data elements related to notional amount and quantities

Q81. Do you foresee any challenges with the interpretation of the EMIR data should the fields "Quantity" and "Price multiplier" be removed? In case these fields are maintained, should there be further clarity as to what should be reported therein? What should this guidance say? Should this guidance be per asset class? Should this guidance distinguish between OTC and ETD derivatives?

Although EACH members do not foresee challenges to removing the fields "Quantity" and "Price multiplier" from EMIR reporting as proposed, EACH members do recognize that the introduction of the 'Total notional quantity' field instead may create issues for ETD reporting. Should these fields continue to be reported further guidance and examples are welcome, to the extent reporting differs by asset class and between OTC and ETD derivatives.

Q82. Do you foresee any challenges with reporting of the Total notional quantity?

EACH members do see potential issues with the introduction of "Total notional quantity" particularly for ETD reporting. We would like further clarification than is provided in the consultation and worked examples of how to populate this field for different asset classes of cleared ETD and OTC records.

Q83. Which of the two described approaches to reporting the notional amount schedules is preferable? Please motivate your view.

Most CCPs are in favour of option 1 as it would be less complex to report the notional amount schedule rather than reporting the changes according to the schedule. This is due to the way many trading systems work, whereby transactions can not be modified but rather are adjusted using reversing entries. It would be costly and disproportionate to change trading systems where this is the case.

However, there is one CCP that mentioned that they have a trading system whereby it is possible to modify at transaction level and therefore they are able to update the notional amount in line with option 2.

Q84. Do you foresee challenges in relation to the proposed approach for reporting of Delta? Are there any challenges regarding the reporting of Delta every time there is a valuation update?

EACH members recommend that the new field only applies to the position level reporting of options and is a snapshot in time of the delta as of the end of the day, on the same basis as the valuation of the position. As previously mentioned, EACH members believe the transaction level reporting is not as useful to Regulators as position level reporting.

[Sub-section 4.4.11 – Data elements related to packages and links](#)

Q88. Do you foresee any difficulties related to reporting of the additional fields for package transactions? Please motivate your reply.

EACH members do not receive the package identifiers from the Exchanges that would allow them to create such a link between transactions. Additionally the ETD package trades are not cleared as packages, but rather as individual trades, therefore their margins are not calculated as packages. Packages, in this scenario, can only offer regulators information on the execution price, information that is no longer relevant once the trades are cleared individually. For CDS, a CCP mentioned they do have one scenario whereby the margining is based on a type of package. Therefore, we believe only packages which are actually margined as such should be in scope for this field if the field is deemed necessary for inclusion in reporting. However, EACH members believe EMIR reported data should concentrate on systemic risk and do not believe these additional fields proposed are in line with that objective.

Q89. Do you foresee any difficulties related to the reporting of prior UTI? Please motivate your reply.

Inclusion of prior UTI functionality would have cost implications for CCPs as new functionality would need to be developed and implemented to be included in EMIR reporting.

Q93. Do you foresee any difficulties related to the reporting of position UTI in the reports pertaining to the derivatives included in a position? Please motivate your reply

A number of points were raised regarding the difficulties to include a position UTI field in transaction level reporting:

- The first issue is house trades that ultimately form a part of numerous client positions. Therefore there is a one to many relationship between the trade and positions that ultimately each hold a portion of the trade. Furthermore, house trades may be

subsequently be allocated to client positions which mean the original trade would have already been reported with the house position UTI;

- The second issue concerns the availability of saved historic data at transaction level for some CCPs whereby pairing each trade and position is a significant challenge;
- The third issue is lifecycle events that change the position UTI which would mean the UTI on the trade submission is no longer the position UTI or position UTIs which hold the trade or part of the trade; and
- The fourth issue is for clearing participants that are expected to consume the position UTI from CCPs. Considering that matching the CCP position UTI to the clearing participant position for UTI consumption and reporting is already an industry challenge, requiring trade submissions to also be mapped to the CCP position UTI adds additional complexity and risks. Trade UTIs are usually consumed from the trade confirmation or API and are available just after clearing as opposed to the end of day position UTI. There is also the risk of reporting position on different levels between the CCP and clearing participant.

Including position UTI or multiple position UTIs on trade submissions would create significant challenges which may not be proportional to the potential benefit of their inclusion. Particularly considering the focus should be on position level reporting as this is where the risk sits. Continuing to focus on transaction level reporting takes valuable time and effort which may be better spent on improving the quality and consistency of position level reporting.

[Sub-section 4.4.12 – Data elements related to custom baskets](#)

Q94. Do you foresee any difficulties related to the reporting of any of the additional data elements related to custom baskets? Please motivate your reply.

Underlying ID which is proposed to remain as a matching field has been an issue as some counterparties report the ISIN of the underlying of the derivative and others report the ISIN of the derivative for Indexes. Some clarity could be provided for field population for Indexes.

[Sub-section 4.4.13 – Data elements relevant for REMIT reporting](#)

Q95. With regard to reporting of delivery interval times, which alternative do you prefer: (A) reporting in UTC time or (B) reporting in local time? Please provide arguments.

EACH members prefer option A, reporting in UTC time, in order to have a consistent basis across EMIR reportable derivatives.

[Section 4.5 – Reporting of outstanding derivatives under the revised rules](#)

Q98. Do you support the proposal that reports pertaining to the derivatives outstanding on the reporting start date should be updated in order to ensure consistent level of quality of data and limit the operational challenges?

EACH members have expressed serious concerns about the availability of all the necessary information to update all derivatives outstanding to the revised EMIR standards.

The proposal would have high implementation costs and operational challenges, with potentially only a small gain in terms of data quality. If ESMA does still require outstanding derivatives to be reported under the revised standard despite the high cost and complexity to reporting entities, we believe that the scope of the obligation to update reports of outstanding derivatives should be limited only to derivatives having a long residual maturity. For long lived outstanding derivatives we believe revision should be on a best effort basis considering the data availability issues foreseen.

Q99. Do you foresee challenges with the update of reports pertaining to outstanding derivatives in line with the revised requirements? If so, please describe these challenges. In particular, if they relate to some of the newly added or amended reporting fields, please mention these fields.

The approach envisaged by ESMA pertaining to legacy derivatives, presents many challenges. As a general remark, reporting counterparties would have to retrieve outdated information, not immediately and automatically available to them. On the one hand, this would require a time-consuming activity, with very high operational costs involved. On the other hand, provided the implementation of the new RTS and ITS will require substantial IT changes, the implementation of said changes on outstanding derivatives would require ad hoc procedures, thus adding complexity to the whole process.

Another challenge foreseen is the need to close and reopen outstanding positions using the revised UTI standard proposed to be applied to outstanding derivatives.

Q100. Do you think that additional time after the reporting start date should be granted for the counterparties to update the reports pertaining to the outstanding derivatives? If so, how much additional timeline would be required?

Additional time (at least six months or ideally over a year) would be useful to de-scope some outstanding derivatives but will not resolve all issues identified and data unavailability for outstanding derivatives. Identifying one (or more) specific dates when the reports will be submitted would be helpful.

Section 4.6 – The date by which derivatives should be reported

Q101. Do you agree with the proposed timelines for implementation, i.e. 18 months from the entry into force of the technical standards?

EACH members consider that 18 months may still be a challenge if there is not continued engagement with Regulators following the publication of the final guidelines on outstanding questions and clarifications throughout the implementation period given the extensive EMIR reforms proposed in the consultation. There are likely to be a number of unforeseen challenges which arise in implementation that are difficult to predict at the consultation phase.

Furthermore, we believe the industry can assist Regulators with worked examples and can update Regulators on progress and challenges along the way if Regulators facilitate a continued two-way dialog with reporting counterparties.

Section 5.1 – Procedures on data collection

Q102. Do you agree with the proposed framework for verification of data submission? Please detail the reasons for your response.

A concern for CCPs is the consistency of application across TRs of the same validation rules for submission acceptance.

We appreciate that the adoption of an XML schema will facilitate harmonisation but would like to point out that current differences in interpretation of ESMA's validation rules by TRs lead to an inconsistent basis for rejection and issues pairing, where one counterparty's submission is accepted and another counterparty reporting the same way is rejected. For example:

- Some TRs have additional fields beyond what is required by ESMA and if these additional fields are not completed the entire record is rejected at the validation phase, while the other counterparty with another TR can get acceptance when reporting the same way (without populating additional fields)
- TRs validate against different sources for the same field. For example, ESMA's registered list versus an ISO list for segment MIC verification, which creates either pairing issues for the counterparty with the accepted record or matching issues for both counterparties if the rejected counterparty resubmits successfully using the operating MIC.
- TRs have different rules for acceptance of UTIs previously used. For example, following a change of LEI some TRs accept using action type 'New' with the combination of the old UTI and the new LEI whereas other TRs reject the same reporting for the other counterparty creating pairing issues.

There has not been sufficient time for CCPs to analyse the changes proposed to the validation rules in the draft ITS in detail for further comment on individual validation rules.

Q104. Do you consider that the proposed procedure will allow the TRs to verify the compliance by the reporting counterparty or the submitting entity with the reporting requirements, and the completeness and correctness of the data reported under Article 9 EMIR? If not, what other aspects should be taken into account? Please detail the reasons for your response.

EACH members acknowledge that TR validation rules are inherently limited to only providing assurance to the extent that submissions comply within tolerance to the TR's interpretation of ESMA's validation rules and guidance. Even so, the TR validation rules are a key data quality control that is relied on by reporting counterparties and these validation rules do assist CCPs and their counterparties to identify and correct data quality issues in a timely manner.

However, there are additional suggestions for the TR service that may enhance Article 9 EMIR compliance monitoring for both counterparties such as daily exception reporting which does not cause a rejection but is a warning that triggers the counterparty to investigate if there is potentially an omission, reporting inconsistency, error or other data quality issue. For example:

- Omissions – if a UTI received the previous day is still outstanding (i.e. not matured/expired, terminated, errored out, compressed or otherwise cancelled) but is not submitted, this UTI could be included on an exception report.

- Late submissions – If a record is submitted after the reporting deadline on T+1, the record could be included on an exception report in order to allow firms to monitor, investigate and address the root causes of late reporting .

We have considered whether warnings (not rejections) on outliers within the EMIR data reported would be an effective data quality control. Calibrating exception reporting or alerts for outliers in reported data on an individual firm basis, based on historical entries would potentially be useful but only with high enough tolerances to avoid false positives and would likely incur considerable time and cost by both TRs and reporting firms to be an effective control. Therefore, it is not recommended as a mandated control but may be useful to consider for future voluntary enhancements to the core EMIR TR service after more pressing industry data quality and reporting consistency issues are resolved. Application of outlier exception reporting would also need to be targeted rather applied to all reports and fields to be an efficient supplementary control.

Section 5.3 – Reconciliation of data

Q106. Are there any other aspects that should be considered with regards to the scope and start of the reconciliation process? Please detail the reasons for your response.

EACH members welcome proposals to harmonise TR reconciliation procedures, reconciliation timing, tolerances and categorization of fields and implementation timing of changes across TRs.

Paragraph 366 (b) and (c) appear to be contradictory and it is not clear whether derivatives that have been terminated (not revived), matured, cancelled with action type “Error” or reported with action type “Position component” are proposed to be in or out of scope for TR reconciliation.

We believe the scope of reconciliation should be narrowed to focus both TR and reporting counterparties’ resources on improving position level reporting quality and consistency across the industry. Particularly, transaction level reporting of non-outstanding derivatives such as those reported as position component should be excluded from the reconciliation process as they form part of the position which is reconciled. We note that this is closer in line with SFTR which excludes any transaction that is not open.

Furthermore, considering expired or terminated records will be removed from the reconciliation process within a month of reconciliation per paragraph 364 (c), it is less likely that counterparties will focus much time on resolving these type of reconciliation breaks and many will likely focus on breaks that will continue to impact their reconciliation rates further into the future. Exclusion of non-outstanding records from reconciliation all-together would be a more pragmatic approach to allow for a more consistent industry focus on the data that will be relied on by regulators for a longer period of time into the future.

Sub-section 5.3.2 – Framework of the reconciliation process

Q108. What additional aspects with regards to inter-TR reconciliation will need to be considered? Should additional fields be considered for pairing? Please detail the reasons for your response.

EACH members do not believe it would be beneficial to widen the scope of reconcilable fields given the current challenges with the existing reconcilable fields. On the contrary, we believe regulators should reduce the number of fields currently subject to reconciliation. Focussing reconciliation efforts on the reports and fields that are most used by Regulators would likely yield better results. Particularly given the significant challenges around position level pairing and matching, we believe that the current scope for reconciliation is already a challenging task.

Furthermore, fields which are not essential to monitoring systemic risk should not be reconciled. For example, reference data fields where an ISIN is available, fields that rely on the CCP value and transaction level reports for ETD should not be included in the reconciliation process.

Sub-section 5.3.2 – Format of the files to be exchanged

Q111. What other aspects should be taken into account with regards to the timeline for completion of the inter-TR reconciliation process? Please detail the reasons for your response.

Harmonisation of when reconcilable records are placed on the Inter-TR requested list and for how long records remain on the list, would be beneficial. Additionally, we propose records that have not yet been through the two stage reconciliation process should be given a pairing status distinguishable from records that have completed the reconciliation process and are unpaired to assist counterparties with resolution of actual pairing issues and give Regulators more accurate data on pairing.

Q112. Do you agree with the proposed approach to establish tolerances for certain fields? Please detail the reasons for your response.

A harmonised approach to establishing tolerances for reconciliation across TRs rather than individual TRs setting tolerances, is preferable as this reduces inconsistencies for Regulators in comparing counterparties' reconciliation rates and for counterparties which rely on consistent reconciliation status for reconciliation break resolution.

Tolerances need to have flexibility for differences which depend on how the particular market works.

Q113. Do you agree with the proposed set of fields? Please detail the reasons for your response.

For CCPs, reconciliation can occasionally identify errors in reporting by one of the reporting parties, however, most reconciliation breaks are due to inconsistent field population caused by interpretation differences and some breaks are due variance when data is produced independently by each counterparty's trading system rather than unintended errors by either party. For many reporting parties reconciliation of all matching fields (both category 1 and 2)

generally is only attainable for matching against delegated reporting parties. This is because the data comes from the same system and is generated by the same counterparty. In order for the reconciliation process to provide meaningful information on data quality, the tolerances need to allow for the normal variances which occur when data is produced independently. CCPs have not had the time to analyse tolerances for each field but CCPs have provided some comments on some of the approaches to different types of fields proposed in the consultation:

- Free text fields – Agreed that free text fields should not be reconciled
- Numerical fields – Clarification needed on what ESMA means by the mid-point in paragraph 386 (b) and considering many of these values will be amounts in currency, perhaps the final guidelines could refer to percentage rather than basis points. CCPs have commented that 0.05% tolerance is very low for numerical fields and should be higher to allow for normal variance

Furthermore, the number of reconcilable fields and reports needs to be manageable for counterparties to work effectively to resolve the root causes of breaks. We recommend that position reports for ETD are reconciled instead of trade reports and within these reports, only the fields that are absolutely essential to systemic monitoring by Regulators are reconcilable.

Q114. Do you foresee any problem in the reconciliation of field “Valuation amount”? How should the valuation amount be reconciled in the case of derivatives which are valued in different currency by the counterparties, such as currency derivatives? Please detail the reasons for your response.

As regulation states that CCPs should provide the valuation to cleared trades, a way to alleviate EMIR reporting for members could be that clearing members do not have to report the valuation and TRs should populate the clearing member valuation with the CCP reported valuation. Pairing and matching should not apply to fields where the data originates from a CCP.

Q115. Do you agree with excluding the newly added fields from the first stage of the inter-TR reconciliation process? Please detail the reasons for your response.

Considering the challenges in pairing and matching the existing EMIR fields, we believe the new fields should not be included in reconciliation until a later phase when existing in scope fields for reconciliation are updated by reporting entities and consistently populated across the industry.

Whether a phased approach is adopted or not, we strongly believe there should be greater focus and prioritisation of a narrower set of reports and fields to improve data quality and consistency of reporting which impacts regulators ability to monitor systemic risk. We strongly believe for ETD that risk sits at the position level and reconciliation of transaction level reports should not be a priority. Similarly we do not believe all fields are of equal weight in monitoring risk. Failure to match on non-prioritised fields should not be treated as a reconciliation break if these fields are to be subject to reconciliation.

Section 6.1 – Rejection response

Q117. Do you agree with the proposed framework for rejection responses? Please detail the reasons for your response.

EACH members welcome the TR harmonization of rejection reason codes, however, we believe the current proposal of categories is not granular enough to be useful in investigation or analysis of rejections. Far more granular reason codes, similar to what many counterparties currently receive in rejection responses, is more useful to correct and resubmit entries. Furthermore, reporting entities can analyse trends in rejection reasons over time, monitor progress in resolution of the underlying root cause of rejections and better identify new causes of rejections when the categories are more specific.

Furthermore, where there are no rejections on submissions, a confirmation that all submissions were accepted would be a useful control. If there is no response or no rejection report, it will not be identified by the reporting party if there is a TR issue or failure to produce the rejection responses.

Q118. Do you agree with the proposed framework for reconciliation responses? Please detail the reasons for your response.

If the proposed categories where will also apply to position reconciliation, we recommend inclusion of the date of the position. Because the same UTI used every day, the position submission can be mis-paired if the dates are not the same.

Furthermore we believe there should be more clarity on “Further modifications”. It is unclear if daily position changes will be flagged as modifications using this field or if this field only applies to resubmissions of a record subsequent to the original submission and reconciliation. If the later, it is worth emphasizing that we believe the focus should be on correction of reporting logic rather than resubmission of historic data.

Q119. Do you agree with the suggested reconciliation categories? Please detail the reasons for your response.

EACH members agree that there is a need for increased granularity (not decreased as proposed) on reconciliation responses and status in order for CCPs to effectively work with counterparties on reconciliation breaks and monitor progress on data quality improvement. For example losing the distinction of categories 1 and 2 would make our work much more difficult and risks losing focus on field prioritization. For many counterparties the records which are a perfect match on category 1 and 2 are due to delegated reporting as the data is a mirror report from the same system as opposed to a reconciliation between two counterparties with different systems. Therefore Regulators may be comparing the size of reporting entities delegated reporting business by only measuring the perfect reconciliation rates as opposed to its consistency of reporting against counterparties which report independently.

One of the big challenges for monitoring matching rate progress is that trade or position records with one category 1 field mismatch are equally weighted to a record with many mismatches (i.e. both are a binary unmatched status). We would propose that a percentage match or matching percentage status bands would assist CCPs and counterparties to better progress of there efforts to resolve reporting inconsistencies.

Furthermore, a distinction should be made between an unpaired trade and a trade that has never gone through the reconciliation process. Currently both are given the status of unpaired which creates a misleading understanding for both Regulators and counterparties attempting to resolve reconciliation breaks. EACH members do agree that the categories should be harmonized across TRs as there are different types of reconciliation status across TRs which is confusing for counterparties to compare reconciliation statistics when investigating breaks.

Section 6.3 – End-of-day (EoD) response

Q121. Are there any aspects that need to be further specified regarding the end-of-day reports to be provided to reporting counterparties, the entities responsible for reporting and, where relevant, the report submitting entities? Is there any additional information that should be provided to these entities to facilitate their processing of data and improve quality of data? Please detail the reasons for your response.

EACH members recommend the “Reconciliation status report” be a rolling 30 days report of reconcilable records submitted rather than all outstanding derivatives. We make this recommendation for several reasons:

- Outstanding long-lived derivatives are not generally re-reconciled so continuing to include these derivatives on the report may not be useful
- The file size including the legacy outstanding derivatives would become very large and difficult to differentiate between new issues and legacy issues that have subsequently been resolved
- Comparison of a snapshot each month of the submissions for the previous month would allow better monitoring of progress in reconciliation break resolution with counterparties.

Additionally, as previously noted, we recommend the rejection report contain far more granular error codes to be useful.

Q122. Especially regarding the abnormal values, please indicate which of the two approaches you prefer and which other aspect should be taken into account. Please detail the reason for your response.

With either approach there is a risk of false positives if the thresholds are not calibrated to only capture abnormal values that would not occur but for an error in reporting. Otherwise, time and effort would be wasted in reviewing field values that may be abnormal but are accurately reported.

Additionally, if the second option is chosen, this should be based on harmonized criteria across TRs and not individually determined by each TR.