# DSB Response: European Commission targeted consultation on OTC derivatives identifier for public transparency purposes

**Question 1.** For reporting reference data of in-scope OTC derivatives for the purpose of public transparency which option do you prefer?

- Option 1: mandating UPI plus additional identifying reference data
- Option 2: mandating ISIN and requiring a change to the ISIN attributes to include the above-mentioned two additional product attributes 'Term of Contract' and ''Forward Starting Term'
- Don't know / no opinion / not applicable

~~**Question 2.** If you prefer option 1:~~

~~**a)** Do you agree with the proposal to mandate additional identifying reference data alongside the UPI (ISO 4914), such as 'Term of Contract' and 'Forward Term of Contract' for interest rate derivatives?~~

- ~~Yes~~
- ~~No~~
- ~~Don't know / no opinion / not applicable~~

~~Please explain your reasoning:~~

~~**b)** Do you foresee any challenges and / or cost impacts in terms of system changes required to provide ESMA with the UPI plus certain additional identifying reference data, instead of only reporting a unique product identifier?~~

- ~~Yes~~
- ~~No~~
- ~~Don't know / no opinion / not applicable~~

~~Please explain your reasoning:~~

**Question 3.** If you prefer option 2:

**a)** Do you agree that modifying the ISIN by replacing the 'Expiry Date' attribute with the 'Forward Term of Contract' for OTC derivative types which have daily ISINs (e.g., interest rate derivatives) addresses the problems identified with the use of the ISIN for the purposes of public transparency reporting?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your reasoning:

The Derivatives Service Bureau (DSB) is the issuing agency and service provider for both the UPI and the ISIN. The DSB will support the implementation of either option and has analysed each through the lens of:

- whether it addresses the problem of the creation of daily ISINs for certain products;
- which approach will have the least impact on system changes and workflows and be the least complex to implement;
- what is the impact on data quality; and
- what is the impact on the regulatory reporting burden.

On the basis of this analysis the DSB concludes that Option 2 provides the optimal solution for the reasons below:

### 1. Elimination of Daily ISIN Creation

The removal of the Expiry Date from the ISIN for benchmark interest rate swaps (IRS) will eliminate the creation of new ISINs for the same swap. E.g, the EUR 5Yr 5Yr Forward IRS will have a single ISIN that never changes.

### 2. Selection of Key Attributes to Support Effective Price Transparency

The DSB agrees the Commission has identified the two key attributes and that use of terms rather than dates is important:

- **Price discovery is based on terms**

The use of terms (or ‘tenor’) for benchmark IRS are the attributes used by traders when performing their price discovery function. After a trade has taken place, these terms are converted into dates, e.g. for clearing. Therefore, while dates play a useful part in the full trade lifecycle, they are less relevant during price discovery. The modified ISIN approach also matches existing proprietary identifier implementations by data vendors, MTFs and SEFs in the US.

- **Deriving the date from term is simpler and results in higher data quality**

Operationally, calculating dates from terms is much easier than calculating terms from dates and results in higher data quality.

Calculating a date from a term can be implemented precisely. It requires applying the term to the date (e.g. one year in the future) and if the date falls on a weekend or holiday, moving the date forward to the first subsequent working day.

Calculating a term from the date cannot be implemented precisely. E.g. when the date is on a Monday and the calculated term is a whole year + 1 day, there is no way to determine whether the instrument is a whole year swap (and in scope of transparency) or a broken dated swap containing the additional day (and not in scope of transparency). If market participants round such terms to be ‘whole year’, data quality is compromised because there is no way to determine whether a broken dated swap was published under the transparency regime by mistake. Mistaken publications lower data quality because broken dated swaps are priced differently to benchmark swaps.

- **Time Series**

Using terms rather than dates creates meaningful price transparency across a time series whereas using dates which have not been converted into terms hampers price comparison. There is broad acceptance that it is the existing ISIN's Expiry Date which renders it unsuitable for price transparency because for IRS, new ISINs are issued daily for OTC derivatives considered to be the same instrument. It would be counter intuitive to include dates within the identifying reference data, in particular the Expiry Date, for price transparency when industry has long advocated against this attribute.

### 3. Removal of Intra-Day Dependency on DSB

The creation of a single 'permanent ISIN' that does not change daily means market participants will be able to obtain the identifier upfront to integrate into their workflows where the ISIN already exists, rather than create a new one on the day and use 'on the fly'.

Further, market participants trading benchmark swaps may not need to access the DSB or pay a subscription fee because they can obtain the existing ISIN and reference data from DSB's end of day files (free and unrestricted use) or ESMA's open source database.

### 4. Reduction in Costs

The reduction in ISINs will result in lower IT and infrastructure costs for both industry and the DSB through removal of the DSB from intraday workflows and reduced exception handling and matching errors as a result of lower ISIN issuance volumes.

### 5. Compatible with existing ISO standard Human-Readable descriptor

Identifying reference data in both human readable and machine readable format is vital so end users can choose how they consume the data. The Financial Instrument Short Names (FISN) (ISO 18774) has been developed by ISO to provide a consistent approach to standardising short descriptions of essential information about financial instruments in a human readable format. The FISN is compatible with, and assigned concurrently with, the ISIN to enable human-readability of the instrument without having to link the ISIN code back to the reference data. The DSB is the FISN issuer for OTC derivatives in line with being the issuer of the OTC ISIN and will ensure FISN issuance meets the industry's need for a human readable, standardised descriptor.

**b)** Do you foresee any challenges and / or cost impacts in terms of system changes required to provide ESMA with the modified ISIN, instead of the existing ISIN?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your reasoning:

Whilst some challenges are foreseen in implementing Option 2, DSB assesses these to be significantly lower than the implementation challenges expected for Option 1:

### 1. Existing MiFIR transparency infrastructure is based on the ISIN

The DSB anticipates making the change for Option 2 by leveraging the existing ISIN infrastructure and workflows already built by industry and public authorities for MiFIR transparency. The only change required is a new product template, specifically for benchmark interest rate swaps. No change is required to the ISIN standard itself.

The DSB, industry and regulators have several years' experience in managing the introduction of such new product templates and a new or changed product template is now a business-as-usual item with established processes and decision-making for handling the change (such as deciding whether existing ISINs should be deprecated or continue to be used etc). Since the start of MiFID II in 2018, the DSB has overseen the introduction of 24 new product templates.

In contrast, Option 1 would require creating a new MiFIR workflow to retrieve the UPI which does not align with the EMIR workflow to retrieve the UPI. This is a crucial point: the UPI is reported under EMIR for OTC derivatives which are traded entirely off venue i.e. OTC derivatives which are not issued an ISIN and are not in-scope of the MiFIR transparency regime. EMIR requires the ISIN to be reported for OTC derivatives that fall within scope of the MiFIR transparency (and transaction) regime. Therefore synergies with UPI workflows built for EMIR will be limited.

**2. Synergies and Consistency across MiFIR will be preserved**

The existing MiFIR regime requires all financial instruments to be reported with the ISIN for both transaction reporting and transparency purposes. Option 2 preserves this consistency by continuing with the approach of using a single instrument identifier across all MiFIR use cases.

In contrast, Option 1 requires a bifurcation of flows:

- for transaction reporting the ISIN continues to be used for all financial instruments across all asset classes
- under the transparency regime, the ISIN is used for financial instruments that do not exhibit the daily rolling ISIN issue (e.g. CDS) and the UPI is used for instruments that do exhibit the daily rolling issue (e.g. a benchmark IRS).

Therefore, a move to Option 1 would require market participants and regulators to implement this bifurcated model with the additional complexity, and hence costs, to manage the bifurcation.

**3. Impact on ESMA transparency reference data**

The proposed change under Option 2 will ripple through to ESMA's reference databases using existing infrastructure and workflows so no decision is required on whether to bifurcate price transparency data published to the market versus transparency data reported to ESMA. This consideration has the potential to result in substantial savings to industry, ESMA and national competent authorities.

In contrast, under Option 1 a decision would be required on whether the UPI+ attributes should be supplied as the identifying reference data for transparency to ESMA. Either decision will result in a significant negative impact:

- Bifurcating the identifying reference data flows between publication to the market (UPI+) and submission to ESMA (ISIN) means market participants will no longer be able to leverage ESMA reference databases to make sense of the identifier being used. ESMA reference data for transparency will be different from the published market data.
- Keeping the same identifying reference data flow for publication to market (UPI+) and for submission to ESMA (UPI+) means significant changes will be required to ESMA's reference databases, which may incur substantial cost. The scale of the changes may be such that it is impossible to implement within the MiFIR transparency timelines.

**4. Compatible with other jurisdictions' approaches for the use of identifiers to support transparency**

The ISIN for OTC derivatives was designed from the start to be consistent and complementary to the UPI and Option 2 is compatible with other jurisdictions' approaches for the use of identifiers to support transparency.

To date, only the UK and US have mandated such transparency.

- The US will use the UPI plus additional elements to support price transparency.
- The UK currently uses the ISIN for all regulatory use cases. The FCA is now consulting on the basis of preserving the ISIN for all regulatory use cases, including for transparency, but in addition to add the UPI plus additional elements into its market data publication.

Option 2 supports consistency with the US and the UK because any entity trading derivatives in the EU will automatically receive both the ISIN and its corresponding UPI from the same workflow. No additional implementation costs are incurred.

**c)** Please indicate for which specific types of interest rate swaps the problem of daily ISIN arises that require this remedy:
Benchmark interest rate swaps fall into this category. The DSB believes it is more cost-effective for industry to implement any solution for all currencies and tenors, not just those that fall within the scope of the EU transparency regime. Such an approach supports a jurisdictional agnostic position and also preserves the option (not obligation) for other jurisdictions to adopt the EU approach should they so choose.

**d)** Are there other types of OTC derivatives, apart from the interest rate swaps identified in question 3 (b) and (c), for which the integration of the attribute 'Expiry Date' results in unnecessary daily ISINs and which require modification of their ISIN definition?

- Yes
- No
- Don't know / no opinion / not applicable Please explain your reasoning:

The DSB is not aware of other OTC derivatives within scope of the MiFIR Review transparency requirements for which the Expiry Date results in daily ISINs. The Expiry Dates for CDS are usually quarterly dates (the IMM (international Monetary Markets) date) meaning that price comparisons across a period of time can be performed using the existing ISIN.

The DSB notes that there are other OTC derivatives sub-asset classes - outside the scope of the new EU transparency regime - which exhibit the characteristic of daily ISINs, in particular, FX and Equity derivatives. Whilst this does not impede the transparency regime because these derivatives are out of scope, the DSB is ready to support modifying the ISIN for these sub-asset classes too should regulators and industry require it.

**Question 4.** Are there any other additional identifying reference data that are neither part of the UPI or the ISIN attributes that appear relevant to enhance the above stated aims of price transparency and price formation for in-scope OTC derivatives – interest rate derivatives and/or credit default swaps?

- Yes
- No
- Don’t know / no opinion / not applicable

The Commission has identified the two key attributes for identifying the financial instrument - ‘Term of Contract’ and ‘Forward Term of Contract’. However, the provision of other data elements may be useful as part of the core market data. A key element is the LEI of the CCP where the swap will be cleared, as this can have an impact on the price.

The DSB does not recommend adding the LEI of the CCP within the definition of the instrument identifier because its inclusion will make cross-CCP price discovery more difficult. For example, market participants will prefer a single instrument identifier to represent the EUR 5Y Interest Rate Swap, in order to compare prices across CCPs. Incorporating the LEI of the CCP inside the identifier will hinder such price discovery because there will be two identifiers representing the same EUR 5Y IRS, depending on where the swap is cleared.

This last point raises another implementation challenge related to Option 1: With the UPI+ model, it is not clear which of the additional elements should be part of the definition of the identifying reference data, and which elements are not part of the identifying reference data and instead are part of the core market data to be published to market participants. The significance of this point is that if identifying reference data needs to be provided to ESMA, then ESMA will need to understand precisely which data elements are reference data (which they should receive) and which data elements are part of the core market data record and outside the reference data record. Option 2 does not suffer this challenge, as all data elements related to the identifier are formally encapsulated within the identifier definition itself.

# DSB Paper: European Commission targeted consultation on OTC derivatives identifier for public transparency purposes

The Derivatives Service Bureau (DSB) is the issuing agency and service provider for both OTC derivatives identifiers under consideration – the UPI and the ISIN. The DSB will support the implementation of either option and has analysed each option through the lens of what will implementation mean from a technical, complexity and data quality stand-point. As part of this analysis, the DSB has prepared the below tables:

- Tables 1:
  - Table 1A: Summary of which identifier is used for MiFIR reporting under Option 1 and Option 2
  - Table 1B: Conclusions based on Table 1A
- Table 2: Comparison of the features provided by Option 1 and Option 2
- Table 3: Comparison of benefits of Dates versus Terms (or 'Tenors') as attributes within identifying reference data

## Table 1A: Summary of which identifier is used for MiFIR reporting under Option 1 and Option 2

The below table shows which identifier would be used for MiFIR transparency and transaction reporting requirements under Option 1 and Option 2. The table illustrates that:

- Transaction reporting (Article 26) covers a wider scope of OTC derivatives than the transparency requirements (Article 8a); and
- Option 1 bifurcates the identifiers used (UPI+ and ISIN) for reporting (1) within the transparency regime itself and (2) between the transparency and transaction reporting regimes whereas under Option 2 the ISIN is used for all reporting.

| MiFIR REPORTING SCOPE FOR OTC DERIVATIVES | | OPTION 1<br>UPI+ | | OPTION 2<br>Modified ISIN | |
|---|---|---|---|---|---|
| | | MiFIR<br>Transparency Reporting | MiFIR<br>Transaction Reporting | MiFIR<br>Transparency Reporting | MiFIR<br>Transaction Reporting |
| 1 | OTC derivatives executed on a trading venue (MTF & OTF)<br>*[Transparency rules apply only if OTC derivatives are within scope as per Art 8a, MiFIR Review]* | **UPI+ for IRS**<br>**ISIN for CDS** | **ISIN** | **ISIN** | **ISIN** |
| 2 | OTC derivatives executed off venue if they fall within the transparency scope | **UPI+ for IRS**<br>**ISIN for CDS** | **ISIN** | **ISIN** | **ISIN** |
| 3 | OTC derivatives with an underlying traded on a trading venue | N/A | **ISIN** | N/A | **ISIN** |
| 4 | OTC derivatives with an index or basket composed of financial instruments that are traded on a trading venue | N/A | **ISIN** | N/A | **ISIN** |

## Table 1B: Conclusions based on Table 1A (above)

The below table summarises the three key conclusions extracted from Table 1A above:

| | SUMMARY OF KEY CONCLUSIONS BASED ON TABLE 1A (above) | OPTION 1: UPI+ | OPTION 2: Modified ISIN | COMMENTS |
|---|---|---|---|---|
| 1 | **The same workflow and systems can be used for transaction reporting and transparency obligations.** | No | Yes | For Option 1, new workflow and system changes are required for UPI+.<br>For Option 2 the same workflow and systems can be leveraged as ISIN continues to be used for all reporting. |
| 2 | **Reduction in number of ISINs due to existing Interest Rate Swap ISIN modified to remove 'Expiry Date' attribute** | No | Yes | For Option 1, the existing Interest Rate Swap ISIN which includes the Expiry Date is retained for transaction reporting and therefore ISINs will continue to be generated daily.<br>For Option 2, assuming the modified ISIN is also used for transaction reporting, the number of ISINs generated will reduce significantly and no longer daily. |
| 3 | **Streamlined approach to reporting** | No | Yes | Option 1 bifurcates the approach/identifier used for reporting (1) within the transparency regime itself and (2) between transparency and transaction reporting.<br>For Option 2, the ISIN continues to be used for all MiFIR reporting. |

## Table 2: Comparison of the beneficial features of Option 1 versus Option 2

The below table summarises the key points made under Questions 1.1 and 1.2 of the consultation and illustrates that out of fourteen beneficial features, Option 1 will meet two of them and Option 2 meets all fourteen of them.

| | Beneficial Features | OPTION 1 (UPI +) | OPTION 2 (Modified ISIN) | Comments |
|---|---|---|---|---|
| 1 | Identifier based on International standards agreed upon at Union or global level | Yes | Yes | The ISIN (ISO 6166) and UPI (ISO 4914) are both globally recognised and adopted ISO (International Organization for Standardization) standards. The UPI System is also overseen by the Regulatory Oversight Committee ('ROC') which comprises G20 regulators. |
| 2 | Elimination of daily ISIN creation | No | Yes | Option 1, UPI+, means existing ISINs with the Expiry Date will still be used for transaction reporting. This will entail continued high volume of ISIN issuance.<br>Option 2 modifies the ISIN through removing the Expiry Date which means that for the most traded swaps, the ISIN population will reduce significantly if the modified ISIN is also used for transaction reporting. |
| 3 | Approach consistent with existing proprietary identifiers of data vendors, MTFs and SEFs in the US. | No | Yes | Attributes of Term of Contract and Forward Term of Contract reflect market practice where front office trades benchmark swaps based on terms/tenors which are included within one identifier. |
| 4 | Meaningful price transparency created from a single identifier | No | Yes | Option 1, UPI+, requires the identifier to be supplemented with additional attributes whereas under Option 2, modified ISIN, all attributes are within the identifier. |
| 5 | Removal of Intra-Day dependency on DSB | No | Yes | Under Option 1, daily ISINs will still be generated and required for transaction reporting.<br>Under Option 2, with a single 'permanent ISIN' that does not change daily, market participants will be able to obtain the ISIN upfront to integrate into their workflows. Market participants trading benchmark swaps may not need to access the DSB or pay a subscription fee because they can obtain the existing ISIN and reference data from DSB's end of day files (free and unrestricted use) or ESMA's open source database. |
| 6 | Reduction in costs | No | Yes | Under Option 1, daily ISINs will still be generated and required for transaction reporting; infrastructure will need to be adapted to cater for UPI+ workflow.<br>Under Option 2 the reduction in volume of ISIN issuance will result in lower IT and infrastructure costs for both industry and the DSB |

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| | | | | through removal of the DSB from intraday workflows and reduced exception handling and matching errors as a result of lower ISIN issuance volumes. |
| 7 | Compatible with standardised human readable descriptor. | No | Yes | The ISIN is compatible with the Financial Instrument Short Names (FISN) (ISO 18774) which provides a consistent approach to standardising short descriptions of essential information about financial instruments in a human readable format. The FISN is issued with each ISIN. The UPI also contains a human readable label, but this label cannot be used to identify the financial instrument because it does not contain tenor (or date). |
| 8 | Leverages existing ISIN infrastructure and workflows | No | Yes | Option 1 requires market participants and regulators to implement a bifurcated model which caters for UPI+ and ISIN reporting.<br>Under Option 2, the only change required is the introduction of a new product template for benchmark interest rate swaps. |
| 9 | Approach consistent with other MiFIR regulatory reporting | No | Yes | Option 1 would require market participants and regulators to implement this bifurcated model. UPI+ for IRS results in a bifurcated approach (1) within the transparency regime itself and (2) between transparency and transaction reporting.<br>Under Option 2, the modified ISIN could be used in transaction reports to supervisory authorities for the market abuse use case under MiFIR. |
| 10 | Approach consistent with EMIR regulatory reporting | No | Yes | The UPI is reported under EMIR for OTC derivatives which are traded entirely outside of trading venues. This means that OTC derivatives which fall in-scope of MiFIR transparency requirements are reported using the ISIN under EMIR. Consequently,<br>• Option 1 results in a different identifier being used to report the same OTC derivative under MiFIR and EMIR (UPI under MiFIR for transparency reporting and ISIN under EMIR);<br>• Option 2 results in the same identifier (ISIN) being used to report the same OTC derivatives under MiFIR and EMIR. |
| 11 | Identifier provides cross-asset consistency | No | Yes | The ISIN is used across all asset classes, thereby allowing comparison across exchange traded derivatives and OTC derivatives. The UPI is specific to the OTC derivatives asset class and Option 1 would require market participants and regulators to implement a bifurcated model. |
| 12 | Approach leverages ESMA's existing reference databases used for identifying reference data | No | Yes | Option 1 results in either (1) a bifurcation of identifying reference data flows between publication to market participants (UPI+) and |

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|---|---|---|---|---|
| | | | | submission to ESMA (ISIN) or (2) significant changes required to ESMA's reference databases to adapt to UPI+.<br>Option 2 enables price transparency identifying reference data to be published to the market and supplied to ESMA, leveraging the existing systems built around the ISIN. |
| 13 | Identifier compatible with other jurisdictions which use the UPI | Yes | Yes | The UPI attributes and UPI code are at the core of each Option. The UPI is a subset of the ISIN's attributes and the relevant UPI code itself is included in each ISIN record.<br>The issuance of an ISIN automatically results in the issuance of a UPI if the UPI doesn't already exist. The ISIN for OTC derivatives was designed from the start to be consistent and complementary to the UPI. Firms can use the ISIN workflow to obtain the UPI. |
| 14 | Identifier designed to identify a financial instrument | No | Yes | The ISIN is designed to identify OTC derivatives at financial instrument level; the UPI is designed to identify OTC derivatives at underlying product level. The EU MiFIR regime has the concept of a financial instrument as a central feature. |

## Table 3: Comparison of benefits of Dates versus Terms (or 'Tenors') as attributes within identifying reference data

The below table shows that using Term (also known as Tenor) attributes within the identifying reference data to support price transparency provides five important benefits not available if Date attributes are used within the identifying reference data.

| | Benefits provided by Attributes | Dates | Term | Comments |
|---|---|---|---|---|
| 1 | Attributes are used by traders when performing their price discovery function | No | Yes | Terms are the attributes used by traders when performing their price discovery function for benchmark swaps. Dates are less relevant during price discovery and so less relevant to transparency though they play a useful part in the full trade lifecycle after the trade has taken place. |
| 2 | Attributes follow market convention | No | Yes | Existing proprietary identifier implementation by data vendors, MTFs and SEFs in the US is based on terms, not dates. |
| 3 | Attributes assure data quality and accuracy | No | Yes | Calculating a date from the term can be implemented precisely. Calculating a term from the date cannot and opens up potential for higher error rates. E.g., when the date is on a Monday and the calculated term is a whole year + 1 day, there is no way to determine whether the instrument is a whole year swap (and in scope of transparency) or a broken dated swap containing the additional day (and not in scope of transparency). Mistaken publication lowers data quality and utility of price feed because broken dated swaps are priced differently to benchmark swaps. |
| 4 | Attributes create meaningful price transparency across a time series | No | Yes | Using terms rather than dates as identifying reference data creates meaningful price transparency across a time series whereas using dates which have not been converted into terms hampers price comparison across a time series. |
| 5 | Attributes provide end users with required information upfront | No | Yes | Use of dates means a calculation is first required before end users use the information. Use of terms means market participants involved in price discovery are provided with the information they need upfront without requiring additional calculation steps. |