

Keep UPI as OTC derivative identifier

Introducing ISIN would contradict existing reporting regimes for OTC derivatives and global standards

Proposal for supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council as regards OTC derivatives identifying reference data to be used for the purposes of the transparency requirements laid down in Article 8a(2), and Articles 10 and 21 of that Regulation, 10 July 2024

OTC derivative reporting should be streamlined for maximum efficiency

Deutsches Aktieninstitut represents non-financial companies using OTC derivatives as part of their risk management. Many of our member companies report their derivative portfolios to trade repositories according to the provisions of the European Market Infrastructure Regulation (hereinafter EMIR). This reporting includes any involvement of a bank, or a subsidiary, for intra-group transactions. Due to the importance of reporting to our member companies, it is essential that the legislator avoids any additional bureaucracy and maintains consistency with standards in other jurisdictions.

The proposed extension of ISIN under MIFIR contradicts other reporting regimes, especially EMIR, where the requirement to use the Unique Product Identifier (hereinafter UPI) just went into effect. As of April this year, reporting entities are required to use the UPI for OTC derivatives reporting. Other jurisdictions have also implemented the UPI, e.g. the US uses UPI since the beginning of this year, and other jurisdictions have announced the upcoming implementation, e.g. the UK (September 2024), Australia and Singapore (October 2024) and Japan (April 2025). Thus, UPI is becoming an international standard for identifying OTC derivatives. Any departure from this standard would result in additional burdens for reporting entities.

The consultation focuses on standardised OTC interest rate swaps and OTC credit default swaps, centrally cleared and executed on trading venues (MTF or OTF) applying a central limit order book or a periodic auction trading system. We are aware that the derivatives used by most non-financial corporates are not the focus of the proposed regulation. Feedback from our member companies shows that they mostly execute non-standardized derivatives on request-for-quote platforms.

However, we think that it is the legislators' objective to ensure that the same identifying reference data is used throughout different reporting regimes to support transparency and analysis across OTC derivatives markets. Therefore, we assume that there will be an extension of the ISIN usage beyond the current proposal, which is restricted to the transparency regime under MIFIR.

ISIN should not be used under the EMIR OTC reporting requirements, which already switched to the UPI following the international role models. Otherwise, additional bureaucracy would be the result.

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