

**From:** Christopher Young  
**Sent:** Thursday, March 27, 2014 08:28 AM Eastern Standard Time  
**To:** Eady, Thomas  
**Subject:** Conf Call

Tom

We thought the following feedback re the proposed rules might be useful for you all – and could be discussed on today's call if desired:

### **Reporting side**

When the parties are of the same hierarchy (e.g. both SBS dealers) the industry will want to repurpose and leverage the reporting party determination logic agreed and implemented for CFTC. Due to the need to report ASATP, it's not feasible to negotiate the reporting side on a trade by trade basis, rather firms must have logic already established that automatically determines which trades they are responsible to report. This standard has worked well for CFTC reporting, and the work to extend to SBS will be manageable. Is SEC willing to acknowledge the standard in your rules (or otherwise) or are you okay to just accept the industry using such a standard to select the reporting side where the proposed rules leave it to the parties to select? Link: [http://www2.isda.org/attachment/NjE3Ng==/Reporting%20Party%20Requirements\\_16Dec13\\_Final.pdf](http://www2.isda.org/attachment/NjE3Ng==/Reporting%20Party%20Requirements_16Dec13_Final.pdf)

The proposed rule provides that for a novated transaction, if the Transferor was the reporting side that this responsibility be carried to the Transferee. However, that is contrary to current market practice wherein the reporting party is re-determined upon novation based on the current status of the parties. In this way it allows reporting party logic to be consistent for new trades and novated trades. Bifurcating the approach will add complexity and additional build for firms that does not align with the approach to CFTC reporting.

### **Indirect counterparty**

Acknowledging that the proposed cross-border rules require the distinction of guarantor relationships and the identification of indirect counterparties, we recommend that this classification not be carried over into the reporting side determination. There is not an industry standard source for this information and thus despite the requirement for participants to provide this information to the SBS SDR, there is a chance that the parties to a SBS could come up with a different answer as to which of them is associated with an indirect counterparty – resulting in a different reporting party determination leading to gaps or duplications in reporting. Further, parties have not built this additional layer into their reporting party logic, and it could take considerable effort to add this element. It also takes this further from the standard established for CFTC.

### **Real time**

Not all market participants have the ability to report within 15 or 30 minutes of execution. CFTC's rules do not set a hard backstop to allow flexibility for market participants that do not have the same technological capabilities as others (e.g. some do csv uploads for their transactions), rather the "as soon as technologically practicable" standard provides the necessary flexibility.

### **Trader ID, Desk ID, Broker ID**

These identifiers are not required for reporting in other jurisdictions, therefore there will be a great cost and effort for firms to implement this data element, including establishment and maintenance of Unique Identification Codes in absence of a global standard.

### **Transaction ID**

Rather than assignment by the SBSDR, we recommend identification of the SBS by the Unique Trade Identifier (UTI) created either by the reporting side or a platform on behalf of the parties (which may include an execution venue, an affirmation or middleware or electronic confirmation platform). Logistically it's not suitable in most cases to wait for the SBSDR to send a Transaction ID back to the party for consumption as between the parties they may have reporting obligations in multiple jurisdictions which they are satisfying via submission of a single report. Other jurisdictions require inclusion of a Unique Swap Identifier (USI) or a UTI so the parties will already have created or received one at the point they submit their message. Parties do not have the capability to hold different trade identifiers applicable to each region or regulator to which the trade may be reportable, therefore ISDA worked with market participants to develop a standard for creating and exchanging a single unique transaction identifier suitable for global reporting. See attached link for the relevant document: <http://www2.isda.org/attachment/NjI3MQ==/2013%20Dec%2010%20UTI%20Workflow%20v8.7.8b%20clean.pdf>

Many trades reportable under SEC have already become reportable in other jurisdictions and therefore may already have a UTI assigned to them that is known by the parties. If a UTI has not yet been created by the parties, one can be created in accordance with an industry standard method. Use of a single UTI for global reporting accommodates data aggregation and would allow identification of any duplications in reporting based on use of the same UTI across regions and repositories. We recognize the global regulatory discussions on data aggression continue with the FSB so aspects of the approach to UTI may be subject to change, but adhering to the principal of a single ID known by both parties globally will be essential to meet those goals.

### **Lifecycle events**

We request that reporting parties be allowed to report lifecycle events either intra-day or as an end-of day update to the terms of the SBS in accordance with their current builds for CFTC.

### **Reporting of pre-enactment and transitional SBS**

Will there be a phase-in for reporting of the pre-enactment and transitional SBS? For other regulatory reporting, firms have backloaded historic transactions that are live prior to the commencement of reporting to ensure the continued accuracy of the reports from the compliance date forward. But firms would very much appreciate a grace period of at least 90 days past commencement of reporting for these historic swaps that are no longer live, as the volumes could be great and firms will need time to reconcile which trades have been already been reported under other jurisdictions.

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