26 January 2016

The Rt Hon. Lord Hill
Commissioner for Financial Stability,
Financial Services & Capital Markets Union
European Commission
Rue de la Loi/Wetstraat 200
B-1048 Bruxelles/Brussels

Dear Lord Hill,

Mandating ISINs as Trade Identifiers under MiFID2/R

Following both our own extensive discussions with Competent Authorities and the recent industry comment to ESMA's final draft Regulatory Technical Standards (RTSs), we are writing to you as the set of prospective OTFs and Non-equity MTFs who would be directly obligated to file transaction reports according to the specifications under RTS 23. We concur with the recent industry letter submitted by ISDA and the GFMA that the proposals by ESMA to mandate ISO 6166 (ISIN) as the identification standard for all instruments[1] falling within the scope of MiFID2/R are simply unworkable.

In the first instance we urge the Commission to take into account further industry comment and configure the most straightforward, standardised and effective way to apply Unique Trade Identifiers [UTIs] to the transaction reports which also take due consideration of the Unique Product Identifier [UPI]. This requires further consideration of the function and relationship between UTIs and the entire transaction report rather than simply attempting a geometric expansion in the population of ISINs created as random number sets.

In particular we concur with the ISDA/GFMA letter to yourself of 15th December 2015 which accurately describes the very real concerns in the industry surrounding the competition implications of mandating this single identifier for all aspects of MiFID II/MiFIR, namely the 'minimum ISIN coverage' of money markets, FX markets, energy markets and across all OTC derivatives products today. Additionally we note that ISO Technical Committee 68 [ISOTC68], admits that the standard is not currently adequate, and this is reflected in their decision to set up a study group to look at how '*the ISIN standard should best be implemented to meet the market need*'.

Specifically the requirement for a transaction reference field within the construct of the transaction report within MiFID2/R proposed technical standards are discreet and separate to any capacity to incorporate either or both UTIs and UPIs which both the ISO groups together with ISDA Symbology workstreams and also the CPMI_IOSCO taskforce are currently progressing. Whilst we would endorse the comprehensive deployment of appropriate ISO standards, WMBA emphasise that away from Bond markets, the ISIN standard does not satisfy those basic requirements for all other financial instruments.

Moreover, whilst there is no developed ISO protocol for UTIs, but rather only currently for UPIs, we note that RTS23 fails to encompass a role and function for UPIs from UTIs across wholesale and inherently global markets. This is most especially relevant in fixed-term instruments (*such as 10 year Interest Rate Swaps*) which

[1] RTS 23 *Article 3 (*Identification of financial instruments and legal entities) Paragraph 1: "Prior to the commencement of trading in a financial instrument in a trading venue or systematic internaliser, the trading venue or systematic internaliser concerned shall obtain the ISO 6166 International Securities Identifying Number (ISIN) code for the financial instrument."
We understand from industry discussions with ESMA that the use of a non-ISIN (OTHR) in RTS 2 is limited to exceptional circumstances where an ISIN is not yet available for technical reasons.

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are recreated daily to an incremental horizon. Indeed, for derivatives the UPI should relate the substantive product description within the 48 fields of the transaction report, whilst the UTI itself should only act as a reference identifier created by the MiFIR venue for communication to both counterparties[2] and further to the relevant NCA in referencing the transaction report.

In short, under the rules as proposed our members envisage needing to replicate the entire volume of currently outstanding ISINs (*currently approximately 8 million*) within each and every three months for perpetuity. This geometrically growing data set would need to be stored and indexed by ESMA for interrogation daily by the market participants purely for the purpose of installing unique references to the transaction reports. We note that attempts to mitigate this by NCAs by delineating specified against non-specified lists, but after consideration this does not reduce the size and complexity of the data task.

We also note that neither RTS23 nor concurrent debate has considered whether a UTI as an ISIN should be venue specific or product specific and furthermore fails to determine the relation of a UTI to the transparency calibration framework. Venue specific ISINs would imperil the fungibility of derivatives which characterises their utility and enables netting and compression vital to the post-trade reform process. They would also fail to delineate the post-trade FMI (*the CCP for example*) which the negotiation and price of the transaction would require. Furthermore most UTIs, if created as ISINs would only be traded on the single day of their creation, but only filed by ESMA at the end of that day.

Rather, the UTI should be created by the MiFIR venue immediately and according to a suitable ISO standard, that can be replicated '***on the fly'*** by all market participants. It should functionally identify the instrument (*i.e. be familial to the UPI*), reference the venue and the post-trade FMI. This would avoid the dramatic cost implications and competitive issues outlined by ISDA/GFMA in their letter referenced above[3].

In light of the above issues, we strongly encourage the European Commission firstly clearly delineate UTI from UPI and consequently follow the recommendation contained in the recent ISDA/GFMA letter to remove the mandatory requirement to solely use ISIN as a part of the MiFID2/R instrument identifier. Instead we believe standardised UTIs should be venue created and that clear provision should be made in the MiFID II/MiFIR technical standards to recognise the current work of each CPMI_IOSCO and ISDA/ISO on product identifiers.

We thank you for your consideration of our letter.

Yours sincerely,

Alex McDonald
Chief Executive Officer

[2] Or further counterparties as appropriate and also to the relevant Financial Market Infrastructures (FMIs)

[3] ISIN (unlike ISO 17442 – the ISO standard for Legal Entity Identifiers) is allocated by a network of national numbering agencies that are exclusive providers in their local markets. Most of these organisations are commercial entities and have sole rights within their local market to issue ISIN numbers. The current ISIN-only approach risks locking in exclusivity for the issuance of what will be a considerable number of new identifiers on an ongoing basis. The EC endorsement of the MiFID II RTS in its current form would reduce competition in contrast to the objectives of MiFID II, and increase costs for all market participants. It is therefore vital that an open and competitive business model is available before any single instrument identifier is mandated for MiFID II. A broad call for possible solution providers is likely necessary to ensure the best approach for identifier issuance is selected.

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WMBA

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