



September 27, 2018

Secretariats of
The Committee on Payments and Market Infrastructures
The International Organization of Securities Commissions

**Comments on Consultative Report “*Governance arrangements
for critical OTC derivatives data elements (other than UTI and UPI)*”**

Dear Sirs/Madams:

We, the Japanese Bankers Association, would like to express our gratitude for this opportunity to comment on “*Governance arrangements for critical OTC derivatives data elements (other than UTI and UPI)*” issued on August 16, 2018 by the Committee on Payments and Market Infrastructures (“CPMI”) and Board of the International Organization of Securities Commissions (“IOSCO”). We respectfully expect that the following comments will contribute to your further discussion.

[General Comments]

Harmonising CDEs and implementation timing

An organisation designated as an International Governance Body should be responsible for appropriately supervising the status of implementing CDE at respective jurisdictions and harmonise data elements included in CDE as well as implementation timing as much as possible.

(Rationale)

If harmonised data requirements are not implemented by national regulations, the reporting parties incur extra costs and inefficiencies to file transaction reports using different formats required by respective jurisdictions. In addition, authorities would not be able to accurately capture market conditions on a global basis if data that differs across jurisdictions is accumulated, thereby failing to achieve the original objective of introducing transaction reporting obligations that is to ensure market transparency. As indicated in the CDE Technical Guidance, although we understand that data elements to be included in CDE would vary across jurisdictions, we request a designated International Governance Body to seek to harmonise data elements as much as possible and monitor the implementation status of each jurisdiction.

If timing of introduction of CDE to cross-border transactions varies across jurisdictions, eventually, entities need to take compliance actions in line with the ones which start earlier. This may cause confusion to entities in taking compliance actions at each jurisdiction, and it may lead to market fragmentation. To avoid such problems, an organisation which is designated as an International Governance Body should be responsible for appropriately monitoring the status of implementing CDE and, as much as possible, harmonising timing of implementation by laws or regulations at respective jurisdictions. Such an International Governance Body should play a key role in ensuring that no jurisdiction would extremely accelerate timing of implementation.

Transaction reporting obligations entail systems development and changes in operational flows, and entities need to take actions to implement other transaction reporting data elements such as UTI. Therefore, when considering implementation timing to be finalised in the governance arrangements, we request the CMPI and IOSCO to give due consideration to ensuring entities sufficient lead time for taking compliance actions. In this regard, given that CDE to be implemented include wide-ranged data elements, imposing considerable regulatory burdens on entities, it is advisable to set lead time for several years after the finalisation of the governance arrangements.

[Specific Comments]

2. Key criteria for the CDE governance arrangements

Q1: With reference to the key criteria of the CDE maintenance and governance framework (Section 2):

c) Do you think any of the key criteria should be modified? If so, which ones should be modified, why and how?

(Comment)

With respect to “Lean,” “low cost” should be regarded as most important.

(Rationale)

A mechanism that will incur minimum cost should be established to introduce and maintain a CDE framework without imposing undue economic burdens on financial institutions as CDE has limited cost-recovery measures.

3. CDE areas of governance functions

Q2: With reference to the CDE areas of governance functions (Section 3):

a) Can you suggest any refinements or additions to the articulated governance functions?

(Comment)

In monitoring the implementation of the CDE Technical Guidance at the global level (Section 3.5), due consideration should also be given to setting sufficient lead time and

harmonising implementation timing across jurisdictions.

(Rationale)

As noted in “General Comments,” if timing of implementing CDE differs across jurisdictions, internationally active financial institutions may be forced to carry out system modifications several times to meet reporting requirements that differ across jurisdictions. Furthermore, there is a possibility that some jurisdictions extremely accelerate implementation timing without setting sufficient lead time although the development of infrastructure may require considerable time. As a consequence, financial institutions may incur unnecessary cost to fulfill the objective of the requirements. In this regard, CDE should be implemented within a harmonised timeframe that allows sufficient lead time across jurisdictions as much as possible so as to at least prevent some jurisdictions from unduly accelerating implementation timing. Therefore we believe it is necessary to monitor the timing of implementation on particular among other things.

4. A proposed allocation of CDE governance functions to different bodies

Q3: With reference to the proposed allocation of CDE governance functions to different bodies (Section 4):

c) In relation to the proposed governance arrangements under point 4.2.1, what process should the IGB use to consult and gather feedback from the industry, and why?

(Comment)

As in the case with the development of technical guidance, we suggest to gather feedback through public consultation.

(Rationale)

When discussing CDE Technical Guidance, there were opportunities to have dialogues between CPMI/IOSCO and market participants through public consultation and workshops. Similar as the process taken before, the IGB should use public consultation to appropriately reflect market practices.

6.2 Allocation of the execution of the CDE maintenance functions to ISO

Q5: With reference to the Allocation of the execution of maintenance functions of CDE to ISO (Section 6.2):

b) If a decision were taken to adopt the CDE as International Data Standards, should the CPMI and IOSCO seek to specify any conditions or limitations on ISO concerning the maintenance of the CDE Data Standards? If so, which?

(Comment)

No conditions or limitations need to be specified.

(Rationale)

If the ISO makes considerations with high reliability and sufficient depth by taking the CDE Technical Guidance into account, we believe it is not necessary to add any further conditions or limitations.

7. Factors relevant to identification of the International Governance Body for CDE in areas 2, 3, and 4

Q7: With reference to the factors relevant to the identification of the International Governance Body for CDE in areas 2, 3, and 4 (Section 7):

a) Should the International Governance Body be an existing body or is there a need to create a new body? Especially if an existing body, how important should experience/track record be as a consideration in the choice of IGB?

(Comment)

The International Governance Body should be an existing body.

(Rationale)

Cost of introducing and maintaining CDE should be low as it only has limited cost-recovery measures. If an existing body is appointed as the International Governance Body, initial costs may be limited at a lower level, and it is highly likely that they could make a good use of experiences gained through implementing other regulations on CDE governance.

b) If any International Governance Body would need to absorb significant cost in order to devote sufficient resources to serve effectively in that role (possibly, for example, in the case of a public-public partnership), how should such costs be allocated among stakeholders?

(Comment)

We consider it is important for the International Governance Body to play an effective role in coordination among national authorities and conduct other necessary businesses. However, as a prerequisite for this, there should be a framework that does not incur substantial cost burden so that the private sector does not bear any undue cost.

(Rationale)

The implementation of CDE requires amendments to the existing framework so as to enhance the convenience of oversight by the authorities, and these requirements bring limited benefits to transaction monitoring by private financial institutions. Therefore, CDE should be structured in a cost-free manner as much as possible. Considering these, the implementation and maintenance of CDE should be carried out in a coordinated manner among national authorities (public-public partnership), and should not impose undue cost on the private sector.

e) Taking account of the factors described above and other factors deemed important, which body (or bodies) should the CPMI and IOSCO consider as candidates to serve as an International Governance Body for CDE? Which factors are most influential as the basis for such recommendation(s)?

(Comment)

We consider it appropriate for the CPMI and IOSCO to be responsible for the roles of the International Governance Body.

(Rationale)

From perspectives of both ability and cost, the most efficient approach is to designate the CPMI and IOSCO, to serve the roles of the International Governance Body which coordinates decision-making among national authorities since they developed the CDE Technical Guidance, and its members are comprised of national authorities.