February 6, 2017

Submitted via email to:
DSB-FM-secretariat@etradingsoftware.com

Re: ANNA-DSB Fee and Governance Consultation Paper

The International Swaps and Derivatives Association, Inc. ("ISDA")[1] and the Global FX Division ("GFXD") of the Global Financial Markets Association ("GFMA")[2] appreciate the opportunity to provide The Association of National Numbering Agencies ("ANNA") and the Derivatives Service Bureau ("DSB") with comments in response to the Consultation Paper referenced above (the "Consultation Paper"). We are strong proponents of global data harmonization, working in tandem with our members and other buy- and sell-side market participants and market infrastructure providers to promote the important role of global standards in improving data quality and increasing the efficiency and value of regulatory requirements while simultaneously improving business processes.

Preface

In the Principles section the costs to be recovered are specified as comprising three parts: operational costs, cost of capital and emergency reserves. In section 4, the operational costs are further split into cost of management, technology, user support and third party services and the estimation for the operational cost given is 6Mio Euro, with a clarification that these costs are volume insensitive. No further detail is provided on any break out for the cost, nor is it clear whether cost of capital and

[1] Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 66 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org

[2] The GFXD was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 25 global foreign exchange (FX) market participants, collectively representing around 85% of the FX inter-dealer market. Both the GFXD and its members are committed to ensuring a robust, open and fair marketplace and welcome the opportunity for continued dialogue with global regulators.

financial reserves ("emergency reserves") are covered by this 6Mio. Without any level of detail provided for the estimates, it is difficult to understand the impact of e.g. the proposed changes in the TechOps consultation with regard to increased availability[3].

We would like to receive more clarity regarding the indications that the cost will be volume insensitive. A higher number of ISINs will increase the work to ensure the consistency and quality of the underlying metadata. While there are certainly economies of scale to be had, does the DSB anticipate an ISIN volume threshold beyond which additional costs would be incurred?

Can the DSB clarify which license will govern open access to the ISINs and metadata, and the implications e.g. for distribution or redistribution agreements in commercial services?

There is a serious lack of detail, without which it is not possible to provide meaningful feedback on the estimates that are used throughout the consultation document. We will therefore focus primarily on the principles that should be taken into account, rather than the actual estimates provided, for cost or otherwise. At the same time, requirements are still changing and these changes might require revisiting our responses and suggestions in this and indeed previous consultations from the DSB. As a case in point, ESMA published Q&A guidance on February 2, 2017 which might impact firms' requirements with regard to ISIN, and impact or invalidate some of the principles laid out in the next section on cost recovery. We have not been able to fully consider the impact of the ESMA Q&A on the universe of Power Users as defined in the next section. We would like to understand how the DSB sees the requirements for access to the DSB evolve in the short term, in light of the answer from ESMA on when ISINs have to be obtained[4].

Cost factors and cost recovery:

1) Cost Factors

It would be useful if the DSB could provide separate detailed estimates for the start-up cost of the DSB and the yearly expected run cost. The yearly run cost should be the combination of a large fixed component – we believe the infrastructure and connectivity to be fairly static once up and running – and a small variable component to account for new instruments that need to be added from time to time.

Total Cost = Set-Up Cost + Run Cost + Incremental Cost of adding new instruments.

Factors driving Set-Up Cost: system availability, geographic locations, estimated capacity for power users, hardware, etc.

[3] As further specified in our response to the TechOps consultation, we believe that the availability of the services, as currently foreseen by the DSB, is insufficient.

[4] ESMA Q&A on MiFIR data reporting, 2 February 2017 (https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-56_qas_mifir_data_reporting.pdf), Section 4 "Instrument identification code and Underlying instrument code", Question 2

Factors driving yearly Run Cost: support and maintenance costs for existing ISINs, and creation of new ISINs for already supported instruments because of maturity date changes. While new ISINs need to be created continuously because of the inclusion of maturity date, this does not require the development of new templates. The process of ISIN creation necessitated by maturity date rollovers can be automated.

Factors driving yearly Incremental Cost: The cost related to the creation of new templates will be high during the set up, but should be marginal from year 2 onwards. The DSB should provide the cost for the addition of a new template (note that FpML has provided a proposal to the ANNA to support the templates and take care of the development of new templates leveraging the existing industry FpML groups).

2) Cost Recovery

Fee model:

The paper proposes a fee model that contains different components. While we welcome attempts to distribute costs in a fair and equal way, we are concerned that the calculations and attributions become a cost factor by themselves. We are in favor of a simple model that is easy to track, limits the overhead, minimizes the incentives for gaming and distributes the costs over a relatively large group of participants. Below we describe the elements of such a model.

The fee model needs simplification, no distinction should be made between regulated and non-regulated entities. Furthermore, both creators of ISINs and consumers of ISINs should pay if they are "Power Users".

The key determining factor for such a model is whether an entity has a need for intraday ISIN information (creation or consumption). In this case the free EOD file download is not sufficient and the entity will be deemed a "Power User". The entire cost of the DSB that falls under the cost recovery mandate, should be borne by those "Power Users". We are not in favor of the one asset class versus multiple asset class distinction. This adds complexity without a clear benefit.

Power User:

In the TechOps consultation response we commented on the use of FIX. We strongly believe that alternatives should be considered and we encourage the DSB to have these discussions. For the fee model, we take the use of a FIX connections, or alternatives to FIX connection, as a proxy for a "Power User" i.e. an entity that has intraday needs for ISINs (creation or consumption).

As highlighted in our response to the TechOps consultation paper, we fully expect that organizations will install multiple connections. This needs to be taken into account in cost attribution as support needs will increase in proportion.

The facility to create a limited number of ISINs via the website should be available to non-Power Users.

Distribution of costs between "Power Users"
While in principle we favor an equal distribution, a number of factors need to be taken into account and require further analysis to determine whether they justify changes to the equal distribution principle. These include the number of connections, as mentioned above; and the role certain entities play. When entities act as aggregators, this can potentially reduce the pool of "Power Users sharing the cost (this applies to data aggregators, APAs and venues in particular).

Finally, we strongly reemphasize the need for open and transparent governance. We continue to be deeply concerned about the lack of representation on the DSB board of entities that are expected to pay for the cost recovery, the lack of visibility of the cost recovery criteria, and the absence of check and balances around potential future cost increases.

Q1: Do you agree that there should be no restriction regarding the organization types able to consume the ISINs and their associated reference data at no charge? If not, please explain your reasoning and provide evidence where possible.
Agreed. The basic service of finding an ISIN when providing the metadata or retrieving the metadata when providing an ISIN, together with an EOD file download service, constitutes a Public Good and should be available for free.

Q2: There is a marginal cost associated with registration and onboarding a new organization for access to the DSB. Do you agree that organizations registering with the DSB should not be charged any fee for data access or onboarding? If not, please suggest an alternative approach that is consistent with the principle of 'reasonable cost' access to ISINs for OTC derivatives.
Agreed. Registration and onboarding for the basic service should be available at no cost. At the same time, the DSB needs to ensure that these processes are automated and cost is kept marginal.

Q3: Do you agree with the DSB estimate of 40 for the number of organizations that will want to create ISINs? If not, please explain an alternative estimate and provide evidence to support your answer.

Q4: Do you agree with the DSB estimate of 50 for the number of organizations that will want to connect to the service via the FIX network? If not, please provide evidence that supports a different estimate.

Q3 and Q4: The number of organizations that potentially need to create ISINs for MIFID 2 RTS 23 reporting is not clear at this point in time. In particular a pre-trade requirement for ISIN would have a large impact both on the number of organizations that create ISINs, and on how these organizations connect to the DSB[5].

[5] See also our comments in the introduction regarding the February 2, 2017 ESMA Q&A

We pointed out the in our response to the TechOps consultation that organizations might seek multiple connections e.g. at sub-entity level.

Q5: Do you agree with using 2m as a predictive estimate for the number of ISINs the DSB expects to create in a 12-month period? If not, please explain why and provide any necessary evidence or examples to support your response.
We do note that pre-assignment of ISINs might greatly inflate the number of ISINs requested at initiation of the service.

Q6: Given the potential disincentive to be the first requestor to create a given ISIN, do you agree that using the ISIN reporting obligation is a sensible basis for allocating costs (and therefore fees) amongst the regulated entities that have an ISIN reporting obligation? If not, please explain why and suggest an alternative approach and evidence why that is more appropriate.
We do not see the disincentive mentioned as a major concern.
See fee model principles in the introduction.

Q7: Do you foresee any challenges with using the number of OTC derivative instruments reported under RTS23 as the mechanism to collect the relevant data to allow the calculation to take place? If not, please explain why and suggest an alternative approach and evidence why that is more appropriate.
See fee model principles in the introduction.

Q8: Is there another group of organizations that will interact with the DSB and should be taken into account when constructing the fee model? If so, please describe them, how their usage may differ from that already described, and what their potential impact might be on the service.
See fee model principles in the introduction.

Q9: Having read about the proposed fee model in the above section and the various fee models considered in Section 7 below, do you agree that the proposed model offers a fair and equitable approach to fees for the numbering agency function of the DSB? If not, please explain your reasons. If possible, suggest improvements on the proposed model.
The proposed model is too complex to put in place and to measure. We recommend the alternative model described in the introduction.

Q10: Do you think there may be practical difficulties in executing the proposed model? If so, please explain and, if possible, suggest alternative solutions to these challenges.
Yes, the model is too complex. See fee model principles in the introduction.

Q11: What other fee models should the DSB consider as part of its deliberations? Please provide an explanation in the form of the examples provided in this paper and evidence the impact on users where possible.
See the fee model principles in the introduction.

Q12: What additional effects might the presence of intermediary vendors have on the fee model of the DSB? Please provide examples and evidence where possible.

See the discussion on the role of aggregators in the fee model principles in the introduction.