

## **FESE response to IOSCO/CPMI Second Consultative Report Harmonisation of the Unique Product Identifier**

### **Introduction**

The Federation of European Securities Exchanges (FESE) represents 35 exchanges in equities, bonds, derivatives and commodities through 20 Full Members from 29 countries, as well as 1 Affiliate Member and 1 Observer Member.

FESE is a keen defender of the Internal Market and many of its members have become multi-jurisdictional exchanges, providing market access across multiple investor communities. FESE represents public Regulated Markets. Regulated Markets provide both institutional and retail investors with transparent and neutral price-formation. Securities admitted to trading on our markets have to comply with stringent initial and ongoing disclosure requirements and accounting and auditing standards imposed by EU laws. At the end of 2015, FESE members had 9,201 companies listed on their markets, of which 6% are foreign companies contributing towards the European integration and providing broad and liquid access to Europe's capital markets. Many of our members also organise specialised markets that allow small and medium sized companies across Europe to access the capital markets; 1,299 companies were listed in these specialised markets/segments in equity, increasing choice for investors and issuers. FESE is registered in the European Union Transparency Register with number 71488206456-23.

### **Overview of FESE views**

FESE welcomes the work of the CPMI/IOSCO working group on the harmonisation of key OTC derivatives data elements.

While we understand the mandate of the Harmonisation Group to develop guidance regarding the definition, format and usage of key OTC derivatives elements, FESE considers that this work should be reviewed in the context of the broader policy discussions on the instrument identifiers taking place in key jurisdictions. Therefore, we welcome the reference in Section 3.12 on 'Extensibility' that given certain jurisdictions could require the reporting of transactions in products that are not OTC derivatives (e.g. exchange-traded derivatives) through the same channels as for OTC derivative products, compatibility with or adaptability to accommodate a broader range of financial products (including derivative products traded on exchange) should be considered a desirable characteristic of the UPI.

In this regard, FESE would like to highlight our concerns with proposals by European policy makers on product identifiers under the proposed mandatory use of the International Securities Identification Number (ISIN) for exchange traded derivatives (ETDs) in MiFID II / MiFIR. In order to illustrate our position on this issue, FESE will not respond to the technical aspects of the consultation, but provide an overview of our position in the context of the current European policy discussions.

### **FESE supports international standards to avoid regulatory divergence**

FESE fully supports the current European practice (introduced by CESR, now ESMA) that trading venues may use at least either the ISIN or the Alternative Instrument Identifier (AII). This issue is crucial for European exchanges, as we were extensively involved in developing the AII as part of our cooperation with the previous CESR work on instrument codes. FESE has called on European legislators to allow for a choice in approach by allowing the industry a choice between AII and ISIN, in order to allow the industry to converge with global developments therewith increasing a stable cost efficient approach.

We asked ESMA and the European Commission to not deviate from current market practices and to take into consideration the CPMI/IOSCO work on a global identifier for derivatives. In our view, the proposed UPI structure appears to be following a similar logic as the current European Alternative Instrument Identifier (AII). In contrast, the structure and logic of the ISIN code is diametrically opposed to the proposed UPI.

Europe should be in the position to align itself with global standards for instrument identifiers. While the IOSCO/CPMI work concentrates on 'OTC derivatives', we would in principle support and approach that once the UPI is agreed it will be made available for all derivatives, including ETDs. This will have the benefit of providing a single standard for both OTC and ETDs and the UPI will allow regulators to perform global data aggregation to monitor exposures to, or positions in, various groupings of products. Europe therefore stands to benefit from this global work. When it is finalised the UPI construct could sensibly be introduced industry-wide as it will be the international standard.

While the various complexities have been discussed for financial instruments, European regulators have opted for an ISIN only approach for ETDs on European exchanges. While we will work with this outcome, we would like to highlight again in this consultation response that ISINs are – for some exchanges – less appropriate as identifiers for derivative instruments. Moreover, we consider that there are unquantifiable problems that would be created if the use of AII is not maintained in Europe.

FESE considers the information contained in the AII makes identifying and searching for similar or other relevant instruments easier, and allows related derivative instruments to be grouped together. This in turn can help National Competent Authorities to detect market abuse and other irregularities. In contrast, the ISIN is a random code that contains no information about the product and what market it is traded in. It does not provide any identification of the underlying product, which is a pre-requisite to understand data related to derivatives. In essence, the nature of derivatives contracts cannot be captured by an ISIN, since derivatives contracts are not transferable securities.

Therefore, we have cautioned the Commission and ESMA to avoid being out of sync with global initiative on this issue. Any introduction of an ISIN only approach would be inconsistent with the ongoing international work on the UPI for derivatives, and we consider that it would be superfluous to demand a new standard at this stage, which could be further altered based on the future UPI work stream.