

***FIA European Operations, EMIR Reporting, Compliance and Technology Vendor Committees  
Response to the DMIST Consultation Paper on Standard Regarding Position Transfers***

FIA's European Operations, EMIR Reporting, Compliance and Technology Vendor Committees (the Committees) welcome the DMIST [consultation paper](#) which recommends standardisation of certain aspects of the position transfer process to improve efficiency, enhance controls and reduce risks.

When reviewing the proposals, the Committees' also considered how the position transfer templates could assist in addressing reporting challenges firms subject to UK or EU European Market Infrastructure Regulations (EMIR) reporting obligations face in relation to the requirement to report Prior Unique Trade Identifier (UTI) upon lifecycle events, **including Position Transfers (PTs)**.

In addition, the Committees make several recommendations for new fields to be added to the **Client Request Form** and the **CCP Upload Table** to assist Clearing Brokers (CBs)<sup>1</sup> in managing and tracking PTs. The Committees have also made suggestions and requested clarification regarding the content of certain fields.

## **Questions for clients**

While recognising that these questions are intended for clients to complete, members of the Committees have made several suggestions and raised questions based on their knowledge and experience of the PT processes at European exchanges and the potential for knock-on consequences for Clearing Members (CMs)<sup>1</sup>. The responses are submitted in the spirit that full and thorough feedback from across different user groups and regions will assist the development of the final standard.

1. The terms *Clearing Broker (CB)* and *Clearing Member (CM)* are used interchangeably in this response.

### ***Questions for Clients***

***Q2: Are you able to provide all of the information on the Client Request Form Template (Figure 2), such as the Exchange Contract Code? If not, please explain. Do you need further clarification on what is requested? If so, indicate which field(s) needs further clarification.***

Concerns were expressed that the proposed **Client Request Form** places requirements on clients that may present a challenge as clients may not know the answer for all the data points in the Form.

#### **Example - Field 6 "Impact on Open Interest. Will this transfer result in a change in open interest?"**

Clients may be unable to determine whether the transfer will result in a change in Open Interest (OI). As a consequence, it is likely the CM will need to verify the information contained within the Field 6 given that it is



the CM who is ultimately accountable and could face enforcement action by the exchange if, for example, the position transfer closes out spot month or significant back month position.

The Client Request Form suggests clients must complete separate forms for each position transfer as the Form requires data relating to individual, contract, expiry, position and direction. Where there are multiple position transfer requests completing a separate Form for each may not simplify the process. A suggestion could be that multiple lines of positions may be better supplemented with an Excel spreadsheet (or similar machine readable file) rather than multiple separate Forms.

The Committees have also raised a number of questions and comments related to specific Fields. These questions and comments are shown in **column E** of the accompanying spreadsheet:

***DMIST CP – Position Transfers\_Client Request Template & CCP Upload Table\_European Committees response.xlsx***

#### ***Questions for Clients***

***Q3: Is the processing time outlined for simple transfers appropriate? If not, please detail the challenges and suggest an alternative timeframe.***

For simple and complex position transfers, significant impact on OI is discussed. Impact on OI as it relates to spot/front month positions is prohibited on some exchanges and may incur disciplinary action. If a position transfer request was submitted to certain exchanges for review and had the effect of closing out a front-month position, the exchange is likely to reject it. Similarly, any impact on back-month contracts should also be considered. As such, DMIST may wish to consider adjusting references to significant and spot month/period to reflect this nuance.

#### ***Questions for Clients***

***Q4: Is the processing time outlined for complex transfers appropriate? If not, please detail the challenges and suggest an alternative timeframe.***

Some exchanges do not review position transfers where there is a change in beneficial ownership or impact on OI and expect exchange members to carry out their own due diligence checks. In which case, the Client Request Form should make clear that it is ultimately the responsibility of the CM processing the transfer to conduct due diligence checks and bona fide transfer between accounts.

It is vital that the final DMIST standard is compatible with exchange rules where the exchange in question requires longer timelines to review/approve position transfers.

## Questions for Clearing Members

### *Questions for Clearing Members*

**Q1: Are any data points that you require missing from the Client Request Form template (Figure 2)?**

The Committees proposed several new fields to be added to the templates to assist CMs in processing and managing PTs and to address reporting challenges related to PTs.

### **1. New field - Prior UTI**

The following section sets out the regulatory reporting challenge the **proposal to add Prior UTI to the Client Request Form** seeks to address along with some of the key concepts to ensure common understanding. Potential implementation and adoption challenges are also noted.

#### **EMIR Regulatory reporting obligation**

UK EMIR and EU EMIR Article 9 reporting obligations include a **requirement for CBs to report the Prior UTI for positions upon lifecycle events including position transfers<sup>2</sup>**.

This obligation applies where either the CB or the client of the original position has a reporting obligation under UK EMIR or EU EMIR.

The Prior UTI is the UTI associated with the position at the CB from which the position is being transferred. Reporting the Prior UTI enables regulatory authorities to link the new UTI reported by the new 'receiving' CB, with the Prior UTI reported by the previous CB, the 'sending' CB, given it is the same position.

2. See Appendix A for the relevant EMIR Article 9 Regulatory Technical Standards (RTS).

#### **Industry reporting challenge**

EMIR is a dual-sided reporting regime. As such, **a lack of common industry standard for sharing Prior UTI creates a gap in the reporting of Prior UTI for the CB-to-Client leg.**

Currently, when a position transfer occurs for an ETD position, there is **no common industry standard for CBs to share Prior UTIs**. Rather than this information being shared between sending and receiving CBs, it is often left to the client to provide the Prior UTI. This process is error-prone as there is no standard. Some clients may not have the UTI on file. In some instances the client may be able to source the UTI from their trade repository, while in other cases, the client would need the CB to provide the UTI.

**For example;** where a fund based in the Cayman Islands is facing a UK/EU-based CB and is transferring the position to an alternative UK/EU-based CB, there is a **requirement for the receiving CB to report the Prior UTI**. Given the client is not in-scope for EMIR, but the original CB is, **the fund would need to request the Prior UTI from the sending CB so the fund can then share it with the new, receiving, CB** in order to complete the position transfer and accurately reflect this **in compliance with EMIR Article 9** reporting obligations.

### Proposed near-term solution - add Prior UTI to the Client Request Form

As noted, EMIR is a dual-sided reporting regime and the lack of an industry standard for sharing Prior UTI creates a gap in the reporting of Prior UTI for the CB-to-Client leg. The following example illustrates how **the addition of Prior UTI to the Client Request Form will help bridge the existing gap for reporting Prior UTI for the CB-to-Client leg**.

**Example:** *Client XYZ transfers 10 lots from Clearing Member A to Clearing Member B on Eurex*

#### Clearing Member A (sending CM):

| Reporting Legs | Position UTI | Position |
|----------------|--------------|----------|
| CM A to Client | CMA789       | 10       |
| Client to CM A | CMA789       | 10       |
| CM A to Eurex  | EUREXCMA786  | 2,000    |

#### Clearing Member B (receiving CM):

| Reporting Legs | Position UTI | Prior UTI   | Position |
|----------------|--------------|-------------|----------|
| CM B to Client | CMB123       | CMA789      | 10       |
| Client to CM B | CMB123       | CMA789      | 10       |
| CM B to Eurex  | EUREXCMB123  | EUREXCMA786 | 5,000    |

| Prior UTI sourced for CM B |  |
|----------------------------|--|
| Prior UTI                  | Source   |
| CMA789                     | Client to provide Prior UTI on the Client Request Form |
| EUREXCMA786                | Sourced from the <b>CCP Harmonized Position File *</b> |

**For the CB-to-CCP leg, the Prior UTI should be sourced from the CCP using the CCP Harmonized Position File\*.**

**\*CCP Harmonized Position File** is a daily report of all EMIR reportable positions a CM has with a CCP displayed from the CCPs perspective. The report includes a standardized list of fields agreed by the European Association of Clearing Houses (EACH) **including Prior UTI**.



To enable the new, receiving CM, to report the Prior UTI (if applicable), the Committees propose adding two additional fields to the Client Request Form:

**1) New field: “Does position have a UK/EU EMIR Prior UTI OR is the position currently eligible and/or being reported to UK/EU EMIR?”**

- The purpose of this field is to ascertain whether the position is eligible for reporting under EMIR and, therefore, should have a UTI.
- This should be a mandatory field for clients to populate.
- This field should be populated with a Boolean value: “Y” or “N”.
- The expectation would be for clients to make the determination if a Prior UTI exists for the position or not (as a result of either the themselves or their prior CM being in scope for UK/EU EMIR).

**2) New field: “Prior UTI”**

- If Q1 above is answered “Y” then it should be mandatory to populate this field.
- The onus will be for in scope clients to provide Prior UTI (where one existed) to the CM.
- This should be populated with the alphanumeric Prior UTI value.
- If Q1 is answered “N” the field should be left blank.

Obtaining this information via the Client Request Form will allow CMs to rely on the client’s indication as to whether a Prior UTI exists. CMs would then consume the Prior UTI where provided by the client and report this where necessary to meet their regulatory obligations.

**Facilitating potential longer-term solution - add Prior UTI to the CCP Upload Table**

A long-term solution to the challenge of sharing Prior UTIs could be for CCPs to provide the **receiving CB** with the Prior UTI, where one exists, for the position being transferred (for both CB-to-CCP leg **AND** the CB-to-Client leg). Similar to proposal set out above, the receiving CB would consume the Prior UTI, where applicable, from the CCP and report it accordingly to satisfy their regulatory obligations.

The advantage offered by this solution is that **the client would not be obliged to provide the receiving CB with the Prior UTI**. This solution would however require agreement and adoption by the CCPs, hence why this is set out as a potential longer-term solution.

To enable this longer-term solution CCPs will require the Prior UTI. **To assist CCPs in easily sourcing Prior UTI it is proposed that the Prior UTI field also be included in the CCP Upload Table**, future proofing the standard:

**1) New field: “Does position have a UK/EU EMIR Prior UTI OR is the position currently eligible and/or being reported to UK/EU EMIR?”**

- Repeat of the “Y” “N” response submitted in the equivalent field in the Client Request Form.

**2) New field: “Prior UTI”**

- Either blank or repeat of the data submitted in the equivalent field in the Client Request Form.

### **Prior UTI implementation and adoption challenges**

While the Committees believe including Prior UTI will help address the reporting gap noted above and that an industry standard for sharing Prior UTI is needed, they also noted implementation and adoption challenges are likely to exist.

In particular, members believe some clients may face challenges sourcing Prior UTI data and hence populating the Prior UTI field and that in turn this could present adoption challenges for the DMIST standard.

Committee members noted the need to work with clients to make UTI more transparent to them via reporting tools etc.

It is therefore recommended that implementation and any challenges be explored and discussed as part of the DMIST standard setting process with a view to resolving implementation issues and addressing the reporting issue that adding Prior UTI seeks to address.

### **3. New field - Position Transfer ID**

The aim of this field is to provide greater transparency for CMs where they receive multiple PTs on a single day. The proposal is for this field to be added to the **Client Request Form and CCP Upload Table** so that where there are multiple transfers on a single day this field can be used to link the transfers together providing CMs with greater transparency and traceability.



#### 1) New field: “Position Transfer ID”

- This field should be populated by the client with the **Legal Entity Identifier of the client** and the **Exchange/CCP code**. The LEI and Exchange/CCP code should be separated by an underscore.
- For example: “3358 00 123456789ABC 21\_IFEU”
- The data should then be populated by the CM in the CCP Upload Table.

The Operations Committee also discussed if a serial number could also be added to this field to further assist CMs in linking PTs where they receive multiple PTs from same client on the same day.

The Operations Committee noted that ISV’s were building solutions for position transfers and hence including the Position Transfer ID in the DMIST standard could help efforts to further automate the PT process.

Regarding providing LEIs, the CFTC’s Market Risk Advisory Committee recently approved recommendations on LEI at the beneficial account holder level and to examine if regulations should be amended to mandate their use where available (or equivalent identifiers) by the beneficial account owner for daily reporting by DCOs. See [CFTC Press Release](#) for more information.

## 4. New field - End Beneficiary

The aim of this **optional** field is for CMs to populate it with the Beneficial Owner account number or Trading Short Code of the end beneficiary.

#### 1) New field: “End Beneficiary - Beneficial Owner a/c number or Trading Short Code”

- Optional free format field to be populated by the CM.
- The value could be either the Beneficial Owner account number or Trading Short Code.

### ***Additional Comments***

*DMIST welcomes any comments that you may have that were not covered in the consultation questions.*

As noted above, the Committees also had feedback and questions on specific fields in the Client Request Form and CCP Upload Table. **This feedback is contained in the Excel workbook submitted with the Committees consultation response.**

In addition, the Committees made the following suggestions that they would like considered as part of their response to the DMIST consultation.

- 1) Include a requirement for a 4-eye check principle to enter and accept transfers as part of the standard.**
- 2) Consider allowing CCPs to use their own naming convention in the CCP Upload Table fields.**

It has been suggested that it would be helpful if the CCP Upload Table (and/or CCP APIs) allowed CCPs to use their own naming convention for the various fields rather than it being mandatory to use the field names set out in the DMIST consultation. A CCP noted concerns that standard field names could cause confusion when operations teams process transfers as fields would be named differently to those used by the CCP for other post-trade life cycle events.
- 3) Consider including a requirement for pre-transfer risk/IM checks for receiving CBs.**

This would allow receiving CBs to evaluate if accepting the position would trigger an intra-day call and to prepare by contacting the client who initiated the transfer to request additional collateral if necessary. CCPs generally have margin calculation tool that could be used in conjunction with the position transfer process going forward.



## Appendix A - EMIR Article 9 Regulatory Technical Standards

The relevant regulatory requirement for Prior UTI is contained in the ANNEX, Table 2, point 3 of the RTS (specifying the minimum details of the data to be reported to trade repositories and the type of reports to be used) which can be found [here](#) (Official Journal of the European Union, L 262, 7 October 2022) and is shown below for ease of reference:

| Table 2 |                                    |   |  |
|---------|------------------------------------|---|--|
|         | Section                            | Field   | Details to be reported   |
| 1       | Section 2a - Identifiers and links | UTI   | Unique Trade Identifier as referred to in Article 7 of Implementing Regulation (EU) 2022/1860.   |
| 2       | Section 2a - Identifiers and links | Report tracking number  | Where a derivative was executed on a trading venue, a number generated by the trading venue and unique to that execution.  |
| 3       | Section 2a - Identifiers and links | Prior UTI (for one-to-one and one-to-many relations between transactions) | UTI assigned to the predecessor transaction that has given rise to the reported transaction due to a lifecycle event, in a one-to-one relation between transactions (e.g. in the case of a novation, when a transaction is terminated, and a new transaction is generated) or in a one-to-many relation between transactions (e.g. in clearing or if a transaction is split into several different transactions).<br>This data element is not applicable when reporting many-to-one and many-to-many relations between transactions (e.g. in the case of a compression). |