

CESR
The Committee of European Securities Regulators

Submitted via www.cesr.eu

Transaction Reporting on OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations

London, August 16th, 2010

Dear Sirs,

MarkitSERV welcomes the publication of CESR's Consultation Paper on *Transaction Reporting on OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations* and we appreciate the opportunity to provide you with our views on this topic.

On September 1st 2009, after receiving regulatory approval from the Department of Justice in the United States, and the Financial Services Authority (FSA) in the United Kingdom, Depository Trust and Clearing Corporation (DTCC) combined its post-trade confirmation platforms for OTC derivatives with Markit's trade processing services. The resulting joint venture, which is called MarkitSERV, provides an integrated multi-asset class Trade Processing Facility for the global OTC derivatives markets.

Whilst in the early days of the OTC derivatives markets, counterparties to a transaction legally confirmed their trades by fax, mail, email and other means, electronic confirmation platforms are now the de facto standard for confirmation processing and the engine driving operational efficiency and risk mitigation. Once OTC derivatives transactions have been electronically confirmed, these platforms can communicate the transaction details to all other parties that are relevant in the post-trade work flow, thereby dramatically reducing the dependency on manual processes and improving the accuracy, efficiency, timeliness, and security of OTC derivatives transactions. Electronic confirmation platforms are widely used today and market participants are committed to further increasing their use for eligible trades with the aim of electronically confirming most OTC derivatives transactions on trade date.

MarkitSERV handles the confirmation and processing of the majority of electronically confirmed OTC credit, interest rate, and equity derivatives transactions globally. Over 70 dealers, more than 70 interdealer brokers, and over 1,800 buy-side clients, consisting of more than 19,000 individual fund entities, now feed their trades into the platform, which in turn is connected to the major CCPs as well as to Trade Repositories to provide them with details of the confirmed trades.

We feel well positioned to provide you with our comments related to the transaction reporting of OTC derivatives. Please do not hesitate to contact us if you require any additional information.

Extension of the scope of transaction reporting obligations

Regulatory oversight will be aided by authorities having detailed and reliable information about all OTC derivative transactions that have been executed, including both centrally-cleared and non-cleared ones. A more accurate and complete information picture will assist regulators in their ability to oversee financial markets and to ensure that they are free of manipulation or other abuse.

We believe it is important that any adopted regime embody CESR's aim at harmonizing the transaction reporting requirements across Europe, whilst not establishing any duplicative reporting requirements. Achieving those objectives will help to avoid the creation of any unnecessary burden and cost for market participants.

Overarching principles

Regulatory authorities are presented with the challenge to make good use of the wealth of additional data that they will receive in the future, particularly for products that are as varied and complex as OTC derivatives. When designing requirements for regulatory transaction or public trade reporting one should therefore ensure that the actual delivery of the data is made as easy and consistent as possible:

- The preferred solution for any form of reporting of OTC derivative transactions or positions should be the use of a limited number of data feeds from consolidated sources. This will help data formatting and reported fields to be consistent for the population of transactions reported through each of these channels. If reporting is performed through a number of channels, regulatory authorities will have to require consistency of trade representations and reference data across these various sources in order to be in a position to aggregate the data that they receive. The harmonization of reporting formats and standards should be required between channels, e.g. through the use of a consistent approach to identifying counterparties and instruments.
- In light of the wide array of products within the OTC derivatives market as well as their complexity, one global Trade Repository per asset class would be preferable to enable focused analysis and transparency for systemic oversight purposes. Development of separate regional repositories should be avoided as the need to collate information from multiple repositories can prove to be operationally inefficient and may increase reporting gap risk. Also, requirements and overhead costs related to regional repositories may prevent or stall goals to improve and strengthen the OTC processing environment and to reduce systemic risk.
- Whilst timely transaction reporting, i.e. as soon as possible after execution, is largely achievable over time, particularly for asset classes with a high degree of electronic confirmation, considerations must be included to take into account the possibility of third-party feeds and trade capture in a particular time zone. There also must be care given to the division between regulatory reporting and any form of public reporting. Given the limited trade frequency and other features of the derivatives markets, the economic and market effects of public reporting must be carefully considered.
- Regulatory authorities should maintain a high level of involvement and engagement with the industry to consider potential future products for reporting and to provide an impact assessment on the current reporting structure and any future implications.

Two possible options

We believe that Option 1 could only really be considered if a reasonable time frame for its implementation was allowed. Whilst Option 2 can be considered for quick implementation, for efficiency and cost reasons we would expect the industry to expand the functionality of Trade Repositories over time in order to be able to use them for all reporting purposes, effectively migrating towards Option 1.

- We believe that Option 1, i.e. the abolishment of the MiFID reporting regime for OTC derivatives and transaction reporting solely through Trade Repositories, could only be considered if all Trade Repositories for OTC derivatives were set up to capture transactional data, both in full detail and on a timely basis. However, whilst these requirements are satisfied for credit derivatives, this is not currently the case for those Trade Repositories that have been created for interest rate and equity derivatives. We believe that as long as Trade Repositories in some asset classes continue to hold only position data, Option 1 does not represent a viable mechanism for the reporting of OTC derivative transactions to regulatory authorities. Also, event-driven information is an important consideration to understand the life-cycle of the transaction, and as such occurs to varying degrees amongst the various products, and must be a factor in scope, build and implementation timeliness.
- For asset classes where individual transactions are not reported to the Trade Repositories, we agree with CESR that Option 2, i.e. maintaining the MiFID transaction reporting regime whilst providing market participants with the choice of whether to report directly to competent authorities or via Trade Repositories as third party, is generally preferable. This option would be easier to implement, less costly and more quickly achievable, especially in asset classes where electronic processing is widely used. We also appreciate that this option would allow market participants to adjust their preferred methods for transaction reporting over time depending on the future development of the capabilities of Trade Repositories in different asset classes and on their individual situation.

MarkitSERV remains committed to delivering operational and infrastructural solutions and enhancing our services to increase transparency, mitigate risk and achieve operational efficiencies. We hope that you will find our comments helpful. Please do not hesitate to contact us if you require any additional information or if you want to discuss.

Kind regards,



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