

CPSS-IOSCO

Submitted to
cpss@bis.org and
ccp-otc-recommendations@iosco.org

Considerations for trade repositories in OTC derivatives markets

London, June 25, 2010

Dear Sirs,

MarkitSERV welcomes the publication of CPSS-IOSCO's Consultative Report on *Considerations for trade repositories in OTC derivatives markets* and we appreciate the opportunity to provide you with our comments.

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.

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 50 interdealer brokers, and over 1,500 buy-side clients feed their OTC derivative trades into the MarkitSERV 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 therefore feel well positioned to provide you with our comments related to your considerations for Trade Repositories for OTC derivatives. Please do not hesitate to contact us if you require any additional information.

The role of Confirmation Platforms

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, available for several years, are now the de facto standard for confirmation processing and the engine driving operational efficiency and risk-mitigation. Once transactions have been confirmed, these platforms can communicate the transaction details to all other relevant parties such as Central Counterparties (CCPs) and Trade Repositories, thereby dramatically reducing the dependency on manual processes and improving the accuracy, efficiency, timeliness, and security of OTC derivative 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 as an overall goal.

MarkitSERV is a supporter of calls for increased transparency and electronic processing in the OTC derivatives markets, including a wider adoption of faster and automated confirmation for all transactions. To allow regulators to effectively oversee these markets, as many trades as possible need to be confirmed electronically and a record of those transactions needs to be created and made accessible in central locations such as Trade Repositories.

Comments

We are of the view that the description of the tasks of Trade Repositories as well as the considerations in your consultative report are generally appropriate. However, in our opinion, some areas seem ambiguous. Below, we draw your attention to provisions in the report that we think would benefit from clarifications.

Key risks

We support your view that Trade Repositories are a core component of the OTC derivatives market infrastructure, and the continuous availability and accuracy of their data is critical, particularly as they provide inputs to other service providers, including CCPs. Trade Repositories should be in a position to receive information on all recorded transactions.

That said, we are concerned that operational and capacity requirements have been specified as a requirement for participation and access to Trade Repositories. Whilst this certainly represents a reasonable requirement for the service providers, it is not clear whether it would also be appropriate for users of Trade Repositories such as market makers and fund managers. We are concerned that requiring such standards also for clients of Trade Repositories could act as a disincentive to buy-side institutions in particular to posting transactions to Trade Repositories, a problem which has arisen in the recent past.

Proposed factors for consideration by trade repositories and relevant authorities

Ad 1. Legal framework

Your consultation makes statements on how a valid trade could potentially be invalidated through the recording process. It is not clear to us whether you are referring to the situation where an error committed by the Trade Repository does not invalidate a trade or whether you imply that the legal updating of transaction records should always be separated from the Trade Repository.

Please note that for credit, equity and interest rate derivatives, DTCC and MarkitSERV actually do separate the functions of confirming and data warehousing. We are of the view that it would be useful to clarify whether your intent is to make this separation a general requirement.

Ad 2. Market transparency and data availability

While Trade Repositories should make some aggregate data on open positions and trading volumes publicly available on a periodic basis to increase transparency one needs to be careful to only require this information where it is appropriate and available.

Additionally, in this context it is not clear from your considerations whether “geography” refers to the location of the participants, the nature of the underlying products, or both. It is worth noting that whilst the publication of the participants’ geography is possible in principle it would require some additional work, particularly where the identity of counterparties has to be kept anonymous for confidentiality reasons.

Ad 6. Safeguarding of data

We agree that Trade Repositories should devote sufficient resources to ensuring both the confidentiality and the integrity of the information that they store.

It is not clear though if your considerations imply that a Trade Repository is supposed to accept and retain some liability. It is not clear either whether the use of insurance schemes would be possible in practice. Some further clarification in these areas would be helpful.

Ad 9. Communication procedures and standards

You should be aware of the fact that the requirement for the use of consistent data by Trade Repositories to allow interoperability between them would represent a major change from the current practice. It might therefore take significant time and efforts to establish such consistent data standards, as well as be counter to the cost efficiency consideration.

To mention just one of the aspects that is relevant in this context, regulatory authorities would need to clarify whether the use of common counterparty identifiers across Trade Repositories will be required. If that was the case, you should also clarify whether you expect such use of consistent identifiers to apply just within each asset class, or potentially also across different asset classes. Regardless of the responses to these open questions, significant additional work would be required from all relevant parties, including agreement on the actual standards to be used.

Ad 10. Efficiency

We agree that Trade Repositories should be cost effective in establishing interoperability with other Trade Repositories and interconnectivity with other market infrastructures. We also agree that their fees should be fair and reasonable, and pricing of Trade Repository services should generally not be bundled with services like confirmation, reconciliation or compression.

However, we believe that these requirements should not be overly restrictive as this might have a negative impact on the cost and quality of services or might stifle innovation. We do not think that such a recommendation should imply that all post trade services should be separated and we believe that for example it seems reasonable and generally beneficial for users if a Trade Repository could include a settlement service in its price.

Additional items

Finally, we are of the opinion that in the regulatory section a principle should be added to prevent regulators from using the fact that a Trade Repository is based in their jurisdiction to enforce trading or other market practices outside of their jurisdiction.

For example, if the credit Trade Repository was located in a country that introduced a ban on naked CDS it would be reasonable for the national authorities to instruct the Trade Repository to enforce this national ban. However, one must ensure that the Trade Repository could not be employed to ban the recording of short positions more widely, i.e. for transactions that were executed outside the national jurisdiction and would have otherwise not been captured by the legislation.

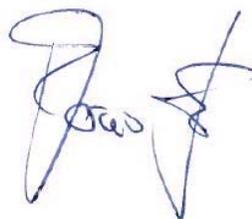
MarkitSERV remains committed to delivering operational and infrastructural solutions and enhancing our services to increase transparency, mitigate risk and achieve operational efficiencies. We hope that you will find our comments helpful. Please do not hesitate to contact us if you require any additional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

Kind regards,



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