Association française des marchés financiers
FINANCIAL MARKET PROFESSIONALS

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Answer to consultation CESR/10-809 on transaction reporting on OTC derivatives and extension of the scope of transaction reporting obligation

The Association française des marchés financiers (AMAFI) has more than 120 members representing over 10,000 professionals who operate in the cash and derivatives markets for equities, fixed-income products and commodities. Nearly one-third of the members are subsidiaries or branches of non-French institutions.

AMAFI thanks CESR for providing it with the opportunity to discuss the issue on transaction reporting. Having said that, we regret that the time allowed to respond to this consultation was so short in the summer time when it is difficult to consult our members.

Nonetheless, given that AMAFI has already worked on these issues in April 2010 (see the AMAFI-FBF response – AMAFI/10-20 - to CESR's consultation paper 09-768 which is still relevant), it is in a position to provide the following answers to CESR's questions.

1) Possible ways to organise transaction and position reporting on OTC derivatives

Option 1: Establish a single reporting regime for both transaction and position reporting on OTC derivatives, based on reporting through trade repositories

Option 2: Define a new position reporting regime through trade repositories and allow MiFID transaction reporting through trade repositories

AMAFI fully approves the overarching principles proposed by CESR in order to organize the reporting of transactions and positions within the EU. In particular, and it was a proposal we made in our response to the previous consultation, the use of Trade Repositories to avoid duplication of reporting is very welcome.

We favour option one, which is the best way to achieve a single regime with no risk of duplication and divergence among Member States. The fact that only a few participants (the trade repositories) will report (instead of hundreds of firms) will contribute to a higher quality and completeness of data and will bring homogeneity in reporting practices. We feel that Option 2 will not meet the overarching principle of data quality as well as Option 1.

Also, the con of Option 1 about the multiplication of possible reporting channels will be even more acute for Option 2, and Option 2 will also lead to the same regime applying to different types of information to the extent that firms can choose to use a trade repository for their reporting.

AMAFI ■ 13, rue Auber ■ 75009 Paris ■ France
Phone : +33 1 53 83 00 70 ■ Fax : +33 1 53 83 00 83 ■ http://www.amafi.fr ■ E-mail : info@amafi.fr

AMAFI suggests setting up a joint working group (with industry's and trade repositories' representatives and CESR's members) in September in order to discuss the technical aspects of the reporting and devise a proper set up.

2) Extension of the scope of transaction reporting obligations

Do you agree with the extension of the scope of transaction reporting obligations to the identified instruments?

AMAFI is in favor of the extension of the scope of financial instruments reported as long as it is in phase with the financial instruments to which the Market abuse directive, currently under review, will apply.

Accordingly, AMAFI does not consider that the transaction reporting regime should apply to (see AMAFI's response - AMAFI/10-44 - to the EC consultation of July 2010 on the review of the Directive 2003/6/EC):

- All financial instruments that are admitted to trading only on MTFs, as some MTFs should be left out of the scope of the MAD
- All OTC derivatives, as some derivatives may not pose the same threat in terms of market abuse. Derivative transactions whose underlying is within the scope of the MAD should be reported. Other derivatives whose underlying are not financial instruments that present the same characteristics as securities should be assessed on a case-by-case basis by ESMA to decide whether or not they should be placed within the scope of the MAD and hence reported.

Contact:
Emmanuel de Fournoux – Director Markets Infrastructure, edefournoux@amafi.fr + 331 50 83 00 70