

Committee of European Securities Regulators (CESR)

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– submitted online via website –

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## **EAPB comments on the CESR consultation paper on trade repositories in the European Union (CESR/09–837)**

The European Association of Public Banks (EAPB) very much welcomes the opportunity to comment on the consultation paper on trade repositories and kindly ask CESR to take our comments into account.

We fully agree with the approach of establishing a trade repository for all major OTC asset classes. However, we have some concerns that we would like to elaborate a bit more in the following.

### **1. Functions and characteristics of a trade repository**

**– The basic function of a trade repository consists in reporting and forwarding collected data to the competent authorities.**

The core tasks of the trade repository and its additional functions need to be distinguished. Additional functionalities that go beyond the core tasks are not essential. Furthermore, for example in the case of lifecycle–handling, they involve a higher implementation effort than unilateral reports. Additional functions should only be exercised on the basis of the specific requirements of the users of the trade repository. Additional mandatory functions presuppose a certain degree of standardisation and could conflict with the objective to capture all transactions, notably non–standardised ones.

**– Apart from that, transaction data should remain confidential.**

Transaction data should not be made available to the public and other market participants. Trade secrets of the counterparties need to be protected.

**– Combining a trade repository with a CCP does not work.**

Combining the functionality of a trade repository with the one of a CCP only works without any problem if all products are suitable for CCP–clearing. This is not the case for non–standardized products. Transactions involving such products would be excluded.

## 2. Availability of data by trade repositories

- **Only the regulator should have access to data on individual derivative contracts.**

The same applies for data which allows insight into the identity of the contractual parties and specific commercial terms of the transaction. But even with regard to data accessible by regulators, existing legal restrictions need to be observed. All limitations under applicable data protection and privacy laws regarding the transfer of data across jurisdictional borders need to be respected. Serious concerns would arise if detailed data on individual transactions were to be provided to infrastructure providers, market participants, or the general public. If at all, access of the general public should be limited to aggregate data which should not contain any sensitive details. Market participants should only have full access to their own transaction data and the aggregate data made available to the general public.

- **There is no need to differentiate between the various asset classes.**

Only in order to obtain a representative overview of the market a differentiation of asset classes may be necessary with regard to the scope of market participants to report to a trade repository. For example, financial institutions account for the large majority of the market for CDS, which does not apply for interest or commodity derivatives.

- **The reliability of the trade repository data is a key objective.**

The definition of harmonised minimum standards for the way in which data needs to be reported to a trade repository would ensure the reliability of the data. However, it is indispensable to limit the complexity of such standards in order to keep the necessary level of flexibility. Otherwise they would act as barriers to data reporting.

## 3. Location of a trade repository

- **There is no need for establishing a trade repository in the EU if a global repository already exists elsewhere.**

Compliance with the legal requirements of the member states, the transparency towards European regulators and the access rights of these regulators need to be ensured. A parallel European solution only needs to be discussed, if this is not the case.

**– There is no need for a European repository for each OTC asset class.**

There is no need to establish a trade repository in Europe from an operational point of view, if a trade repository already exists elsewhere. It should be avoided that two or even more trade repositories will be responsible for the same asset class. The existence of multiple trade repositories for one asset class would conflict with the underlying rationale behind the establishment of trade repositories since each trade repository would only be able to give a partial insight into the market. The obligation to report a transaction to multiple trade repositories may result in incomplete or even contradictory data.

**– It would be of major importance to ensure the interoperability of multiple trade repositories.**

This as a last resort, if the establishment of more than one trade repository for the same asset class cannot be avoided. Alternative planning depends most of all on the profile of the trade repositories and the additional services they offer.

#### **4. Legal framework for trade repositories**

**– Trade repositories should be subject to harmonised EU requirements.**

A trade repository needs to be subject to comprehensive supervision and subject to strict confidentiality requirements with regard to the data received. The applicable regulations must also ensure that the data is only made available to regulators in accordance with predetermined rules and regulations. Only a fully harmonised regulatory and supervisory framework can prevent regulatory arbitrage.

**– Regulators should adopt standards in cooperation with the industry.**

Harmonization and standardisation are driven by markets and set by regulators and industry organizations. The industry needs such standards to continually improve transaction processing. Regulators and industry therefore should seek to ensure a harmonised set of minimum requirements and a uniform delivery protocol for reports. In turn this would improve the reliability of the data, as well as the efficiency, liquidity and transparency.

As closing remarks, we again would like to express our general support for the initiative to establish trade repositories for all major OTC asset classes. We believe that international coordination is of major importance, though, in particular in order to prevent that market participants are bound to several trade repositories for a single asset class. The industry initiatives already underway in this area should also be taken into consideration.



## European Association of Public Banks

– European Association of Public Banks and Funding Agencies AISBL –

Should you have any questions, please do not hesitate to contact us.

Kind regards,

A handwritten signature in black ink, appearing to read 'Schoppmann', written in a cursive style.

Henning Schoppmann  
EAPB

A handwritten signature in black ink, appearing to read 'Bartels', written in a cursive style.

Boris Bartels  
EAPB

*The European Association of Public Banks (EAPB) represents the interests of 34 public banks, funding agencies and associations of public banks throughout Europe, which together represent some 100 public financial institutions. The latter have a combined balance sheet total of about EUR 3,500 billion and represent about 190,000 employees, i.e. covering a European market share of approximately 15%.*