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Bundesverband Investment
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Mr. Carlo Comporti
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**CESR-Consultation on guidance to report transactions on OTC
derivative instruments
Ref.: CESR/09-768**

Dear Mr. Comporti,

BVI¹ fully supports CESR's ongoing efforts to improve market transparency in order to prevent market abuse. Concerning the specific issues raised in the latest Consultation Paper "guidance to report transactions on OTC derivative instruments", we would like to comment as follows:

Population of fields per type of derivative

Q1: Do you agree that the Unit Price should be the premium per single underlying of the contract as it is in market practice and not per contract?

We agree with CESR's assessment that the Unit Price should be the premium per single underlying of the contract as it is the market practice.

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¹ BVI Bundesverband Investment und Asset Management e.V. represents the interests of the German investment fund and asset management industry. Its 84 members currently manage assets in excess of € 1.7 trillion, both in mutual funds and mandates. BVI's ID number in the EU register of interest representatives is 1575282143-01. For more information, please visit www.bvi.de.

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Q2: Do you agree that the Venue Identification should be XXXX in order to differentiate transactions on OTC derivative instruments from off-market transactions of instruments admitted to trading, marked as XOFF? Do you think this should also be the case if the transaction is executed on an MTF?

We support the idea to use the code “XXXX” as the description of the trading venue for OTC derivatives as it is included in the ISO 10383 MIC Standard. Transactions executed on an MTF should be marked with the relevant MIC.

Q3: Any other views on the above?

We recommend the use of the ISO standard for all relevant data fields.

OTC options

Q4: Do you agree that in the case of multiple expiration dates, the field should be filled in with the latest expiration date?

We suggest to report the expiration date which has been agreed between the parties to the documented trade details. In case of multiple expiration dates a corresponding set of fields is necessary.

Q5: Any other views on the above?

No comment.

Contracts for Difference (CfDs)²

Q6: Do you agree that an option on a CFD on an equity is not a complex derivative as the term of the bet can be accommodated in the transaction reporting fields?

CESR needs to clarify and agree with their national supervisory authorities the description of the instrument type “complex” derivatives as this seems to be not clear enough. The market participants require a clear understanding of CESR categories between “plain vanilla” and “complex” derivatives.

² CfDs are also called 'equity total return swaps' by some market participants



Spread Bets

Q7: Do you agree that the Quantity field should contain the amount of the „bet“?

No comment, not allowed for regulated funds (e.g. UCITS)

Q8: Do you agree that the Unit Price field should contain the reference price for the transaction?

No comment.

Q9: Do you agree that the Unit Price should be in the currency of the underlying instrument?

No comment.

Q10: Do you agree that the Price Notation field should reflect the currency of the underlying instrument even when the spread bet is made in a different currency?

No comment.

Q11(a): Do you agree that the Price Multiplier field should be populated to validate what movement in the price of the underlying instrument the spread bet is based on e.g. 100 for 1 point (cent/penny); 1 for 1 Euro/Pound movement?

No comment.

Q11(b): Do you agree that the spread bet will normally be based on a movement of one point (cent/penny) movement in the price of the underlying instrument and the Price Multiplier field should only be populated when the spread bet is not based on a movement of one point?

No comment.

Q12: Do you agree that a transaction report is required for opening and closing a spread bet and for the expiration of a spread bet?



No comment.

Q13: Do you agree that an option on a spread bet on an equity is not a complex derivative as the terms of the bet can be accommodated in the transaction reporting fields?

See our answer to question 6.

Q14: In relation to spread bets on other MiFID instruments, do you have any views on how the fields in a transaction report should be populated?

No comment.

Equity Swaps

Q15: Do you agree that the buyer of the Equity Swap (Buy/Sell Indicator field, B) should be the Fixed Rate Payer?

We recommend that the trading parties decide in their bilateral agreement who the Fixed Rate Payer should be.

Q16: Do you agree that the Quantity field should be the notional value of the Equity Swap or the number of shares subject to the agreement?

As there are different data necessary, two fields should be provided.

Q17: Do you agree that the Unit Price field should contain reference price of the underlying equity on which the equity returns are calculated?

As there are different data necessary, two fields should be provided.

Q18: Do you consider that when the initial reference price is not known when the Equity Swap is traded, this product should be considered a Complex Derivative?

See our answer to question 6.



Q19: Do you agree that Equity Swaps with two Equity legs should be reported with two different transaction reports with the same Transaction Reference Number for both reporting firms?

We believe that it is useful to have only one report which contains all trading details with the same Transaction Reference Number.

Credit Default Swaps

Q20: Which instrument should be reported as the ultimate underlying instrument for a CDS? The market clip, the reference bond if any, or the ISIN of the stock of the issuer? (Warning: these are mutually exclusive options, i.e. participants would not have the choice between different reporting options. Once one of them has been selected, it would become the only standard for reporting)

We support CESR's view that the reference bond ISIN should be reported to the regulators.

We strongly suggest the use of the ISO standard for the identification of OTC transactions in TREM. Since the use of ISIN is quasi mandatory under a number of European Directives, we recommend using ISIN not only for securities identification in TREM but also as the preferred identifier for derivative instruments to be covered within TREM.

The Markit Clip should only be used if the competitive issues surrounding the use of a commercial identifier are clearly solved. The use of the "market clip" should not require a license agreement between the reporting parties and Markit. The pricing of the Markit service should reflect that it is only necessary to fulfil the regulatory reporting obligations, i.e. pricing should be at cost and increases should be based on inflation or increase of service levels only (e.g. increase of Markit clip coverage).

Q21: Do you agree that the price should be an equivalent all-running payment price expressed in basis point?

We recommend that the decision should be left to the trading parties.



Q22: Do you agree the price notation should be the currency of the debt protected by the CDS?

We agree with CESR`s position.

Q23: Do you agree that early terminations should be reported, while assignments and compression should not be reportable?

We agree with CESR`s position.

Complex derivatives

Q24: Do you have any other relevant examples that should be added into CESR guidelines? Please give detailed explanations of the example.

No comment.

Q25: Do you agree that the Instrument Description field should be required to be populated at local level, in order to explain the derivative being reported?

Yes, we agree.

We hope you will find our comments helpful. Our response can be made public. We remain at your disposal for any further discussion.

Yours sincerely

BVI Bundesverband Investment und Asset Management e.V.

Signed:
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Signed:
Marcus Mecklenburg