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ESMA
103 Rue de Grenelle
75007 Paris
France

Deutsche Bank AG
Winchester House
1 Great Winchester Street
London EC2N 2DB

Tel: +44 20 7545 8000

Direct Tel +44 20 7545 1903
Direct Fax +44 20 7547 4179

DB Response to ESMA call for evidence on transaction reporting

Dear Sir, Madam,

Deutsche bank appreciates the opportunity to respond to ESMA's call for evidence on transaction reporting. We strongly support the effort to harmonise transaction reporting across the EU and would welcome further guidelines.

Please find below our views on the elements ESMA should consider in its work on guidelines. In particular, we would stress consistency with the Regulation on OTC derivatives, central counterparties and trade repositories (EMIR) and the introduction of a globally agreed legal entity identifier (LEI).

Questions in the call for evidence:

- 1 What transaction schemes should ESMA consider in its work on harmonised transaction reporting guidelines? Please explain and justify.*

Deutsche Bank supports the detailed response that the BBA has made to this question. DB has contributed to the collation of the wide range of transaction scenarios that are covered in the annex 1 of the BBA response.

- 2 What updates and clarifications need to be introduced to the OTC derivatives reporting guidelines?*

DB considers it essential that there be a consistent set of requirements regarding data fields and their interpretation across jurisdictions and reporting regimes. In addition, there needs to be consistency between the data which is reportable under MiFID and that under EMIR, to ensure that regulators are receiving a homogenous data set that is fit for the purposes of market abuse surveillance as well as more general supervisory work.



We encourage ESMA to harmonise their OTC reporting guidelines with the technical standards that are being produced to implement EMIR. This will allow the effective implementation by the industry of reporting to a Trade Repository once (as envisioned in the directives), with the regulators then taking the data they need from that repository.

Given that only four member states have implemented the reporting of OTC derivatives under MiFID at this time, we would suggest that ESMA pay careful attention to the experience and advice which those member states' regulators can give, especially as OTC derivatives by their nature are complex and often not standardised.

Common reporting requirements should also be established for additional instrument classes that will come into scope of MiFID 2.

3 *What other aspects of transaction reporting should ESMA consider in its work on harmonised guidelines? Please explain and justify.*

Legal Entity Identifier

DB fully supports the inclusion of unique (globally consistent) client/counterparty identifiers in transaction reports. Anything less than a unique ID at a global level would not give the regulators the appropriate tools to undertake their market abuse surveillance work as effectively as possible.

The global industry has made a considerable effort to develop and socialise a unique identifier over the last two years. As such, DB is keen to see the adoption of the Legal Entity Identifier ("LEI") initiative, which is supported by the Financial Stability Board and which is reflected by the ISO standard for a legal entity identifier (ISO 17442:2012). Ideally, the LEI would replace the existing BIC codes.

Business life cycle events

We note that EMIR does not consider business life cycle events (such as exercise and terminations) as reportable events, whereas the proposal for MiFID 2 does. We would stress the importance of harmonised reporting standards across all jurisdictions and of reporting regimes for business life cycle events.

EMIR Reporting

Article 1 (1) of EMIR states:

*"This regulation lays down clearing and bilateral risk management requirements for OTC derivative contracts, reporting requirements for **derivative contracts** and uniform requirements for the performance of activities of central counterparties and trade repositories."*

This implies that **ALL** derivatives, not just OTC derivatives, will be reportable to the repositories. In this context, we suggest ESMA standardise its guidelines in order to bring them in line with proposals already laid out by the Dodd Frank Act. Dodd Frank excludes exchange traded listed derivatives from reporting to repositories on the basis that they are already reported directly to the competent authorities by both the exchanges on which they are traded and the firms who trade on those exchange and with clients.



Apart from the fact that requiring the reporting of exchange traded listed derivatives into a repository seems to have little added benefit, it will cause unnecessary costs to regulators as well as banks to undertake the reprogramming.

We trust these comments are helpful. Please do not hesitate to contact us should you wish to discuss them further.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'AP' followed by a horizontal line.

Andrew Procter
Global Head of Government and
Regulatory Affairs