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## **ISDA response to CESR Call for Evidence on the technical standards to identify and classify OTC derivatives for TREM; CESR's Transaction Reporting Mechanism**

### **Introduction**

*ISDA, which represents participants in the privately negotiated derivatives industry, is the largest global financial trade association, by number of member firms. ISDA was chartered in 1985, and today has over 780 member institutions from 56 countries on six continents. These members include most of the world's major institutions that deal in privately negotiated derivatives, as well as many of the businesses, governmental entities and other end users that rely on over-the-counter derivatives to manage efficiently the risks inherent in their core economic activities. For further information, please visit [www.isda.org](http://www.isda.org).*

ISDA welcomes this Call for Evidence from CESR, and is delighted to have the opportunity to provide input into CESR's considerations on this issue.

### **Response to questions**

#### **1. *What technical standards do you use or intend to use to classify and identify OTC derivatives?***

There are currently no comprehensively-adopted industry standard terms or identifiers (such as the ISO standards for shares and bonds) in existence for the purposes of identifying and classifying OTC derivatives.

- 2. *If you do not use standards, how do you classify and identify OTC derivatives within your IT systems?***
- 3. *What characteristics do you use to create identifiers for OTC derivative contracts for your systems (if relevant)?***

The terms of the UK FSA's reporting regime are super-equivalent to those in the MiFID regime in that they extend to the reporting of OTC derivatives. The UK regime sets out in detail a list of reportable

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transaction attributes or variables. They draw, where appropriate, on existing identifiers such as Swift Bank Identifier Codes but go beyond that to include fields relating to specific OTC derivative product features, to facilitate the capture of OTC derivatives within the coverage of the reporting obligation. FSA-supervised firms each track and report against these fields within their systems and process infrastructures to drive the reporting returns in respect of OTC derivatives. Typically this process occurs as part of the trade capture (or "booking") process, in other words, at a point very close to trade inception.

If a reporting obligation in respect of OTC derivatives is to be extended across the EU, rather than create a new reporting methodology, we would suggest that CESR might seek to utilise the specifications and processes that have been put in place to meet the FSA's requirements, extending the distribution of the reporting as necessary, including into TREM. This approach would also ensure consistency of reporting content and form, and would address the otherwise-attendant risks of having various different approaches across the region. Using a common methodology would afford transparency and clarity to the process and would be a tool which the regulators could all work with in parallel. It would also likely be the most cost-efficient proposition.

ISDA will work to establish the extent to which the fields set out by the FSA can be written into FpML (Financial Products Markup Language) which is the industry-standard protocol for complex financial products. It is based on XML (eXtensible Markup Language), the standard meta-language for describing data shared between applications.

### **Further comments**

As CESR is aware, some OTC derivatives transactions are cleared by central counterparties (CCPs), such as the LCH Swapclear service. This is expected to grow over time (for example, as a result of the introduction of CCP clearing for OTC credit default swaps). In order to maximise efficiency and avoid duplication of effort, we consider that firms should not be required to provide transaction reports on cleared transactions as regulators should have access to relevant information through the CCP, which should be treated as an approved reporting system (which will mean, as with exchange traded derivatives, the regulators making arrangements among themselves to share information). However, firms should be able to report such transactions if they wish as there may be cases where it is difficult for firms to structure their transaction reporting arrangements to distinguish cleared and non-cleared OTC transactions.

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We consider that it is important to keep sight of the main objective of transaction reporting OTC derivatives, which is to give regulators a fuller picture of trading activity affecting equity and debt securities admitted to trading on regulated markets for which they are responsible. There would be additional issues if, as indicated by the CESR paper, the reporting arrangements were extended to OTC derivatives linked to derivatives admitted to trading on a regulated market (the UK system, for example, does not require reporting of such transactions) or even more broadly.

We would also propose that CESR members take note of the UK experience which has indicated the limited value of requiring reporting OTC derivatives which refer to baskets or indices of debt or equity securities. The FSA has recently announced changes to its rules to exclude from its transaction reporting requirements OTC derivatives the value of which is derived from, or which is otherwise dependent on, multiple equity or multiple debt-related financial instruments, except where the multiple financial instruments are all issued by the same issuer.

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