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Submitted to: secretariat@cesr.eu

CESR 09/837: Trade Repositories in the European Union: Response of LSEG

Thank you for the opportunity to provide comments on the functions, data and transparency requirements, location and legal framework for trade repositories ('TR') for OTC derivatives. Responses to the individual questions posed can be found in the Appendix.

The Group agrees that the establishment of TRs could be an important step in the development of tools that allow regulators to have access to more information regarding trading in derivatives markets.

In particular we understand their need to be able to obtain a clear understanding of the size of the market, the number of transactions, the size and risk profile of outstanding positions and their potential impact in the event of a default or systemic failure.

We agree that the use of trade repositories could be such a regulatory tool. We also believe that an approach that builds on the trade repository model could be useful in developing effective arrangements for trade confirmation and affirmation in these markets and any proposals must take account of these aspects.

However, we believe it is important to make clear that for any system of trade repositories to be fully effective, a critical part of the exercise will be determining the requirements for the system and processes to be applied in collecting and analysing the information. Material submitted to a TR must be in a standard, consistent format, capable of being interrogated and delivering meaningful and comprehensive reports and analysis, in much the same way (albeit even more complex) as the standardisation that will be required for clearing OTC products. Without this, the ability of regulators to build their understanding of the market will be compromised.

In delivering these goals we note the European Commission's Communication on future policy actions ensuring efficient, safe and sound derivatives markets. They propose legislation to mandate reporting to trade repositories of all OTC derivative transactions not executed on-exchange or cleared through a CCP. We agree that on-exchange and CCP cleared transactions should not be subject to separate reporting to trade repositories, where clearing provides the same information.

We hope our views are helpful to CESR's work. Please do not hesitate to contact me if you wish to discuss any aspect of this letter or the Appendix.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Leighton', with a long horizontal flourish extending to the right.

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APPENDIX

Key Issue – Requirements for input and functionality

A fundamental aspect of the establishment of effective trade repositories ('TR') is the quality of data that is submitted to them. Without standardised and consistent data it will be difficult for regulators and other organisations to receive information that is complete and accurate and which can be combined with data from other sources to build a comprehensive picture of the OTC market.

To be fully effective, therefore, a critical part of the exercise will be determining the requirements for the system and processes to be applied in collecting and analysing the information. The intention, which we support, of enhancing the transparency of OTC derivatives markets will only work if cogent, consistent and comparable data is available. A collection of individual records that are not capable of aggregation and analysis will not, of themselves, provide this transparency.

Functions and characteristics of a trade repository

Q. Do you agree with the functional definition of what constitutes a trade repository?

Q. What other characteristics of a TR do you consider essential?

We agree with the functional definition of a TR as defined here. We believe that OTC derivative transactions not executed on-exchange or cleared through a CCP should be reported to a TR. On-exchange and CCP cleared transactions should not be subject to separate reporting to TRs, where clearing provides the same information.

We acknowledge the range of other services that a TR could additionally supply or support. In particular we believe that trade confirmation and affirmation services can offer an efficient way of reducing risk and settlement failure. In our view, the preferred approach should be that such services could be supplied by a TR but also by other providers, a number of whom offer fast, direct, easy to use and cost effective solutions. They can be used to affirm and/or match post-trade confirmation details, which can create the data required to be submitted, where relevant, to a TR.

We believe that CESR should additionally review any proposed OTC trade confirmation/affirmation process, with a view to ensuring that brokers receive positive affirmation from their clients for all OTC derivative trades. This could bring benefits to the market as a whole and could also support the creation and submission of data for use by a TR.

We therefore recommend that when considering functional and data requirements for a TR, it will be important to define the terms/standards for the transmission of accurate information from other systems to TRs, and between TRs. The TR regime could act by setting the framework that could drive trade confirmation and affirmation standards.

Availability of data by trade repositories

Q. In your opinion, what kind of information should be available to: regulators, market participants, and the general public respectively? Please differentiate by asset class where appropriate.

Q. Do you agree that trade repositories should provide adequate processes to ensure the reliability of the data provided? How could reliability be ensured?

Q. Do you see any other entity with legitimate information needs with regard to OTC derivatives trades recorded in a trade repository? If yes, please explain.

We believe that regulators should have access to all details of OTC derivative trades that are captured in the trade repositories. Market participants should have access to their own data. Information provided to the public and other market participants, as implied by the Consultation, is more problematic. Whilst we believe information provided to the public should be limited to aggregate data, if the TR is to have any value as a risk management tool for potential counterparties, it will be necessary to consider what additional information is disclosed. This will raise a number of issues around confidentiality and disclosure that have not been considered or implemented in any other market. Counterparties do not traditionally disclose their exposures to other counterparties, only to regulators or neutral third parties (e.g. CCPs).

We consider the use of robust processes to ensure completeness and accuracy of data provided by a TR to be essential. This is usually best achieved by two-sided input. As mentioned above, we believe that other systems (e.g. trade confirmation) should also play an important role in the transmission of accurate information to TRs and therefore a common interface specification for input to, and output from, a TR should be developed. This should include a connectivity protocol to allow TRs to communicate amongst themselves.

The use of common reference data within TRs and other systems will help to maintain the consistency and accuracy of data processed. We believe CESR can help by mandating the use of unique instrument identifiers for OTC transactions. As the UK's National Numbering Agency, we allocate ISINs and SEDOLs for OTC instruments to help firms share information with counterparties. However, regulatory pressure to adhere to standards like this would help to reduce middle / back office costs and risks.

Location of a trade repository

Q. Do you see a need for establishing TR facilities in Europe if a global repository already exists elsewhere? Do you believe that a European repository is needed for each OTC asset class? Please give reasons.

Q. If yes, what form should the trade repository facilities to be established in Europe take (e.g. single point of information, back-up facility) and which trades should be registered in such facilities (e.g. trade of European market participants, trades referring to European underlying entities)? Please specify.

We agree with CESR's preliminary position that the establishment of one or more trade repositories should be determined by market forces. The number of TRs is less important than the establishment of Europe-wide standards on data format and capture, reporting requirements, interconnectedness and mandatory use. If standards exist covering how TRs operate, what data they hold, how they connect with other systems and how they disseminate information, there would be no need for a requirement for a central TR.

This would not preclude, however, the establishment of, or migration to, single TRs operated for specific asset classes, were there market demand.

We do not see a need for the development of TRs by European or national regulators. This is not an activity that is naturally within their scope and is better left to the market to operate, in accordance with harmonised standards.

The EU provides the environment for a harmonised approach to the establishment and use of TRs. As regards agreeing a common approach between the US and Europe, we suggest that the challenge in agreeing common standards should not be underestimated. We suggest that this points to a primary goal of establishing TRs within Europe in the first instance, rather than searching for a global solution.

Legal framework for trade repositories

Q. Do you think that there should be harmonised EU requirements for the regulation and supervision of trade repositories?

Q. To what extent do you expect that protocols, common market practices and the like, surrounding proposed solutions for trade repositories, could promote harmonisation and foster safety and efficiency in the post trading process?

We agree that there should be harmonised EU requirements for the regulation and supervision of trade repositories. We believe that authorisation and supervision of TRs should be undertaken at national, not EU, level. We note the ESCB-CESR work and the intention of the EC to propose future legislation. We strongly support the development of appropriate standards and look forward to engaging in debate on these.

We would emphasise the need for protocols and common market practices to focus on the quality and format of data submitted to TRs. If the regulators cannot accurately analyse and understand the outputs from TRs, they will not be able to carry out their mandates to ensure market integrity and enhanced transparency will be compromised. We believe that for any system of trade repositories to be fully effective a critical part of the exercise will be determining the requirements for the system and processes to be applied in collecting and analysing the information. Material submitted to a TR must be in a standard, consistent format, capable of being interrogated and delivering meaningful and comprehensive reports and analysis.