



Deutsche Börse Group

Deutsche Börse's Response
to
CESR
Call for Evidence

on the technical standards to identify and classify OTC
derivative instruments for TREM, CESR's transaction reporting
exchange mechanism

Frankfurt / Main, 27 February 2009

Deutsche Börse Group appreciates the opportunity to respond to CESR Call for Evidence on the technical standards to identify and classify OTC derivative instruments for TREM, CESR's transaction reporting exchange mechanism.

The technical aspect of the Call for Evidence deals with classification and identification standards for OTC derivatives for transaction reporting purposes, where we believe that the OTC sell-side industry will be better placed to answer this question. We would like to use this opportunity to provide the market infrastructure perspective on selected aspects of transaction reporting and OTC derivatives markets in the light of market integrity.

In general, we believe that transaction reporting is one of fundamental tools to enhance market integrity by enabling Competent Authorities to effectively conduct oversight of market abuse. We support measures which enhance and strengthen market integrity and we continuously work on delivering solutions to the market for achieving this important goal which proves even more essential in the light of the recent financial markets turbulence. A number of examples of Deutsche Börse Group activities outline our commitment to the enhancement of market integrity.

- § Deutsche Börse AG has a long experience in providing services to its clients who are subject to the transaction reporting obligation via its transaction reporting system TRICE. As we have outlined in our response to the CESR Call for Evidence on the scope of MiFID transaction reporting in December 2008, MiFID has brought some significant changes in this area. As a matter of fact, following 1:1 implementation of MiFID transaction reporting provisions in Germany, the scope of financial instruments currently reported to the Competent Authority is narrower than prior to MiFID. For example, transactions executed on the open market or some OTC derivatives which have been previously reported to BaFin are not subject to transaction reporting anymore.
- § In addition to the service supporting our clients in complying with the transaction reporting obligation, Deutsche Börse Group actively participated in the elaboration of a cost-effective solution for unique identification of on-exchange securities derivatives for the purpose of transaction reporting where no ISINs at series/settlement level are used. Joint efforts of the financial industry and CESR led to an agreement on the Alternative Instrument Identifier (AII), which enables unique identification of securities derivatives by Competent Authorities when exchanging transaction reports within TREM. We note that UK's FSA in its consultation paper 08/16¹ proposes as

¹ Consultation paper 08/16, October 2008.

minimum content of the transaction report for OTC derivatives subject to consultation a set of information that goes in the direction of the AII. We welcome this approach, as we think that the AII has proven itself as unique identification of on-exchange securities derivatives for transaction reporting purposes and a similar approach for unique identification of OTC derivatives might be considered as well. However, we believe that further work needs to be done in clarifying the scope of OTC derivatives instruments subject to transaction reporting in the first place, before addressing identification and classification issues and subsequently exchange of OTC transaction reporting data within TREM.

- § As the most recent undertaking of Deutsche Börse Group to provide solutions for enhancement of market integrity is our planned offering of a central clearing solution for OTC credit default swaps. Deutsche Börse's subsidiary, Eurex Clearing AG, responds herewith to European Commission's demands for a remedy to recent turbulences in the OTC credit derivatives market and the negative effects on stability of financial markets in general². Eurex Clearing AG firmly believes that central clearing services are the most suitable option to effectively mitigate existing counterparty risk in OTC credit derivatives market and improve market transparency. As a prerequisite for this central clearing solution, all OTC derivatives trades need to be registered which is necessary to make open risks transparent for subsequent regulatory reporting and clearing. Therefore, we explicitly welcome the concept of a European Data Warehouse for OTC derivatives trade registration purposes currently in discussion. If these market-based solutions, i.e. European Data Warehouse and Central Counterparty for OTC credit derivatives, are enhanced by the market, an infrastructure will be established which increases transparency in position risks, effectively mitigates systemic risks and provides for regulatory reporting.

We are grateful for being given the opportunity to provide our views to this Call for Evidence and are happy to contribute to any further discussion.

² Please see also our response to CESR consultation paper Transparency of corporate bond, structured finance product and credit derivatives markets submitted on 19 February 2009.