



Spread Betting Association

31 March 2010

The Committee of European
Securities Regulators
11-13 avenue de Friedland
75008 PARIS
FRANCE

(sent via www.cesr.eu)

Dear Sirs

SBA Response to CESR Consultation Paper - (CESR/09/768)

The Spread Betting Association is grateful for the opportunity to respond to CESR's consultation paper, *Consultation on guidance to report transactions on OTC derivative instruments*.

1. The Spread Betting Association ("SBA")

The SBA is an organisation that represents firms who offer spread betting services. It is worth noting that the SBA represents firms responsible for approximately 97% of spread bet transactions across the EEA and that our member firms have had experience of transaction reporting under the FSA regime since 2000.

2. General response to the Consultation Paper

The SBA recognises the important role that transaction reporting plays in the monitoring and control of market abuse. We therefore strongly support CESR's efforts to make transaction reporting compulsory in all EU member states.

We are pleased that the transaction reporting scope is limited to OTC instruments referenced to equity and debt instruments admitted to trading on regulated markets, as we believe this is the area in which transaction reporting can provide the most value.

As mentioned above, our member firms have been subject to the FSA transaction reporting regime since 2000 and it is our view that the current FSA regime works very well. Because the FSA's regime has been embedded into our member firms' business practices for so long, any changes to this regime may have significant cost implications for our members. We therefore ask CESR to consider these implementation costs when making final guidance on OTC derivative transaction reporting.

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3. Responses to specific questions

Further to our general comments above, we submit the following responses in answer to the specific questions from the consultation paper:

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?

Yes.

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?

Yes, our member firms are accustomed to using XXXX as the trading field identifier for OTC instruments. Further, because the legal status of an OTC derivative is different to a listed derivative traded off exchange, we believe that the XXXX trading field adds valuable granularity to transaction reports. There would be a significant cost implication in changing to XOFF reporting, due to changes in software, validation and testing, and we do not believe this extra cost is warranted given the change results in less detailed transaction reporting.

Because shares traded via MTFs are fungible with trades executed on the incumbent exchange, we believe that shares trades done via MTFs should be reported via a specific code for the MTF in question, as per listed futures reporting (i.e. via MIC code).

Q3: Any other views on the above?

We strongly believe that the proposed list of derivative types should be expanded to include “spread bet on an option on an equity” and “CFD on an option on an equity”. Therefore, the list at page 7 of the consultation paper would read:

OTC derivative specific requirement - This would be one letter according to the following:

- | | |
|--|----------|
| • Options | O |
| • Warrants | W |
| • Futures/forwards | F |
| • CFD on option on equity | Y |
| • All other CfDs and TRS | D |
| • Spread bets on option on equity | Q |
| • All other spread bets | X |
| • Swaps (other than CfDs, TRS and CDS) | S |
| • CDS | Z |
| • Complex derivatives | K |

The codes suggested above are in line with current FSA reporting requirements.

If these two derivative types are included, the table in section F on page 9 of the consultation paper needs to be updated accordingly:

	Options	Warrants	Futures	CFD – equity option	Other CFDs & TRS	SB – equity options	Other SBs	Swaps (other than CFD, TRS, CDS)	CDS	Complex Derivatives
Put/call identifier	M	M	N	M	N	M	N	N	N	O
Price multiplier	M	M	M	O	O	M	O	M	N	O
Strike Price	M	M	N	M	N	M	N	N	N	O
Expiration Date	M	M	M	M	N	M	O	M	O	O

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

Yes.

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

We agree that this type of instrument should not be classified as a complex derivative.

However, we believe that the instrument is more accurately described as a “CFD on an option on an equity” as opposed to an “option on a CFD on an equity”.

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

Yes.

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

Yes

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

Yes, the Unit Price should always be reported in the currency of the underlying instrument.

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. We strongly believe that the price notation field should reflect the currency of the spread bet – i.e. the currency of the stake.

We believe that a transaction report should reflect the true nature of the transaction entered into by the firm and clients. Reporting the currency of the underlying does not accurately reflect the traded instrument. Using a practical example:

Say a client enters into a spread bet with a firm in relation to Ryanair shares. The client bets £10 per point that Ryanair shares will go up. The bet is opened at a price of 390cents. The client wins £10 for every point that Ryanair goes above 390cents. Assuming the bet closes at 398 cents, the client will win £10 x 8 points = £80.

The above example shows that as soon as the spread bet is opened, the price of the underlying becomes an index of sorts, and the currency of the underlying becomes irrelevant to the outcome of the spread bet.

If firms were required to report in the currency of the underlying, they would need to convert the stake into the underlying currency when reporting the Quantity field. We believe this FX conversion makes the transaction report less robust and produces a less accurate record of the actual transaction that took place.

Finally, because firms will need to report the ISIN code in the Underlying Instrument Code, the regulator receiving the transaction report can clearly identify the currency of the underlying instrument. However, unless firms are permitted to record the currency of the spread bet in the Price Notation field, the relevant regulator will have no way of identifying the actual currency of spread bet being reported.

Thus, it is our firm conviction that the Price Notation field should reflect the currency of the spread bet, as opposed to the currency of the underlying reference product.

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?

Yes

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?

Yes

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?

In most circumstances, yes.

The exception to this is daily rolling spread bets. For daily rolling spread bets, we believe firms should just report once when the bet is opened, and again when the bet is eventually closed. We believe that requiring firms to submit reports each time a rolling bet is closed at end of day and subsequently re-opened immediately thereafter is not helpful to regulators and increases firms' transaction reporting costs significantly.

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?

We agree that this instrument should not be classified as a complex derivative.

We believe “spread bet on an option on an equity” should be a specific instrument type – see Q3 above.

Yours faithfully

A handwritten signature in black ink, appearing to read 'B. Messer' with a stylized flourish at the end.

Bridget Messer
Secretary
Spread Betting Association