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Consultation Paper on Review of the Technical Standards on Reporting under Article 9 of EMIR

Dear Members of ESMA,

We refer to your abovementioned consultation paper with regard to the technical standards.

Siemens AG (Berlin and Munich) is a global industrial company engaged in electronics and electrical engineering, with its focus concentrated in the sectors industry, energy, healthcare, and infrastructure & cities. The Siemens Group has around 343,000 employees working to develop and manufacture products, design and install complex systems and projects, and tailor a wide range of solutions for individual requirements. For over 160 years, Siemens has stood for technical achievements, innovation, quality, reliability and internationality. In fiscal year 2014, Siemens had revenues of € 71.9 billion and a net income of € 4.5 billion (IFRS). Further information is available on the Internet at: www.siemens.com.

Siemens AG mainly uses derivatives (including credit derivatives) to hedge risk positions which result from the group's worldwide business transactions. Therefore the existence of an efficient and flexible derivative market is essential for Siemens AG and is a key prerequisite for promoting economic growth within the European Community and elsewhere.

We appreciate the opportunity to participate in the consultation process and have the following comments to your questions below. We would like to start with some general issues not directly related to your questions, but which are also problematic in the reporting processes from our point of view.

Some derivatives like exotic options cannot be reported adequately as there are missing fields to represent the trade correctly. Examples would be so-called Barrier Options, Double Barrier Options, and Touch Rebate Options. There is only one field for a strike price, no fields for barrier or knock-out-events and how the barrier is calculated (e.g. American, European, Bermudan option models). Although somewhat more exotic than standard options, these products are not only used among financial market participants, but also in hedging operations done by non-financial end-users.

Another input-related problem exists with products which include a break clause after a certain tenor (often rates products). How to report such a clause is unclear. Some market participants include it as an additional option, some do not include these clauses at all in the report.

There is still uncertainty in the market how to report a FX swap correctly. You clarified in your FAQ`s that a FX swap should be reported as a single trade if this is possible. Nevertheless a significant portion of the more standardized FX trades are executed over electronic platforms (e.g. FXall, 360T). These platforms deliver a separate UTI for each leg of the trade. In addition FX swaps are confirmed via Swift (MT300), with a separate swift notice for each leg of the swap. As we use a swift parser to copy the UTI from the swift notice to our systems, we have to report a FX swap as two separate transactions. Due to this, complications will further arise in the reconciliation of transactions reported to different trade repositories: as their standards on how FX swaps should be reported are neither harmonized, trade matching on this level will be very difficult to achieve.

You clarify in you new draft of the technical standards in Article 1 (2) (b) who should be the "counterparty" side (buyer or seller). However, for interest rate swaps there are more possible variations then only "fix-floating". It is not clarified what is relevant in case of "fix-fix" or "floating-floating" transactions. It would be helpful if you could list an example for each product and variation, or better define rules which are applicable in each of the different cases.

Q5: Do you think the introduction of new values and fields adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

We submit in Table 2 Field 14 the initial notional amount at time of trade execution. If you have an amortizing trade, e.g. an interest rate swap, you cannot supply the redemption information in the current set of fields. To build one new field which declares the actual (reduced) notional does not seem to be the best solution. As such notional changes often depend on floating indices, some of these transactions amortize monthly, quarterly or yearly. As a result such transactions have frequently changing notionals. To update these trades on a regular basis a modification message has to be submitted. However, in our opinion there have not been any changes of financial data after execution and therefore a modification is not the correct message type. A potential solution could be to create another new field "amortizing contract" yes/no and "redemption frequency".

Q7: Do you anticipate any difficulties with populating the corporate sector of the reporting counterparty field for non-financials as described in paragraph 42? Please elaborate.

Due to the fact that Siemens is a diversified multinational company accessing financial markets through centralized treasury hubs, more than 300 of our subsidiaries have delegated the EMIR reporting to us. Accordingly, it is very difficult to define the relevant corporate sector for each local subsidiary as they are often active in several of our business fields. On the other hand all counterparties have a LEI code which includes all relevant information about them. Therefore, a better solution would be to cover the corporate sector within the LEI approach.

Q8: Do you envisage any difficulties with the approach described in paragraph 45 for the identification of indices and baskets? Please elaborate and specify what would be the most practical and industry consistent way to identify indices and baskets.
We are asking ESMA to clarify what is supposed to be labelled an index or a basket. Is there a global list which includes all indices/baskets? What about OTC derivatives based on reference indices (e.g. Euribor, Libor, or Commodities listed on the LME/CME). We are unsure about how to fill the underlying fields in cases like these. In our opinion it would be easier to come up with a UPI approach for each asset class/product category.

Q9: Do you think the introduction of the dedicated section on Credit Derivatives will allow to adequately reflect details of the relevant contracts? Please elaborate.
We agree the relevant key information is adequately covered in the new Credit Derivatives section.

Q10: The current approach to reporting means that strategies such as straddles cannot usually be reported on a single report but instead have to be decomposed and reported as multiple derivative contracts. This is believed to cause difficulties reconciling the reports with firms' internal systems and also difficulties in reporting valuations where the market price may reflect the strategy rather than the individual components. Would it be valuable to allow for strategies to be reported directly as single reports? If so, how should this be achieved? For example, would additional values in the Option Type field (Current Table 2 Field 55) achieve this or would other changes also be needed? What sorts of strategies could and should be identified in this sort of way?
This problem is often not due to the execution of the trade, but to different Treasury Management Systems (TMS) used by counterparties which trigger the reporting of the trades. Some systems can reflect trading strategies in a single transaction, while others have to split the strategy into different trades. For the reporting of strategies consisting of multiple trades a solution could be to add new fields in the option sections, for example "Part of a strategy trade" yes/no and/or "Type of strategy", to be filled with a description (e.g. straddle, strangle, etc.) To connect the different trades of a strategy, an additional field could be added, e.g. "Grouping yes/no". Last, not least, both portfolio reconciliation between counterparties, and inter-repository matching of trades (e.g. between DTCC and RegisTR) will be very difficult to achieve due to these different ways to report respective trades.

Please also refer to our initial comments on FX swaps, where we see a comparable problem.

Q11: Do you think that clarifying notional in the following way would add clarity and would be sufficient to report the main types of derivatives:
Please refer to our comments on Q5 regarding the challenges around redemption payments.

Sincerely yours,

Siemens Aktiengesellschaft

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