

16 August 2010

CESR – by [electronic submission](#)

Dear Sir

CESR/10-809: Transaction Reporting of OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations

The IMA represents the asset management industry operating in the UK. Our Members include independent fund managers, the investment arms of retail banks, life insurers and investment banks, and the managers of occupational pension schemes. They are responsible for the management of around £3.4 trillion of assets, which are invested on behalf of clients globally. These include authorised investment funds, institutional funds (e.g. pensions and life funds), private client accounts and a wide range of pooled investment vehicles. In particular, our Members represent 99% of funds under management in UK-authorized investment funds (i.e. unit trusts and open-ended investment companies). In managing assets for both retail and institutional investors, IMA Members are major investors in companies whose securities are traded on regulated markets. The IMA's authoritative Asset Management Survey 2009-10 shows that at the end of 2009 IMA Members were managing 40% of the UK equity market for clients.

We welcome the opportunity to comment on the proposals made in the paper.

Chapter 1

Q1: Do you agree with the solution proposed by CESR for the organisation of transaction and position reporting on OTC derivatives?

Yes, for the reasons given we agree that Option 2 (allowing a choice of reporting route) is much preferable to Option 1 (reporting only through Trade Repository). Giving firms the choice of reporting venues would enable flexibility and competition. We see no need to restrict how firms are able to report, as long as they do report.

We strongly hold that CESR, and national regulators, should, wherever possible enable, rather than prescribe. Giving firms the option of how they wish to comply with the rule is the correct approach.

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Q2: Do you have any other views on the possible ways to organise transaction and position reporting on OTC derivatives?

The obligation to transaction report, either as done previously, or to the trade repository, should attach to the market maker or broker/dealer; it should only attach to the end user if there is no market maker or broker/dealer involved. Any other approach would be a distortion of service provision in the market.

Regulators should also ensure that EU market makers are not permitted to report to a trade repository outside the EU and then look to the end user to fulfil EU reporting.

Chapter 2

Q3: Do you agree with the extension of the scope of transaction reporting obligations to the identified instruments?

Yes. As is argued in the paper, Recital 6 of MiFID sees there being little difference between RMs and MTFs.

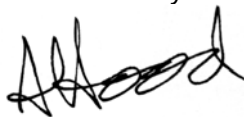
This extension of scope to include OTC derivatives and some, but not all, MTFs (e.g. AIM and PLUS) has already been introduced by the FSA, in the UK. As long as CESR is willing and able to learn the lessons from their experience of imposing transaction reporting to instruments not listed on an RM, and to OTC derivatives, which is not as straightforward as it may, at first glance, appear, then the extension of the scope should not be too problematic.

CESR should also ensure that any extension of scope is consistent with the changes currently being consulted on for the Market Abuse Directive.

As regards Recital 45, if it is to be retained, it should be used only for addressing 'other financial instruments', not to permit some countries to impose additional transaction reporting fields for existing reported instruments addressed in this paper.

We look forward to hearing from you if there is any clarification that you would find useful on the points we have raised.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adrian Hood', with a stylized, cursive script.

Adrian Hood
Regulatory Adviser