Comments by NYSE Euronext on CESR's Consultation on Standardisation and Exchange Trading of OTC Derivatives

1 Introduction and Executive Summary

1.1 NYSE Euronext is a leading global operator of financial markets and a provider of innovative trading technologies. NYSE Euronext's exchanges in Europe (Amsterdam, Brussels, Lisbon, London and Paris) and the United States provide for the trading of cash equities, bonds, futures, options, and other exchange-traded products. NYSE Liffe is the name of NYSE Euronext's European derivatives business and is the world's second largest derivatives business by value of trading.

1.2 NYSE Euronext is grateful for having the opportunity to provide comments in response to CESR's consultation on Standardisation and Exchange Trading of OTC Derivatives. NYSE Euronext believes that, to quote CESR, "a new legislative framework for trading on organised markets could deliver a number of benefits like providing a higher level of transparency, enhancing liquidity, ensuring efficiency and risk reduction and providing an easy access for market participants."

1.3 Finally, NYSE Euronext believes that the ongoing financial crisis is a major incentive to reform the current arrangements for the trading of standardised OTC derivatives in a coordinated and harmonised way.

1.4 NYSE Euronext's comments follow the order of the CESR consultation paper. CESR's questions are shown in bold italics and NYSE Euronext's responses appear in normal type.

2 Preliminary step on the way to exchange trading:

Standardisation

Q1: Do you agree with CESR's assessment of the degree of standardisation of OTC derivatives? Is there any other element that CESR should take into account?

2.1 Yes, NYSE Euronext agrees with CESR's assessment of the degree of standardisation of OTC derivatives.

2.2 As noted in our joint submission with Deutsche Börse and NASDAQ OMX on standardisation and exchange trading of OTC derivatives of April 2010 (see

attached), in general, the standardisation approach being implemented to allow clearing of OTC derivatives is an excellent starting place to prepare contracts for exchange trading. In some cases, it may be advantageous to ensure that this standardisation occurs in a manner that increases the liquidity in certain expiries or terms, recognising that certain market users may wish to continue to trade standardised OTC derivatives based around customised dates. In these cases, standardised exchange traded and OTC derivatives can beneficially coexist.

2.3 More specifically, the definition of standardisation could be focused on three main pillars:

- **Contract terms** (including standard dates, nominal coupon levels etc);
- **Legal process** (supporting documentation); and
- **Operational process** (i.e. STP).

2.4 OTC derivatives have already achieved these levels of standardisation. Therefore sufficient liquidity is another requirement to consider. For example, for benchmark CDS index products there appears to be sufficient liquidity and standardisation, whereas liquidity may be questionable for a number of single names. The changing nature of the position for interest rate swaps may be a constraint for their trading on regulated markets. For example, a 10-year swap today is not the same instrument tomorrow, although there may be demand for so called "IMM dates" for benchmark maturities/tenors which could have sufficient liquidity given their close proximity and cross margining/fungibility possibilities against existing, liquid exchange products.

2.5 Exchange traded derivatives generally use standardised 'lot sizes' per contract, allowing users to tailor transaction sizes by trading the required number of contracts. For instance, Eurex's Bund Future has a lot size of €100,000 (of a notional bund) and NYSE Liffe's Euribor Future has a lot size of €1,000,000 (of a notional deposit). Market users can easily tailor deal size by trading multiples of these contracts.

Q2: Do you agree with the benefits and limitations of standardisation noted above? Please specify. Can you also describe and, where possible, quantify the potential impact of the limitations to standardisation? Are there any other elements that should be considered?

2.6 Yes, NYSE Euronext agrees with the benefits and limitations of standardisation.

2.7 One barrier working against further standardisation is the bespoke nature of certain derivatives. However, within each of the asset classes there are "benchmark" structures that exhibit sufficient standardisation/ "exchange look-a-like" features. With respect to the subsequent exchange/electronic trading for OTC derivatives, the barriers would seem to be the liquidity associated with such derivatives. In some cases such liquidity is dependent on the level of sell side

support for such trading as in most cases they are the natural liquidity providers for these structures.

Q3: Do you agree that greater standardisation is desirable? What should be the goal of standardisation?

2.8 Yes, NYSE Euronext believes that a greater level of standardisation is desirable. Standardisation will bring better post trade transparency and more efficient risk management.

2.9 NYSE Euronext considers that it is appropriate that non-standardised contracts should continue to exist in order to provide bespoke risk management tools to customers. Each derivatives market is different and should therefore be considered separately in this respect, e.g. fixed income, equities, soft commodities, energy and metals.

2.10 Any debate on this topic should consider whether inefficiencies exist and if a greater level of standardisation would address them. Damage to current market liquidity, price formation and best execution must be avoided as some of these OTC products already trade in an efficient way.

Q4: How can the industry and regulators continue to work together to build on existing initiatives and accelerate their impact?

2.11 As the operator of some of the biggest financial markets in the world, NYSE Euronext has a long history of cooperation with regulators. It strongly supports any initiative that would help coordinate necessary action between the regulators and the Regulated Markets.

Q5: Are there any obstacles to standardisation that could be removed by regulatory action? Please elaborate.

2.12 More appropriate capital requirements for non-cleared, non-standardised business would certainly represent an incentive for further standardisation. Although NYSE Euronext counsels against the imposition of punitive measures, this should be a central consideration for risk assessments and the augmentation of capital requirements.

Q6: Should regulators prioritise focus on a) a certain element of standardisation and/or b) a certain asset class? Please provide supporting rationale.

2.13 The size of the asset class definitely has to be part of the prioritisation factors, in addition to the degree to which standardisation has thus far not been developed in the market.

2.14 At the same time the table under paragraph 41 of CESR's Consultation Paper, showing the degree of standardisation currently available in the markets, clearly demonstrates that Equity Derivatives would benefit from a greater degree of standardisation. We note that ISDA are actively engaged in updating the current 2002 equity derivatives definitions in order to facilitate OTC equity derivatives clearing.

Q7: CESR is exploring recommending to the European Commission the mandatory use of electronic confirmation systems. What are the one-off and ongoing costs of such a proposal? Please quantify your cost estimate.

2.15 Electronic confirmation of transactions is important in a sector which has experienced problems in which OTC transactions have often remained unconfirmed for days or weeks after the trade date. NYSE Euronext notes that standardised products trading on a regulated market and cleared by a CCP have a near real time confirmation rate of 100%. The costs associated with electronic confirmation for products that are traded on platforms are negligible and well counterbalanced by the reduction of the risk of error and the certainty of execution.

3 Exchange trading

Q8: Do you agree with the assessment done by CESR on the benefits and limitations of exchange trading of OTC derivatives? Should any other parameters be taken into account?

3.1 Yes, NYSE Euronext agrees with CESR's assessment on the benefits and limitations of exchange trading of OTC derivatives. Exchange trading will enhance liquidity. For benchmark exchange products such as NYSE Liffe's Euribor Future Eurex's Bund Future or NASDAQ OMX equity index futures, up to half the liquidity of the contract is provided by specialist proprietary trading firms, a source of liquidity not available in OTC markets where inter-bank business predominates. It will help to facilitate tighter bid offer spreads and deeper liquidity. In contrast with OTC markets, price discovery and transparency will be available to a broader range of market users, and there will be no need to access it via a closed group of specialist intermediaries. Enhanced liquidity has important risk management benefits, ensuring that markets remain tradable during crisis situations, particularly in the event of the default of a market participant when positions need to be unwound. Indeed, liquidity confidence in a crisis situation is an essential pre-requisite of safe central clearing, and exchange-traded markets increase the confidence with which products can be cleared and risk managed.

3.2 In addition, exchange traded derivatives achieve confirmation rates of virtually 100% in real time, with registration and central clearing occurring simultaneously.

Although confirmation rates for certain standardised OTC derivatives have improved somewhat, on-exchange processing should be regarded as the best practice model for the industry, where coverage and confirmation rates remain well in advance of OTC processing, greatly reducing the risk of error and ensuring certainty of execution and performance. In areas where clearing of OTC derivatives has been accepted, the availability of trading and clearing would add further efficiency to the total execution process.

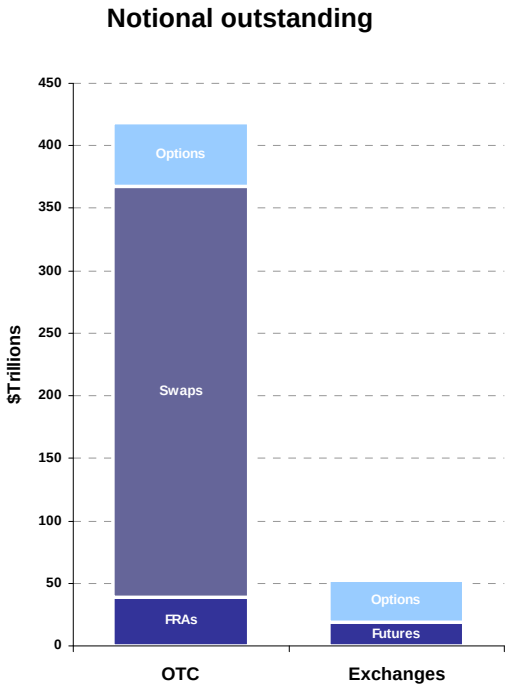
3.3 However, it is recognised that not all standardised derivatives will necessarily be liquid enough for exchange trading, but many standardised benchmarks (e.g. short term interest rate, bond and credit and stock index products) will be. The increased liquidity created by moving these contracts on to exchanges will benefit users, particularly buy-side participants. If these benefits are recognised, it is recommended that measures for moving sufficiently liquid markets to such venues are considered by public authorities, noting the previous European Commission and G20 statements on the preference for exchange trading.

Q9: Which sectors of the market would benefit from/be suitable for (more) exchange trading?

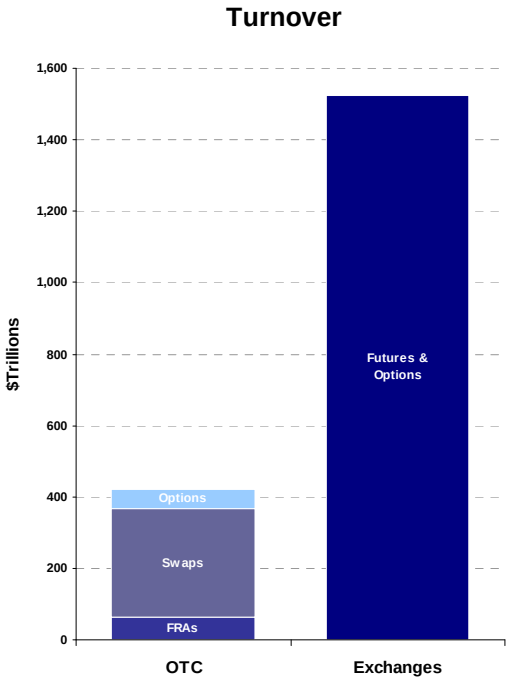
3.4 Some equity derivatives contracts, FX derivative contracts and certain CDS index contracts are sufficiently standardised to lend themselves to exchange trading. (For further information, please see part II.4 of our joint submission with Deutsche Börse and NASDAQ OMX on standardisation and exchange trading of OTC derivatives of April 2010, attached.) Considerable work by ISDA has led to the standardisation of the documentation and contractual terms that underpin these contracts. The greater the level of standardised documentation and the more liquid the product the greater the potential for exchange trading.

Q10: In your view, for which sectors of the market will increased transparency associated with exchange trading increase liquidity and for which sectors will it decrease liquidity? Please specify.

3.5 All sectors of the market would benefit from increased liquidity resulting from the increased transparency associated with exchange trading. Data from the Bank of International Settlements below show the relative size of notional outstanding and notional turnover for exchange and OTC interest rate derivatives clearly demonstrating the existence of a pool of opportunity for financial markets as a move to exchange trading would provide these products with better systemic risk control.



OTC and Exchanges: Interest Rate Products
Notional Outstanding
Source: BIS Quarterly Review June 2009 (data for December 2008)



OTC and Exchanges: Interest Rate Products
Annual Turnover
Source: BIS Triennial Survey 2007

Notional Outstanding and Turnover of OTC and Exchanges for Interest Rate Derivatives

3.6 Efficient markets are capable of supporting large volumes of trading while leaving relatively small notional values outstanding to be risk managed. The large turnovers of exchange traded markets and their relatively small value of notional outstanding show that they remain the most efficient, secure and widely used form of derivatives.

Q11: Do you identify any other elements that would prevent additional OTC derivatives to be traded on organised platforms?

3.7 As stated above in paragraph 2.9, non-standardised contracts should continue to exist in order to provide bespoke risk management tools for customers who need to hedge specific non-standard risks. In the opinion of NYSE Euronext these products should not be forced into a standardisation process at the expense of the benefits of bespoke design. Having said that, standardised products should be used in all cases in which they are sufficient to meet the hedging needs of the customer concerned.

Q12: How should the level of liquidity necessary/relevant to exchange trading be measured?

3.8 A key factor is likely to be the number of existing active financial institutions and participants in the OTC derivative in question, and whether there is likely to be additional participation on-exchange from new participants who would not normally operate in the OTC market.

4 Additional factors to consider

Q13: Do you agree with CESR's assessment of the characteristics and level of standardisation which are needed for a contract to be traded on an organised trading platform?

4.1 Yes, the following characteristics have to form a key part of the assessment: size of the underlying market, size of the contracts, the level of liquidity in the contracts, ability to value and settle contracts, the number of market participants and the demand for the delivery standard underlying the contract.

Q14: Is the availability of CCP clearing an essential pre-determining factor for a derivative contract to be traded on an organised trading platform? Please provide supporting rationale.

4.2 The availability of a CCP is not strictly an essential factor for the trading of derivatives products on a regulated market. However, CCP clearing is highly desirable for the multilateral and anonymous trading of derivatives given that, to be of economic utility, contracts are designed with maturities of many months or years, and therefore would benefit greatly in counterparty risk reduction terms from the availability of CCP clearing which enables counterparty novation and multilateral netting. This contrasts with cash equities which settle within days and in which, until recent years, many markets operated without involving a CCP (given their more limited "maturity profile").

Q15: Is contract fungibility necessary in order for a derivative contract to be traded on an organised trading platform? If so, which factors would be necessary to achieve full fungibility, not only within the same market but across different execution venues? Please provide supporting rationale.

4.3 Contract fungibility (in CESR's terms of contracts being fully substitutable) is in practice needed for contracts to be traded on an organised trading platform, and is certainly needed where trading is conducting in anonymous fashion. Full fungibility across different execution venues would require the contracts traded on each venue to have identical legal terms in every respect. However, fungibility across different CCPs (interoperability) would not be advisable as this could expose CCPs to the risks of contagion.

Q16: Which derivative contracts which are currently traded OTC could be traded on an organised trading platform? Please provide supporting rationale.

4.4 NYSE Euronext believes that all benchmark OTC standardised derivative contracts can be traded on an organised trading platform.

Q17: Please identify the derivative contracts which do trade on an organised trading platform but only to a limited degree and could be traded more widely on these types of venues.

4.5 See paragraph 4.4 above.

5 Concept of 'exchange trading' in the context of OTC derivatives

Q18: In the OTC derivatives context, should any regulatory action expand the concept of "exchange trading" to encompass the requirements set out in paragraph 86 and 87 or only the requirements set out in paragraph 86? Please elaborate.

5.1 NYSE Euronext believes these are correctly covered in paragraphs 86 and 87. Referring exclusively to the requirements included in paragraph 86 would be incomplete and fail accurately to describe key functions and characteristics of trading venues such as non-discretionary and transparent rules, objective criteria for the efficient execution of orders, non-discriminatory access, authorisation/regulation and monitoring by competent authorities, operational resilience and surveillance of compliance with the organised trading venue's rules. All of these are criteria which should be considered as minimal requirements for a properly run trading platform.

Q19: Do current trading models and/or electronic trading platforms for OTC derivatives have the ability to make pricing information (both pre- and post-trade) available on a multilateral basis? Please provide examples, including specific features of these models/platforms.

5.2 Only Regulated Markets and a few MTFs have the ability to make pricing information (both pre- and post-trade) available on a multilateral basis. Most of the trading models and/or electronic trading platforms for OTC derivatives do not provide their users or the industry/public more generally with a similar standard of pricing information.

6 Systematic internalisers

Q20: Do you consider the SI-regime for shares relevant for the trading of OTC derivatives?

6.1 No, SIs lack most of the basic elements listed in our answer to Q18: i.e. non-discretionary and transparent rules, objective criteria for the efficient execution of orders, non-discriminatory access, authorisation/regulation and monitoring by competent authorities, operational resilience and surveillance of compliance with an organised trading venue's rules.

Q21: If so, do you consider that the current SI-regime provides the benefits described above which 'exchange trading' may offer or are amendments needed to the SI obligations to provide these benefits to the OTC derivatives market?

6.2 No, as SIs provide almost none of the criteria defined in paragraphs 86 and 87.

7 Crossing systems

Q22: Which characteristics should a crossing network regime, as envisaged in the review of MiFID, have for a crossing network to be able to be qualified as a MiFID "organised trading venue"?

7.1 CNs should have the basic elements previously listed: non-discretionary and transparent rules, objective criteria for the efficient execution of orders, non-discriminatory access, authorisation/regulation and monitoring by competent authorities, operational resilience and surveillance of compliance with an organised trading venue's rules. Currently they do not meet these criteria.

8 Other electronic trading facilities: the US case ("swap execution facilities"):

Q23: In your view does the envisaged legislative approach in the US leave scope for regulatory arbitrage with the current EU legislative framework as provided under MiFID? Would regulatory measures taken in the EU to increase 'exchange trading' of OTC derivatives help to avoid regulatory arbitrage?

8.1 We suspect so as the US is perhaps more naturally oriented towards exchange trading than Europe. The goal should always be to go for harmonised rule books and to avoid loopholes and opportunities for regulatory arbitrage.

9 Preliminary conclusion:

Q24: The Commission has indicated that multi-laterality, pre- and post-trade transparency and easy access are key aspects of the concept of "on exchange" trading. Do you agree with CESR applying these criteria in its further analysis of what this means in the EU context, in particular in applying MiFID to derivatives trading?

9.1 Yes. In addition, NYSE Euronext believes that the criteria mentioned above (non-discretionary and transparent rules, objective criteria for the efficient execution of orders, non-discriminatory access, authorisation/regulation and monitoring by competent authorities, operational resilience and surveillance of compliance with an organised trading venue's rules) should also be applied by CESR when considering derivatives trading.

Q25: If not, do you consider that MiFID requirements and obligations should be refined to cover deviating characteristics of other electronic trading facilities? Please elaborate.

9.2 See above.

10 Assessment of existing market-led and regulatory initiatives promoting exchange trading

Q26: Are there any market-led initiatives promoting 'exchange trading' that the regulators should be aware of?

10.1 Day to day marketing of the benefits of exchange trading by Exchanges, Bank institutional sales teams and futures and options teams are "business as usual" activities. Following the financial crisis, banks' customers have migrated to plain vanilla standardised derivatives contracts which prior to the crisis traded predominantly OTC.

10.2 So, whilst there may not be any official market-led initiatives that the regulators are aware of, regulators should note the steady migration from OTC to exchange trading particularly where customers have specifically requested this transfer.

11 Preliminary conclusions: assessment and policy views on ‘exchange trading’’

Q27. Which kind of incentives could, in your view, efficiently promote greater trading of standardised OTC derivatives on organised trading venues? Please elaborate.

11.1 NYSE Euronext believes that the wider availability of CCP clearing together with appropriately augmented capital requirements for non-standardised OTC business should encourage OTC derivatives to migrate towards organised trading venues.

Q28. Do you believe there would be benefits in a mandatory regulatory action towards greater trading of standardised OTC derivatives on organised venues? Please elaborate.

11.2 On balance NYSE Euronext would support mandatory regulatory action in this respect in the interest of greater certainty in the conduct of OTC business in relation to what operational implications follow a transaction, and in the interest of maximising achievement of the important G20 objectives of reduction of systemic risk and increase in transparency. Regulators must however be alert to any attempt by market participants to undermine such regulatory action by deliberate minimal customisation (non-standardisation) of an OTC derivative.

12 Next Steps

12.1 NYSE Euronext is grateful to CESR for consulting the markets on Standardisation and exchange trading of OTC derivatives and would welcome the opportunity to discuss its views further with its representatives.

COMMITTEE OF EUROPEAN SECURITIES REGULATORS

Date: April 2010
Ref.: CESR/10-389

Task Force on Standardisation and Exchange Trading of OTC Derivatives

Questions for discussion with market participants 25—03-2010

I. What are the benefits and drawbacks of on-exchange trading of standardised OTC derivatives?

I.1. Benefits: Do you consider that on-exchange trading of standardised OTC derivatives would add efficiency to execution (e.g. reduced risks of errors, faster execution of orders…)? Would it enhance liquidity?

Exchange traded derivatives achieve confirmation rates of virtually 100% in real time, with registration and central clearing occurring simultaneously. Although confirmation rates for certain standardised OTC derivatives have improved somewhat, on-exchange processing should be regarded as the best practice model for the industry, where coverage and confirmation rates remain well in advance of OTC processing, greatly reducing the risk of error and ensuring certainty of execution and performance. In areas where clearing of OTC derivatives has been accepted, the availability of trading and clearing would add further efficiency to the total execution process.

Exchange trading will enhance liquidity. For benchmark exchange products such as NYSE Liffe's Euribor Future Eurex's Bund Future or NASDAQ OMX equity index futures, up to half the liquidity of the contract is provided by specialist proprietary trading firms, a source of liquidity not available in OTC markets where inter-bank business predominates. This helps to ensure tight bid offer spreads and deep liquidity. In contrast with OTC markets, this price discovery and transparency is available to all market users, and there is no need to access it via brokers or other intermediaries. Enhanced liquidity has important risk management benefits, ensuring that markets remain tradable during crisis situations, particularly if market participants default and positions need to be unwound. Indeed, liquidity confidence in a crisis situation is an essential pre-requisite of safe central clearing, and exchange-traded markets increase the confidence with which products can be cleared and risk managed.

It is recognized that not all standardised derivatives will necessarily be liquid enough for exchange trading, but many standardised benchmarks (e.g. short term interest rate, bond and credit and stock index products) will be. The increased liquidity created by moving these contracts on to exchanges will benefit users, particularly buy-side participants. If these benefits are recognized, it is recommended that measures for moving sufficiently liquid markets to such venues are considered by public authorities, noting the previous European Commission and G20 statements on the preference for exchange trading.

I.2. In your view, which are the main drawbacks that trading on organised trading platforms would imply for contracts currently traded OTC? Why should not all OTC derivatives be moved to exchanges/electronic trading platforms?

Non-standardised contracts are not suitable for central order book trading, and certain standardised contracts may not be liquid enough. We see the question as not whether all contracts should be moved to exchanges, but whether the migration of certain benchmark contracts to exchanges would increase liquidity further and decrease risk further, particularly in crisis situations. In addition, it has been noticeable, in the energy markets in particular, that

certain contracts that have begun as "cleared"-only contracts have migrated into exchange-traded products after a period of time.

I.3. Can/should one differentiate between types of derivatives contracts or market segments?

The statements above, that standardised derivatives on sufficiently liquid benchmarks would benefit from exchange trading, is broadly applicable to all market segments.

II. What are the criteria for and the level of standardisation necessary to achieve trading of OTC derivatives on organised platforms?

II.1. Please explain the key criteria which need to be taken into consideration when considering whether an asset is standardised or not. Are there any differences with the degree of standardization necessary to trade a derivative on an organized trading platform? Should there be standard transaction sizes? To what extent?

- In general, the standardization approach being implemented to allow clearing of OTC derivatives is an excellent starting place to prepare contracts for exchange trading. In some cases, it may be advantageous to ensure that this standardization occurs in a manner that increases the liquidity in certain expiries or terms, recognizing that certain market users may wish to continue to trade standardized OTC derivatives based around customised dates. In these cases, standardised exchange traded and OTC derivatives can beneficially coexist.

  More specifically, the definition of standardization could be focused on three main pillars:

  - **Contract terms** (including standard dates, nominal coupon levels etc),
  - **Legal process** (supporting documentation),
  - **Operational process** (i.e. STP).

  Certain OTC derivatives have already achieved these levels of standardization. Therefore **sufficient liquidity** is another requirement to consider. For example, for benchmark CDS index products there appears to be sufficient liquidity and standardization, whereas liquidity may be questionable for a number of single names. The changing nature of the position for interest rate swaps may be a constraint for their trading on regulated markets. For example, a 10-year swap today is not the same instrument tomorrow, although there may be demand for so called "IMM dates" for benchmark maturities/tenors which could have sufficient liquidity given their close proximity and cross margining/fungibility possibilities against existing, liquid exchange products.

  Exchange traded derivatives generally use standardised 'lot sizes' per contract, allowing users to tailor transaction sizes by trading the required number of contracts. For instance, Eurex's Bund Future has a lot size of □100,000 (of a notional bund) and NYSE Liffe's Euribor Future has a lot size of □1,000,000 (of a notional deposit). Market users can easily tailor deal size by trading multiples of these contracts.

  II.2. Which are the key criteria which need to be considered when offering a contract on exchange/electronic trading platform?

  Standardization, general size of the underlying market, liquidity, the ability to value and settle contracts (e.g. through application of reliable, robust and transparent reference prices), and the number and diversity of potential participants allied to customer demand.

  II.3. What steps need to be taken in order to facilitate straight-through-processing? Would trading on an organized platform ease STP for derivatives contracts currently traded OTC, or not?

As mentioned in I.1, on-exchange processing should be regarded as the STP best practice model for the industry, where coverage and confirmation rates remain well in advance of OTC processing, greatly reducing the risk of error and ensuring certainty of execution and performance. In addition, where clearing of OTC derivatives has been accepted, the availability of trading and clearing would add further to total STP efficiency.

II.4. In relation to credit derivatives, equity derivatives, interest rate derivatives, commodity derivatives and foreign exchange derivatives, please identify:

- Which sectors of these markets are currently viewed as standardized. Please provide supporting rationale.
- Degree of trading which is executed either on exchange/electronic trading platforms or by voice execution or a hybrid of the two.

We suggest that specific engagement on particular asset classes and the standardization required be conducted as part of the forthcoming consultation, albeit that we note at this stage that for each of the major economies/stock markets there are short term interest rate, government bond/interest rate swap and broad-based stock index products which are suitable for exchange trading and clearing.

- Credit Derivatives – for benchmark CDS index products there already is sufficient standardization. The extent of standardisation has been increasing for a number of single names, driven by the move to central clearing for such instruments (standard roll dates, coupon levels, etc). There are increasing numbers of electronic platforms, particularly amongst the Inter Dealer Broker (IDB) community, and/or investment bank platforms.
- Interest Rate Swaps (IRS) – have achieved a high level of standardization in standard tenors and structures driven by ISDA documentation and the already established clearing of IRS for a number of years, particularly for interbank trades. Again a number of IDBs, investment banks and vendors e.g. Tradeweb have established electronic platforms. However, given the requirements of corporate users there are a number of bespoke structures.
- Equity Derivatives –ISDA documentation (which is in the process of being updated to provide greater standardization) has contributed to standardization, along with the fact that a number of OTC equity derivatives refer to exchange-listed products for transparent/objective pricing/settlement levels (sometimes referred to as "exchange look-a-likes"), however, given the breadth of product base and the myriad of corporate actions, there are a number of structures that don't fulfill all of the criteria. In Europe, in particular, the exchanges have developed more of a hybrid offering for both standard and more non-standard (flex type) structures. In the US, SEC regulation has tended to drive most of the equity derivatives business into an exchange-traded environment already.
- Commodity Derivatives – As with IRS, given the requirements of corporate users there are a number of bespoke structures. However in the energy market in particular, given the migration toward clearing provided by platforms such as Clearport and ICE Clear, there has been a greater move toward standardization and the migration from cleared to exchange traded once sufficient liquidity has been achieved in cleared structures.
- Foreign Exchange Derivatives – again, as with IRS, given the requirements of corporate users there are a number of bespoke structures which reduce the standardization capability and there has been less movement currently to provide cleared services for more standardized structures.

II.5. Please identify which sectors of the market have the potential to be further standardised. What steps need to be taken to achieve this?

We suggest that specific engagement on particular asset classes and the standardization required be conducted as part of the forthcoming consultation.

In line with the comments made in II.4 above equity derivatives would seem to have the greatest potential initially for further standardization, given that CDS and IRS are largely there already. Currently ISDA are in the process of updating the documentation/standardization for these products. Possibly commodity and fx derivatives would be next on the agenda.

II.6. Please explain the key barriers to further standardization and subsequent exchange/electronic trading for OTC derivatives? How can these be overcome?
We suggest that specific engagement on particular asset classes and the standardization required be conducted as part of the forthcoming consultation.

One barrier working against further standardization is the bespoke nature of certain derivatives. However, within each of the asset classes there are "benchmark" structures that exhibit sufficient standardization/ "exchange look-a-like" features. With respect to the subsequent exchange/electronic trading for OTC derivatives, the barriers would seem to be the liquidity associated with such derivatives. In some cases such liquidity is dependent on the level of sell side support for such trading as in most cases they are the natural liquidity providers for these structures.