

**Comments by NYSE Euronext on CESR's Consultation on Transaction reporting  
on OTC derivatives and Extension of the Scope of Transaction Reporting  
Obligations**

**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 Transaction reporting on OTC derivatives and Extension of the Scope of Transaction Reporting Obligations. Whilst NYSE Euronext does not have an obligation to report transactions itself, it still believes that it can bring a helpful perspective to this subject.
- 1.3 Finally, NYSE Euronext believes that the ongoing financial crisis is a major reason for modernising the existing regime 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 Possible ways to organise transaction and position reporting on OTC derivatives**

***Question 1: Do you agree with the solution proposed by CESR for the organisation of transaction and position reporting on OTC derivatives?***

***Question 2: Do you have any other views on the possible ways to organise transaction and position reporting on OTC derivatives?***

- 2.1 It is the opinion of NYSE Euronext that reporting of transactions to trade repositories is only necessary in relation to business which is not cleared by a

CCP. In relation to business which is CCP-cleared, CCPs already store and maintain the relevant data in relation not only to transactions but also, crucially, in relation to outstanding positions. All such data is provided, today, to the relevant regulatory authority by the CCP. Position information is vital in order to detect and prevent potential market manipulation, squeezes or other pressures which may be brought to bear on the delivery process in relation to derivatives contracts.

- 2.2 Given the overriding objective of market authorities to take preventive action in relation to market manipulation and squeezes, they need position information on a timely basis. Also, in the interest of timeliness, such preventive action is best taken by the relevant exchange (or possibly the CCP in relation to cleared OTC business), in liaison as appropriate with its regulator. This points to position reporting being done at local level rather than national or supra-national level.

### **3 Extension of the scope of transaction reporting obligations**

***Question 3: Do you agree with the extension of the scope of transaction reporting obligations to the identified instruments?***

- 3.1 Transaction reporting should only apply to products which need to be monitored on a transaction basis in order to prevent or punish abuses such as insider dealing. If a product is not prone to an abuse of this type, there would seem to be little justification in requiring it to be subject to potentially onerous and costly transaction reporting arrangements. The case for application or non-application of transaction reporting arrangements will need to be determined by examining product types on a systematic basis and reaching a decision in relation to each type.
- 3.2 In relation to the format that transaction reporting should take, wherever feasible the Commission/CESR should promulgate the use of the Alternative Instrument Identifier (“AII”) approach which was developed for the transaction reporting of derivatives under MiFID. This would be particularly suitable for standardised products that are capable of being cleared by a CCP.
- 3.3 Under the current arrangements, position monitoring is often undertaken by the relevant market authority (i.e. the exchange) in the case of those on-exchange products which may be susceptible to squeezes (whether technical or abusive) or other pressures that might be brought to bear on the delivery process and, in some cases, by the national regulatory authority in relation to OTC products.

- 3.4 Given the anticipated evolution in the proportion of positions which are centrally cleared compared with those which are not, it is likely that the amount of business which is subject to the relevant processes of the exchanges and/or CCPs will grow over time, in which case there may be less of a need to disturb the existing arrangements.

#### **4 Next Steps**

NYSE Euronext is grateful to CESR for consulting the markets on Transaction Reporting on OTC derivatives and Extension of the Scope of Transaction Reporting Obligations and would welcome the opportunity to discuss its views further with representatives of CESR.