CME Group

A CME/Chicago Board of Trade/NYMEX Company

6 November 2009

VIA ELECTRONIC SUBMISSION

Committee of European Securities Regulators (CESR)

11-13 avenue de Friedland

75008 Paris

France

Ref: CESR/09-837

Ladies and Gentlemen,

CME Group Inc. ("CME Group") appreciates the opportunity to comment on CESR's Consultation Paper with respect to Trade Repositories in the European Union, and the questions for stakeholders contained therein.

CME Group operates four separate futures exchanges, including the Chicago Mercantile Exchange, Inc. ("CME"), the Board of Trade of the City of Chicago, Inc. ("CBOT"), the New York Mercantile Exchange, Inc. ("NYMEX") and the Commodity Exchange, Inc. ("COMEX"). We also operate CME Clearing, a central counterparty that provides clearing and settlement services for exchange-traded contracts and over-the-counter ("OTC") derivatives transactions that are not traded on an exchange. Our principal regulator in the United States is the Commodity Futures Trading Commission ("CFTC"). In the United Kingdom, CME, CBOT and NYMEX are Recognised Overseas Investment Exchanges, and CME Clearing is a Recgonised Overseas Clearing House, the recognitions having been granted by the Financial Services Authority ("FSA"). CME Clearing Europe Ltd. has recently applied to the FSA to operate as a Recognised Clearing House.

As we have already outlined in our response to the European Commission's Staff Working Paper with respect to possible initiatives to enhance the resilience of OTC derivatives markets, CME Group's perspective is that both exchange-traded and OTC derivatives markets are essential to the efficient functioning of global financial markets. Together, these markets provide companies, investors, and indeed governments the ability to increase the certainty in their future cash flows by protecting against price risks in assets ranging from government securities to holdings of cash, equities, foreign exchange, credit, agricultural commodities and energy, thereby increasing their confidence and ability to act. Our view is that efficiently functioning derivative markets are essential to effective management of risk across the world, and that it is entirely appropriate at this juncture, when the world economy appears to be recovering slowly from the massive financial-economic shocks of the recent past, to focus, as CESR and others are doing, on how to improve the efficiency and security of the OTC derivative market infrastructure.

In this letter, we confine our comments to those portions of the Consultation Paper where we feel that we can provide clear, informed responses to the important questions raised.

We recognise the benefit of trade repositories in enhancing the transparency of the OTC derivatives markets for non-standardised trades that will not be cleared by central counterparties (CCPs). CME Group agrees with the view expressed by CESR in that regard and is a strong proponent that the establishment of one or more trade repositories should be market-led.

Functions and characteristics of a trade repository

With regards to the functions of a trade repository (TR), we agree that the core functionality of a TR is its record keeping and reconciliation function of definitive copies of trade data. In this role, a TR represents a centralised registry that maintains an electronic database of all open OTC derivative transactions in concerned contracts. Besides this core function, a TR can also serve to provide operational efficiencies to the market. In fact, this was one of the drivers that led to the establishment of the Trade Information

Warehouse (TIW), operated by the DTCC. In the absence of any central counterparty clearing capability in the CDS market, TIW's main initial purpose, besides providing a trade database, was to eliminate CDS trade confirmation backlogs. A TR can consequently serve to provide services that extend beyond its most important core role of acting as a trade database. These services can relate to trade life cycle management and downstream trade processing services. Such services can be provided by a TR or by other market infrastructure providers, including CCPs. The availability of such services and the market participants' choice of the respective service provider should be market-led.

Whilst we are firmly of the view that the use of trade repositories should not be mandated where standardised trades are centrally cleared, a TR can complement the services provided by a CCP. The introduction and availability of TR services for standardised trades should, in any case, be market-driven. As concerns the relationship between a CCP and a TR for a particular market, various approaches are possible and, again, its availability and structure should depend on market participants' demand, efficiency and prudent risk management practices. We consequently agree with the views expressed by CESR that an important attribute of a TR is its ability to interconnect with multiple market participants. A TR must be fully open to interaction with all other service providers, particularly if and when centralised clearing is introduced for products that have progressed within their lifecycle towards greater standardisation and that have previously been largely maintained within and serviced by a TR. It is vital to the smooth introduction of central clearing that the TR and the respective CCP cooperate in a non-discriminatory fashion (including, but is not limited to, areas such as migration of aged bilateral trades and matching and affirmation services). This is particularly true in cases where the TR-function for non-standardised derivatives is provided by an organisation that also operates a CCP in one or more markets. Should additional CCPs choose to offer centralised clearing for the respective OTC derivatives, the CCP-group acting as TR must act in a strictly neutral, non-discriminatory fashion towards the CCP aiming to introduce central clearing.

Availability of data by trade repositories

As outlined above, CME Group believes that the use of TRs should not be mandated for standardised trades that are centrally cleared. Where a CCP is introduced for standardised OTC derivatives, this represents not only an effective means to reduce systemic risk but also provides the means to collect and provide timely information to prudential and supervisory regulators. The data collected by the CCP in fulfilling its function of becoming the buyer to every seller and the seller to every buyer, should sufficiently satisfy the information requirements on the part of regulators and other stakeholders with regards to both risk and position monitoring.

Our view derives from considerable experience of acting as a CCP in respect of exchange traded derivatives, and a more recent experience of acting in the same role in respect of OTC derivatives based on commodities. When both TRs and CCPs serve a particular market, reporting requirements should adhere to the principles of efficiency and fairness; that is, in terms of regulatory reporting requirements, duplication should be avoided.

Location of a trade repository

CME Group strongly believes that in markets that are truly global, such as the OTC derivatives market, only a truly global infrastructure can efficiently serve these markets and enable regulators to effectively monitor and govern activity within these markets. If trade data were held with multiple repositories, any systemic risk arising within the derivatives market might go undetected due to lack of co-ordinated information sharing. We believe that the introduction of duplicative infrastructure and an artificial regional subdivision of what is a global market today, will lead to a fragmentation of data and an increase of costs for the industry. We believe that regulators should co-ordinate with each other and with TRs and CCPs, on an international basis, to satisfy their requirements for an efficient and effective supervision of OTC markets.

Legal framework for trade repositories

It is evident that TRs will play a central role in the global derivatives market. It is therefore vital that there is in place a common, global legal framework for the supervision and operation of TRs in order to avoid any regulatory arbitrage and to increase legal certainty. Again, we believe that regulators should co-ordinate with each other and with TRs and CCPs on an international and European basis, to establish common standards for the supervision and operation of TRs. This is clearly preferable to a piecemeal approach, in markets that are truly global. At this juncture, we do not believe that there is sufficient clarity with regard to harmonised EU requirements for the regulation and supervision of trade repositories.

Could I re-emphasise that CME Group recognises the value of the consultative process undertaken by the CESR, and appreciates the opportunity to play a part by offering its views.

Yours sincerely,

Andrew Lamb

Andrew Lamb
Chief Executive Officer
CME Clearing Europe Ltd.