

EFET response to CESR consultation on reporting of OTC derivatives and extension of the scope of transaction reporting obligations

EFET¹ would like to make the following **general comments** in response to this CESR consultation:

- We agree with the broad proposals with regards to organising transaction reporting for regulated firms under MiFID and the future EU Derivatives and Market Infrastructures Regulation (EMIR)
- It is important that there is efficient implementation of transaction reporting requirements. In this respect, MTF operators and brokers could report OTC derivative transactions concluded through them on behalf of firms and also positions – although of course firms could opt to report themselves directly to the repository; to avoid double reporting it should be allowed that only one regulated counterparty reports the details of the transaction (also on behalf of the other counterparty), in particular if the other counterparty is an unregulated entity
- There must be proportionate reporting requirements for pure bilateral OTC derivative transactions (i.e. those not transacted via MTFs' brokers or OTC clearing) and related positions. We suggest that the frequency of reporting of such transactions (which are a very small proportion of overall transactions) should be much less than for OTC derivative transactions via brokers
- CESR should take into account the proposals from DG Energy concerning the reporting of standardised energy transactions (including OTC data) to a trade repository. The preference of many EFET companies would be for the transaction reporting introduced by DG Energy to extend to all energy products (including derivatives). However, whatever approach is taken it will be important there is no duplication of reporting arrangements such that firms (in particular those regulated under MiFID and EMIR) have to report the same information to different repositories
- There should be an EU level reporting regime that should not be supplemented by additional transaction or position reporting arrangements at a national level, and
- Only standardised OTC derivative transactions should be reported to the trade repository. A reporting obligation concerning non-standard products would not be appropriate. Many bespoke transactions are created in order to hedge complex risk factors associated with the long term physical nature of the underlying power and gas markets. The risk of market abuse arising from these types of contracts is, in EFET view, very small. An obligation to store records of such transactions and make this information available to competent authorities already exists. EFET believes this provides sufficient regulatory access to these transactions

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. EFET currently represents more than 90 energy trading companies, active in over 27 European countries. For more information: www.efet.org

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

Yes – subject to the comments set out above.

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

Please see our comments above.

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

Yes – subject to the comments above.