

European Security and Markets Authority

Ref. AACB ESMA TS
Dept: Business Control
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Date: 19th of March 2012

Subject: Response to Technical Standards for the Regulation on OTC Derivatives,
CCP's and Trade Repositories

Dear Sir, Madam,

We very much welcome the opportunity to comment on ESMA's discussion paper regarding the "*Draft technical standards on the Regulation on OTC Derivatives, CCP's and Trade Repositories*". ABN AMRO Clearing Bank N.V. ("AACB") believes that it can add a meaningful contribution to the debate which could be helpful in further detailing the technical standards as mentioned in the discussion paper.

AACB is a bank, incorporated in the Netherlands and supervised by De Nederlandsche Bank N.V. (the Netherlands Central Bank) and the Autoriteit Financiële Markten (Authority for the Financial Markets), AACB is a subsidiary of ABN AMRO Bank N.V., AACB is a world leading provider of clearing services on securities and derivatives and has further enhanced its capacity to support the clearing needs of its clients on OTC Derivatives. With respect to transactions in OTC derivatives AACB enters into transactions with third parties for the account and risk of its client and does not enter into back-to back transactions with its client.

As a general remark AACB would like to reiterate its strong support for the OTC regulatory reform in general and with respect to dealers in particular. We further believe that high standards with respect to who could act as a clearing member as well as CCP and a Trade Repository are key in order to secure stronger and safer markets. We also believe that these standards will improve both the robustness of the financial system and improve transparency.

Remarks on individual questions:

Q10: In your view, does the above definition appropriately capture the derivative contracts that are objectively measurable as reducing risk directly related to the commercial or treasury financing activity?

AACB thinks that it is difficult to answer this question without knowing what the surveillance infrastructure will look like. Who is actually going to monitor this and what will be the toolbox available to make this judgement? On a related topic, AACB is also keen to learn more about the incentive structure that will be implemented to ensure compliance with these guidelines.

Q11: In your views, do the above considerations allow an appropriate setting of the clearing threshold or should other criteria be considered? In particular, do you agree that the broad definition of the activity directly reducing commercial risks or treasury financing activity balances a clearing threshold set at a low level?

AACB concurs with ESMA that the clearing threshold should be set at a low level. We do believe that in order to determine the exact level of the threshold additional data should be gathered.

Q12: What are your views regarding the timing for the confirmation and the differentiating criteria? Is a transaction that is electronically executed, electronically processed or electronically confirmed generally able to be confirmed more quickly than one that is not?

AACB is all in favour of confirming transactions via electronic means where available. However, we believe that the proposed timeliness are rather aggressive and are not in line with current market practice. Whereas we appreciate that part of the ESMA recommendations is to modify the current practice we would suggest some flexibility especially when it comes to transactions that have been executed near end of day.

Q13: What period of time should we consider for reporting unconfirmed OTC derivatives to the competent authorities?

AACB is of the opinion that the proposed timelines should be in line with the existing MiFID transaction reporting obligations.

Q19: Do you consider that legal settlement, third party arbitration and/or a market polling mechanism are sufficient to manage disputes?

AACB would like to clarify that court proceedings should be covered under "legal settlement" as a way to sufficiently manage disputes.

AACB would like to thank ESMA for the opportunity to comment on the discussion paper.

Yours sincerely,
ABN AMRO Clearing Bank N.V.



J.B.M. de Boer
Director



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