Response to consultation paper ESMA/2013/219 from Abide Financial Limited.

Thank you for the opportunity to comment on this paper.

On the whole, we are in agreement with most of ESMA's preferred alternatives as outlined in the paper. In our opinion, ESMA's approach generally seems pragmatic and fair, given the lack of certainty that still exists around so much of the implementation of EMIR as it relates to trade repositories.

We would like to offer our views on several specific sections and paragraphs in the consultation paper, which we include below.

III. Expected Costs for ESMA

General comments

As a commercial entity, a trade repository has an obligation to its' customers and shareholders to operate on an efficient basis in order to keep costs to a minimum whilst still generating an acceptable level of return to compensate shareholders for the risk they incur.

As a regulatory body, ESMA does not operate under such constraints. Given that Article 72 of EMIR stipulates the cost of supervising the trade repositories must be covered by them, there is a risk that regulatory costs could form a disproportionate part of the overall costs borne by trade repositories.

For this reason we would suggest that trade repositories be consulted on the portion of future operational budgets for ESMA that relate to the supervision of trade repositories, to help ensure that supervisory operations are being conducted in an efficient manner.

That said, we feel that the current estimates from ESMA of the costs of EMIR implementation as regards trade repositories are entirely reasonable.

IV. Turnover

We agree fully with the analysis in paragraphs 13 and 14.

17. We feel very strongly that the total turnover of all TRs used in this calculation should include *all* TRs supervised *and* recognised by ESMA. Otherwise there is a very real risk that the majority of supervisory costs for EMIR will be carried by firms that have relatively little market share.

19. As ancillary services are not covered by EMIR, then we believe it follows that the provision of ancillary services by a trade repository cannot have an effect on the effort required to supervise that trade repository. Consequently we would suggest that revenue from ancillary services not be considered when assessing the revenues of a trade repository for cost allocation purposes.

V. Trade Repositories Fees Framework

34. We agree with ESMA's analysis in this section and we support the suggestion of implementing a mixed system for supervisory fees.

We would like to make a further suggestion as well, which is that ESMA reserve the right to levy additional fees against TRs that consume a disproportionate amount of supervisory time relative to their turnover because of operational reasons such as poor quality control of trades reported to it, problems with systems and controls etc.

VI. Registration Fees

45. While we feel that the method of determining expected turnover is unlikely to reflect the actual market share distribution among TRs, we acknowledge the difficulty of coming up with any formula that is likely to do so given the constraints so we are broadly supportive of this structure and the proposed fees bands.

VII. Annual Supervisory Fees

General comments

We would like to suggest that ESMA publish the total turnover of all TRs (broken down into its' three constituent elements) on a regular basis in order to allow TRs to accurately forecast their regulatory fees. Obviously we are not suggesting publishing those figures for individual TRs, only the totals. Ideally, we would like this to be published monthly, but at the very least quarterly.

54. Given that the initial estimate of expected turnover is likely to be inaccurate, we would suggest that it not be further extended to cover supervisory fees in the first year. Rather, given that the first year of operation for TRs will be a short one, we suggest that ESMA apply the turnover calculation suggested in paragraph 17 at the year's end in order to more accurately capture the actual share of turnover between TRs. We believe this is what is suggested in paragraph 72 of the consultation document, although that paragraph is not specific as to the timing of when that charge would be collected from TRs.

This could then form the basis for the initial calculation of turnover for 2014.

VIII. Recognition of Third Country TR

General comments

Whilst we acknowledge the point that third-country TRs will be subject to a different supervisory regime (and will incur costs associated with that supervision), our opinion is that there should be a level playing field for supervisory fees charged to *any* TR offering services under EMIR.

X. Modalities of Payment

68. We support this suggestion.

XII. Reimbursement of TRs Withdrawing from the Registration Process

75. While it's true that reporting to TRs is a legal obligation, we do not agree that this automatically leads to a viable business model for TRs. There is a great deal of uncertainty still around the initial implementation of EMIR such that is impossible for any firm to develop a complete and coherent financial model for this business. Additionally, as there are restrictions on the flexibility of pricing available to TRs, many standard commercial tactics for dealing with such uncertainty are unavailable for use in mitigating the risks this uncertainty poses. Based on our experience as an ARM under MiFID, we believe that the EMIR trade repository market will also be a very low-margin business therefore getting the business model right will be critical to being viable as a provider in this space.

As some of these specifics will emerge during the timeframe of the application process it seems only reasonable to allow prospective TRs to withdraw their applications and to attain a partial refund on their upfront registration fee.

We understand the desire to deter spurious applications and support the intention fully. However, we believe the best interests of the market as a whole will be served if it is a competitive one and in our opinion this proposal could be a hurdle to attracting a range of different providers to the market.