

RESPONSE TO ESMA'S CONSULTATION PAPER ON REPORTING UNDER Art.9 OF EMIR

Amundi is a major asset manager in France, in Europe and in the world where it ranks among the top ten in terms in assets under management with more than 840 billions € at the end of September 2014. Located at the heart of the main investment regions in 30 countries, Amundi offers a comprehensive range of products covering all asset classes and major currencies. Amundi has developed savings solutions to meet the needs of more than 100 million retail clients worldwide and designs innovative, high-performing products for institutional clients which are tailored specifically to their requirements and risk profile. The Group contributes to funding the economy by orienting savings towards company development.

Amundi welcomes the opportunity to contribute to the evolution of the regulation and believes that the consultation process is key to develop dialogue that should lead to a better regulation. Regular user of derivative instruments for the benefit of its clients, Amundi has from the start supported the approach of EMIR to regulate derivatives for a better control of market stability. It did not hesitate to express its concerns on different issues such as a large definition of eligible collateral coupled with adequate haircuts or the necessity to have a choice of several CCPs offering total individual segregation before implementing an obligation to clear... With reporting, Amundi experienced and brought to the attention of regulators high difficulties with the Trade Repository it had chosen, who was not able to load a large number of accounts on time for the February 2014 deadline. However the situation improved in the following months and Amundi was able in August to deliver proper reporting including collateral and valuation as required. We appreciate the efforts undertaken by ESMA in the field and support its intent to transfer in technical standards the major clarifications that have been made through Q and As.

Amundi would like to insist on the following points before answering more directly the proposed questions:

- The idea that reporting has to be done by **both counterparties** that lies in level 1 text is both burdensome and ineffective in terms of risk control: we suggest it be deleted at the first opportunity;
- The potential **back loading** of trades that were done after August 2012, 16th (date of application of EMIR) and that expired before the 12th of February 2014 (when the reporting effectively started) is useless and it is urgent to drop that requirement;

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- For centrally cleared derivatives the specification to **report the initial trade with the executing broker and the final trade with the clearing member** and the CCP brings terrible complexity for little or none added value, especially since it jeopardizes all attempt to delegate the reporting to the Clearing member and concerns a transaction that comes to an end within minutes; we suggest that this requirement be reconsidered with a better cost/benefits analysis;
- We strongly support all moves towards **consistency among different types of reporting** requirements: when Solvency 2, MIF, AIFM...regulations require reporting comparable items we should use the same data with the same format; in that respect we support the cross reference to MIF that is in several occasions made in this consultation paper even if asset managers are not directly concerned as they rarely report under MIF;
- Data collection and processing require technical skills and expertise as well as time to develop and implement proper stable solutions: Amundi considers that **delays for implementation** must be longer than one year since any new investment requires to comply with budgeting procedures; delay should be considered after publication of their final specifications by Trade Repositories;
- Reporting is often a 3 or 4 players' game; if Amundi reports directly to the TR most of its trades that are not centrally compensated it decided to delegate those that are subject to central compensation; when the regulator requires specific information from the TR it is not necessary that the same requirement be imposed on the other participants: for example the TR can be happy to provide the nationality of an issuer or its NACE code on the basis of the LEI communicated by the reporting entity; we think that this **possibility for the TR or the delegate to populate some fields directly** should be confirmed in the technical standards;
- Amundi insists on the fact that regulators should keep in mind the aim of the reporting under EMIR: **ensure financial stability and assess systemic risk**. In that respect we expect a constant effort to avoid reporting duplicate data, to gauge the balance between costs and benefits of any item and assess the proportionality of the envisaged requirement.

We now turn to the questions asked in the consultation paper. In many instances numbers mentioned in the questions are erroneous and we decided not to bother in our answer and to refer directly to the appropriate paragraphs.

Q1: Do you envisage any difficulties with removing the 'other' category from derivative class and type descriptions in Articles 4(3)(a) and 4(3)(b) of ITS 1247/2012? If so, what additional derivative class(es) and type(s) would need to be included? Please elaborate.

Amundi agrees with the proposal to delete the "other" category but suggests that it might be appropriate to wait for the finalization of a comprehensive and unique taxonomy of derivative classes before suppressing it. In the meantime the category "other" gives flexibility which might be useful.

Q2: Do you think the clarifications introduced in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Amundi is concerned that the expected clarifications on mark to market value might bring some real confusion on existing and agreed upon procedures. See question 3 below.

Q3: What difficulties do you anticipate with the approaches for the population of the mark to market valuation described in paragraphs 21 or 19 respectively? Please elaborate and specify for each type of contract what would be the most practical and industry consistent way to populate this field in line with either of the approaches set out in paragraphs 21 and 23.

Amundi does not understand the rationale for further definitions on the value to be reported. As part of the reconciliation process, counterparties agree upon the value of the derivatives instruments and accept only small discrepancies. Current practice seems efficient and adequate; there is no need for further comments and precision. If ESMA feels that the field is not appropriately populated, it should more apply a pedagogic approach to provide guidance and turn to sanction when necessary.

More specifically we consider that the notion of replacement cost is highly debatable and should not appear in this regulation. Mark to market is the reference and in case of necessity mark to model is the alternative. It depends on the liquidity of the instrument and not on its nature. The fact is in our opinion that CFDs, forwards, FRAs and swaps can be valued at market price (bid or ask) without referring to replacement cost which implies several other hypotheses (on costs) which are not necessary. So we do not support the introduction of replacement cost as a reference and prefer to stick to the mark to market / mark to model alternative. We consider that IT developments necessary to implement a strict "replacement cost" approach as well as documentation and negotiation costs with counterparties and administrators would be important and unnecessary.

In any case, the reporting should accept figures to be either positive or negative.

Q4: Do you think the adaptations illustrated in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Amundi has reservations on only a few of the proposed adaptations.

We are **strong supporters of the LEI** and would like this example of public common data run by a non for profit organization to be followed in many other areas. For example, we suggest that based on the LEI an open data basis would carry indications on the activity sector with the NACE code, the classification of the entity as SME, its country of incorporation and main place of business... We urge ESMA to contact ROC to consider further developing the LEI data basis with such indications. We prefer to access data on a consistent basis in a central official repertoire at a reasonable cost instead of individually develop or buy them expensively. Quality, consistency of up-to-date information is key for reporting.

With regard to UPI, Amundi currently uses the ISDA taxonomy in full agreement with the TR. We would, however, not object to the emergence of a unique set of categories and internationally recognized Unique Product Identifiers. Any change in that field should be carefully organized and proper delays should be recognized to market participants to adjust. Further consideration should be paid to the possible cost of using a common reference: it should be public data in our view. We consider that it is too early to move now and suggest that ESMA postpone its proposition till a better taxonomy is adopted.

As regards the **Nominal amount**, we have not experienced difficulties with this field as it seems obvious that consistency imposes to use the nominal that will be used for the computation of the valuation or the amount of any flow in relationship with the derivative. It appears to be the actual nominal. But the original amount is accessible at any moment as to the derivative is attached a unique tracking number that allows to go back to the initial transaction and, hence, to the initial amount if it were needed. Clarification on that field is more appropriate than introduction of a new field (which in all circumstances is an unwelcomed prospect).

Q5: Do you think the introduction of new values and fields adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

Amundi fears that these introductions may carry an important **cost** with them. Behind the population of a new field there is the necessity to collect or create new data in a central data basis and to establish a new information flow to feed the file that will be transferred to the TR for the purpose of reporting. Anecdotic additions may just be, technically, heavy work.

No need to add country code since LEI gives access to that information. (§45).

Our experience with NACE which is required under Solvency 2 is that it is a code uneasy to gain and that the implied cost is not minimal. (§46)

We strongly oppose the idea to list all the constituents of a **basket** when reporting a derivative based on such a basket. We consider that the nature of the basket if homogeneous is what is relevant in order to assess systemic risk and enhance financial stability. For diversified baskets the appropriate granularity is at the level of the asset class. For indices we accept the idea to use any identifier that is available with the possibility to add a comment in order to mention the type of code that is used. (§49)

We agree with the suggestion to clearly establish that the Banking counterparty has the responsibility to **provide the UTI** on time, i.e. in the process of confirmation. The responsible entity should not ask the receiver to consult a web site or any report posted somewhere on the web, it should send specific information to the person designated in the confirmation procedure. Following the current international practice, the most active financial institution should issue the UTI and, in case of no evidence of who should, specific arrangement have to be made at the time of dealing the derivative. (§59)

As mentioned we highly value the usage of LEI and on the contrary are reluctant to introducing an "original amount" (§51). Furthermore we support the split between Initial and Variation margin and agree with the obligation to report collateral both received and posted (§52/3). However we foresee technical difficulties when using pledged securities as guarantee and insist on the possibility to report at the portfolio level..

Q6: In your view, which of the reportable fields should permit for negative values as per paragraph 40? Please explain.

Among the data that can obviously be positive or negative, we would like to mention: Value of the contract, Price /rate and Upfront payment.

Q7: Do you anticipate any difficulties with populating the corporate sector of the reporting counterparty field for non-financials as described in paragraph 42? Please elaborate.

Yes. As explained in the first paragraph of our answer to question 5 above, any new field may prove difficult to populate. It is the case with corporate sector. So far, our TR agreed that it was sufficient to provide the LEI of the counterparty to be able to search for it and find not only its sector but its identity. We feel strongly that “who got the more, got the lesser” and since identity is more precise and gives access to sector of activity, we do not like the idea of a further unnecessary indication. It would bring on few occasions a comfort to regulators at the price of a difficult and constant job by hundreds or thousands of counterparties. We think it is not proportionate a requirement. Furthermore we do not feel confident with having any responsibility in carrying an information that if of no interest for us and that we do not collect nor control today. The same issuer might receive different NACE codes even if the case is more unlikely when concentrating on the top level of 20 sectors.

Q8: Do you envisage any difficulties with the approach described in paragraph 45 for the identification of indices and baskets? Please elaborate and specify what would be the most practical and industry consistent way to identify indices and baskets.

Indices are going to be identified globally in most cases and the trouble we foresee is limited to baskets and very unusual bespoke indices. As an asset manager we closely monitor the risk of our funds that use indices and baskets. The most efficient way to follow and test and control these baskets in our view is to have a holistic approach and that is what we developed in our risk procedures. In our opinion there is evidence that an approach relying on the aggregation of each of the constituents of a basket will not deliver clear and rapid signals we are looking for in terms of risk management. Therefore, we do not have today (except on the legal documentation and ex post diligence and controls) the need for immediate access to information on each of the constituents. It would be very difficult, costly and time consuming to develop new information flows to comply with the suggestion of §49. We doubt it would be of any help in terms of financial stability and systemic risk.

Q9: Do you think the introduction of the dedicated section on Credit Derivatives will allow to adequately reflect details of the relevant contracts? Please elaborate.

Even if these precisions will require to build some new schemes based on information confirmed through the electronic platform we use, we think that it brings clarity on credit derivatives. Amundi thinks that credit derivatives are a sensitive category of asset and is ready to amend its current procedure, provided it is allocated sufficient time. However we are troubled that in annex V table 2 item 68 is not clearly defined as it is the only field which is not prescriptive and concludes by “etc.” that seems out of place in that type of regulation. We think that it would be more efficient for Credit derivatives to refer to the current practice to use “RED PAIR” or “standard reference obligation” codes.

Q10: The current approach to reporting means that strategies such as straddles cannot usually be reported on a single report but instead have to be decomposed and reported as multiple derivative contracts. This is believed to cause difficulties reconciling the reports

with firms' internal systems and also difficulties in reporting valuations where the market price may reflect the strategy rather than the individual components. Would it be valuable to allow for strategies to be reported directly as single reports? If so, how should this be achieved? For example, would additional values in the Option Type field (Current Table 2 Field 55) achieve this or would other changes also be needed? What sorts of strategies could and should be identified in this sort of way?

Amundi believes that reporting of individual transactions is the only way to have a comprehensive view of positions and understands as well the interest of assessing risk on a consolidated basis for linked deals. The usual procedure in risk departments is to open a file for each of those trades that relate to the same strategy and compensate. In order to facilitate the work of regulators it could be suggested that the reporting entity flag those deals that are to be considered together.

Q11: Do you think that clarifying notional in the following way would add clarity and would be sufficient to report the main types of derivatives:

60. In the case of swaps, futures and forwards traded in monetary units, original notional shall be defined as the reference amount from which contractual payments are determined in derivatives markets;

61. In the case of options, contracts for difference and commodity derivatives designated in units such as barrels or tons, original notional shall be defined as the resulting amount of the derivative's underlying assets at the applicable price at the date of conclusion of the contract;

62. In the case of contracts where the notional is calculated using the price of the underlying asset and the price will only be available at the time of settlement, the original notional shall be defined by using the end of day settlement price of the underlying asset at the date of conclusion of the contract;

63. In the case of contracts where the notional, due to the characteristics of the contract, varies over time, the original notional shall be the one valid on the date of conclusion of the contract.

Please elaborate.

As already mentioned, Amundi is convinced that there no interest in mentioning in two different fields the original and the actual notional amount. A clarification on the fact that the reported amount should be the actual amount on the basis of which the next flow will be calculated is what has to be done. Original amount belongs to the past and risk assessment is turned to the future. If the regulator wants to know the original amount it can track from the most recent operation to the initial deal on the basis of the reference code.

The proposed wording of § 60 to 63, if it may be helpful in some instances, should not be included in technical standards and could be published in Q and As where further improvement might more easily be introduced. As they read in the proposed text, they are not clear and bring more confusion than clarification. For example §60 has no reference to the date of the initial contract and the proposed definition could apply to actual notional as well.

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