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Via electronic submission: www.esma.europa.eu

European Securities and Markets Authority
103 Rue de Grenelle
75007 Paris
France

Consultation Paper – Review of the technical standards on reporting under Article 9 of EMIR

Dear Sir/Madam,

State Street Corporation ("State Street")[1] appreciates the opportunity to comment on the Consultation Paper ("CP") issued by the European Securities and Markets Authority ("ESMA") on the review of the technical standards on reporting under Article 9 of the European Market Infrastructure Regulation ("EMIR").

State Street Corporation (NYSE: STT) is one of the world's leading provider of financial services to institutional investors including investment servicing, investment management and investment research and trading. With USD 28.19 trillion in assets under custody and administration and USD 2.45 trillion* in assets under management, State Street operates in more than 100 geographic markets worldwide, including the US, Canada, Europe, the Middle East and Asia.[2] Our European workforce of 9,000 employees provides services to our clients from offices in ten EU Member States.

State Street is supportive of the international and European efforts to strengthen the regulatory frameworks governing over-the-counter ("OTC") derivatives markets by introducing clearing

[1] Our European Commission Interest Representatives Register identification number is 2428270908-83.
[2] As of 31 December 2014.

obligations for certain types of transactions as well as requiring transactions to be reported to trade repositories in order to increase overall market transparency. In our own experience, aside from technological and capacity problems in the industry, a lack of consistency and clarification as well as different national interpretations of the reporting requirements created a lot of uncertainty and operational problems. We therefore welcome ESMA's work and the present CP aimed at clarifying and amending the current EU reporting requirements and data fields. However, we believe that any significant changes need to allow for sufficient time to adjust current reporting systems. More broadly, given the different ongoing work streams in the EU on derivatives reporting, reporting of securities financing transactions and the general transaction reporting requirements under the revised MiFID framework, we would encourage ESMA and EU policymakers to ensure as much consistency as possible between the various overlapping reporting frameworks.

Please see below our responses to the questions of relevance to State Street.

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.

State Street welcomes the change of only using a Legal Entity Identifier ("LEI") as an identifier. However, we are still experiencing some challenges where clients do not have an LEI because they do not believe they are in scope for EMIR reporting because their NCA has a different interpretation to the definition of a spot vs. a forward FX transaction. This further emphasizes the need for a harmonized definition in the EU, which we understand will be part of the MiFID II/MiFIR implementation work. Yet, as the revised MiFID framework won't become applicable before January 2017, we would welcome clarifying guidelines from ESMA to address the current problems and bridge the time until January 2017. Providing further consistency in relation to the definition of spot FX is becoming increasingly important in light of broader changes to the regulatory landscape such as the upcoming margin requirements under EMIR.

Furthermore, for LEIs, the continued use of BIC will be beneficial and should continue to be accepted until the MiFID requirement for global use of LEI is applicable. Regarding the Transaction Reference Number we would welcome a phased approach to implementing this requirement with the CCP vs clearing broker initially and the clearing broker vs client at a later stage.

With regards to the report tracking number, we do not believe that ESMA has provided enough information about what this field is expected to represent, especially for exchange-traded derivatives ("ETDs"). Without further clarification, further implementing difficulties are expected.

Lastly, while we can see that further guidance has been provided for ETDs in the context of the unique product identifier (UPI), it is still unclear what is expected for OTC products especially as no specific requirements have been endorsed.

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.

State Street would welcome clarification from ESMA if the “country of domicile of the other counterparty” should be based on the address of the registered legal entity or whether this field is being added to capture the location if a branch is involved? For example, for the London branch of a German legal entity, would Germany or London be reported as the domicile?

Should ESMA only require the address of the other counterparty, then we would question this requirement as this information is captured in the LEI information which will be a mandatory Counterparty ID.

From the perspective of FX derivatives, we are concerned about the fields for initial and variation margin as currently, under existing credit support annexes (“CSAs”), most of the “initial margin” is not separated from “variation margin” because, per the CSA, the calculation is netted. The initial margin is referred to as (IA) Independent Amount (in the CSA) and it is added to the exposure to come up with the credit support amount and the margin call. We would therefore welcome further guidance from ESMA on how to quantify what part of the collateral is variation margin and what is initial margin for situations where transactions are not fully collateralized.

Furthermore, from the perspective of equity swaps, there are some concerns with regards to the suggested additional collateral fields and we would welcome further guidance on whether firms are expected to break out initial margin and variation margin at a portfolio level to cover multiple asset classes or whether are they expected to only report the initial and variation margin that related to the asset class they are reporting for.

For ETD, while it is acceptable to implement the population of the initial and variation margin ‘received’ fields, it would be very difficult to implement the new initial margin and variation margin ‘received’ fields.

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.

In our view, the corporate sector of the counterparty should be included in the reference data stored in the LEI data base for each entity. If this is not to be the case, we believe this will require a considerable overhead in terms of data gathering, administration, maintenance and system enhancements, achieving minimal improvement of data quality of the reports.

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.

With regard to baskets, we do not share the view that the underling components should be provided. As with all ETD products, any product considered a basket would be defined by the exchange before being available for trading. Therefore firms' use of this identifier will allow competent authorities to recognise the basket in question which in turn will have its component parts identified in the exchange contract specification. It should also be noted that these should not be matchable fields as the reported fields could be reported differently.

Thank you once again for the opportunity to comment on the important matters raised within this CP. Please feel free to contact me should you wish to discuss State Street's submission in greater detail.

Sincerely,

Dr. Sven S. Kasper

Senior Vice President & Director EMEA
Regulatory, Industry and Government Affairs