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CONSULTATION PAPER

**Consultation on guidance to report
transactions on OTC derivative
instruments**

Deadline for contributions: CESR invites responses to this consultation paper by **14 April 2010**. All contributions should be submitted online via CESR's website under the heading 'Consultations' at www.cesr.eu. All contributions received will be published following the close of the consultation, unless the respondent requests their submission to be confidential.



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Glossary

<i>TREM</i>	The Transaction Reporting Exchange Mechanism that allows CESR members to exchange transaction reports.
<i>MAD</i>	Market Abuse Directive (2003/6/EC), OJ L 96/16 12.4.2003
<i>MiFID</i>	Markets in Financial Instruments Directive (2004/39/EC), OJ L 145, 30.4.2004, p.1.
<i>MiFID Level 2 Regulation</i>	Commission Regulation (EC) No. 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purpose of that Directive, OJ L 241, 2.9.2006, p.1,
<i>MTF</i>	A Multilateral Trading Facility as defined in Article 4 (15) of MiFID. It is a multilateral system, operated by an investment firm or market operator, which brings together multiple third-parties buying and selling interests in financial instruments.
<i>OTC derivative</i>	A derivative instrument which is traded over-the-counter where the value of the instrument is derived from or otherwise dependent on the value of a debt or equity security instrument or instruments that are admitted to trading on a regulated market.
<i>Regulated market or RM</i>	A Regulated Market as defined in Article 4 (14) of MiFID.
<i>CFI</i>	Classification of Financial Instruments - ISO standard 10962 The CFI code is a 6 characters code that classifies an instrument. The official CFI code of the instrument can only be allocated by a National Numbering Agency. However, it is authorized to use the standard to generate “unofficial” CFI codes for instruments.
<i>AII</i>	Alternative Instrument Identifier This identifier is used to identify exchange traded derivatives on certain markets where those markets have elected to identify the instruments admitted to trading on their markets using the AII code rather than the ISIN code (see below). The code is composed of six characteristics or data fields of the contract: market code, exchange product code, strike price, expiration date, derivative type, put/call.
<i>ISIN</i>	International Securities Identification Numbers - ISO standard 6166 The ISIN code is a 12 alphanumeric code that identifies uniquely a single instrument. ISIN codes are allocated, in each country, by a National Numbering Agency (NNA).
<i>NNA</i>	National Numbering Agency The NNA of a country is in charge of allocating CFI and ISIN codes to instruments according to the relevant ISO standards.
<i>ANNA</i>	Association of National Numbering Agency The ANNA is the international body that coordinates the work of the National Numbering Agencies (NNA).



I. Introduction

A. Transaction reporting in Europe

Competent authorities (“CAs”) throughout the European Economic Area are committed to detecting market abuse and maintaining the integrity of their markets. The receipt and examination of transaction reports are essential elements in enabling CAs to detect market abuse and the Market in Financial Instrument Directive (MiFID) gives CAs the power and obligation to collect transaction reports on instruments admitted to trading on regulated markets. However, many CAs have noted that there are a range of OTC (over the counter) financial instruments that mirror instruments admitted to trading on regulated markets that can equally be used for the purposes of market abuse. Some CAs extended the collection of transaction reports to include OTC instruments whose value is derived from instruments admitted to trading on a regulated market to enhance their ability to detect suspicious activity and maintain the integrity of their markets. Many other competent authorities are currently investigating this option as well.

B. The Transaction Reporting Exchange Mechanism

CESR has implemented in November 2007 an IT system to facilitate the exchange of transaction reports amongst regulators. The system, called the Transaction Reporting Exchange Mechanism (TREM), was built based on the request from the MiFID level 2 Regulation to organize the exchange of transaction reports amongst European financial regulators.

TREM is currently limited to the scope of the MIFID Level 2 regulation, e.g. exchange of transaction reports on instruments admitted to trading in Europe. After one and a half years of running and observing the different practices within CESR membership, CESR decided to amend TREM to facilitate the exchange of transaction reports on OTC derivative instruments amongst CESR members.

C. CESR work on the field of transaction reporting on OTC derivative instruments

This document takes into account CESR’s decision on the technical standards for classification and identification of OTC derivative instruments for the purpose of the exchange of transaction reports amongst CESR member (via TREM) (Ref. CESR/09-1036).

CESR ran a consultation on these standards from July until October 2009 (Ref. CESR/09-618). The responses to CESR’s consultation paper on the classification and identification of OTC derivative instruments drove the corresponding choice (Ref CESR/09-987).

CESR acknowledges that other initiatives are running in parallel in this area. Hence, those guidelines might be changed and/or replaced by new ones depending on the future outcomes of those studies in case it is agreed that they are more appropriate.

D. Scope of Transaction Reporting on OTC derivative instruments

CESR decided that only transactions on securities derivatives whose underlying instrument is traded on a regulated market should be exchanged. This excludes indices or baskets of securities, apart from derivatives where all the underlying securities are issued by the same entity; eg single name credit default swaps. As with TREM, this excludes non-securities derivatives that have a specific transaction reporting regime.

In line with the above, CESR decided to exchange transactions on the following OTC derivatives:

1. Options

2. Warrants
3. Futures
4. Contract for Difference and Total Return Swap
5. Spreadbets
6. Swaps (except CfDs, TRS and CDS)
7. Credit Default Swap
8. Complex derivatives

CESR decided to go for a more comprehensive approach where derivatives that would not fall within plain-vanilla general categories would still be reported under a common “complex derivatives” label. The boundaries between “plain-vanilla” and “complex” derivatives will be further defined in this document.

This consultation paper aims to define useful common standards for consistent collection of data from investment firms. It defines and explains, for each derivative instrument type, how the fields of transaction reports should be populated to represent in a harmonised manner the execution of a transaction on such instrument.

The following examples are provided to help clarify the types of OTC derivatives that will become reportable by investment firms. It should be noted that the ultimate underlying instrument of the OTC derivative is a key element that determines whether a derivative is reportable or not. Essentially, if the value of the OTC derivative is dependent upon the performance of a single security or the risk of a single issuer, any transaction in that instrument by an investment firm is reportable.

Please note that these examples are not exhaustive but rather concentrate on relevancy.

Transactions on the following instruments are **reportable**:

- a credit default swap on single issuer
- a swap between the performance of an index at a given date and the performance of a single stock (although the derivatives refers to a multi-component index, it also refers to a single-name)
- a swap between the performance of two different stocks

Transactions on the following instruments are **not reportable**:

- a future or option on an index
- a future or option on a basket
- a swap between two indices
- a future, forward or option on a commodity, interest rate or foreign exchange rate
- a swap between two interest rates

E. The transaction reporting fields

In order to avoid interfering with local requirements already implemented in Member States, the following section concentrates **only** on the fields which are specifically impacted by the OTC derivative instruments. There are a number of other fields in the Annex 1 of the MiFID Level 2 Regulation. The reporting guidance of these other fields should remain unchanged in the case of reporting of transaction on OTC derivatives.

Buy/Sell Indicator

Annex 1 definition – *Identifies whether the transaction was a buy or sell from the perspective of the reporting investment firm, or in the case of a report to a client, of the client.*

Standard - A single alpha character, 'B' or 'S' should be used to identify whether the transaction was a buy or sell from the reporting firm's perspective.



OTC derivative specific requirement – In general, the above standard applies.

Instrument Identification

Annex 1 definition *This shall consist in:*

- *a unique code, to be decided by the competent authority (if any) to which the report is made identifying the financial instrument which is the subject of the transaction*
- *if the financial instrument in question does not have a unique identification code, the report must include the name of the instrument or, in the case of a derivative contract, the characteristics of the contract.*

OTC derivative specific requirement – This would be the six characteristics of the contract as decided in CESR decision on the technical standards on classification and identification of OTC derivatives for the purpose of exchange of transaction reports amongst CESR members:

1. Ultimate Underlying ISIN – this is the ISIN of the ultimate equity or bond instrument underlying the derivative. For example, if the derivative is an option on a future on a share (if exists), this is the ISIN of the share.
2. Derivative type – this is the classification of the OTC derivative instrument defined in this chapter. In the example above, this would be an option.
3. Put/call identifier – in case of an option.
4. Price multiplier.
5. Strike Price.
6. Expiration date.

These fields would be reported as separated fields and population of the actual instrument identifier field by investment firms is optional.

If the OTC instrument has an ISIN code, the ISIN code of this instrument might be added. This is optional.

Please note that CESR is studying the possibility to use Markit RED codes instead of these six fields for Credit Default Swaps as it seems to be a widely used industry standard. From that perspective, CESR is running an analysis to assess the cost benefits of the use of Markit RED code for transaction reporting.

Unit Price

Annex 1 definition – *The price per security or derivative contract excluding commission and, (where relevant) accrued interest. In the case of a debt instrument, the price may be expressed in terms of currency or as a percentage.*

Standard – A numeric field expressing a price (unit price or percentage price), up to 19 characters, with the possibility of decimal representation should be used. Unit price must always be positive.

OTC derivative specific requirement – Contrary to the Annex 1 definition, the market practice is to consider that the Unit price is the premium.

For example, if we consider a contract representing 200 shares and a premium of 2€, strictly following the annex 1, the Unit price field would be 400€ (2€ * 200 shares). However, Market practice is rather to define the Unit Price field as being the premium e.g. 2€.

CESR therefore considers that the Unit Price field should be filled in with 2€, i.e. the premium. The Price Multiplier would contain the number of underlying instruments per contract (e.g. 200 for this example).



Price Notation

Annex 1 definition – *The currency in which the price is expressed. If, in the case of a bond or other form of securitised debt, the price is expressed as a percentage, that percentage shall be included.*

Standard – A three alpha character field using the ISO 4217 currency codes (the major currency should be used – eg Euros rather than cents). If the price is expressed as a percentage of nominal value, then the ISO 4217 code of the nominal value should be used.

OTC derivative specific requirement - In general, the above standard applies.

Quantity

Annex 1 definition – *The number of units of the financial instruments, the nominal value of bonds, or the number of derivative contracts included in the transaction.*

Standard – A numeric field, up to 19 characters, with the possibility of decimal representation should be used.

OTC derivative specific requirement - In general, the above standard applies.

Venue Identification

Annex 1 definition – *Identification of the venue where the transaction was executed. That identification shall consist in:*

- *where the venue is a trading venue; its unique harmonised identification code;*
- *otherwise the code 'OTC'*

OTC derivative specific requirement - The code 'XXXX' must be used in the trading venue field for OTC derivatives. This code is included in the ISO 10383 MIC Standards as 'No market – eg unlisted'. It should not be used with the 'XOFF' identifier which is used for on-exchange instruments that trade "off market".

Derivative / Instrument type

Annex 1 definition – *The harmonised description of the derivative type should be done according to one of the top level categories as provided by a uniform internationally accepted standard for financial instrument classification.*

OTC derivative specific requirement - This would be one letter according to the following:

- | | |
|---|---|
| • Options, | O |
| • Warrants, | W |
| • Futures/forwards | F |
| • CfDs and TRS | D |
| • Spread bets, | X |
| • Swaps (other than CfDs, TRS and CDS), | S |
| • CDS, | Z |
| • Complex derivatives. | K |

Ultimate Underlying Identification

Annex 1 definition – *The instrument identification applicable to the security that is the underlying asset in a derivative contract as well as the transferable security falling within Article 4(1)(18)(c) of Directive 2004/39/EC.*



OTC derivative specific requirement - This would be the ISO 6166 ISIN of the ultimate equity or bond instrument underlying the derivative. For example, if the derivative is an option on a future on a share, this is the ISIN of the share.

Put/call identifier

Annex 1 definition – *Specification whether an option or any other financial instrument is a put or a call.*

Standard – A single alpha character field with the following possible values:

- C – call
- P – put

OTC derivative specific requirement - In general, the above standard applies.

Price multiplier

Annex 1 definition – *The number of units of the financial instrument in question which are contained in a trading lot; for example, the number of derivatives or securities represented by one contract.*

Standard – A numeric field, up to 19 characters, with the possibility of decimal representation should be used. This field must be populated for all derivative types and the value must be positive.

OTC derivative specific requirement - In general, the above standard applies.

Strike Price

Annex 1 definition – *The strike price of an option or other financial instrument.*

Standard – A 19 character numeric field that may contain up to 5 decimals. The strike price must be expressed in the major currency (eg Euros rather than cents). The strike price must be a positive value.

OTC derivative specific requirement - In general, the above standard applies.

Expiration date

Annex 1 definition – *The maturity date of a bond or other form of securitised debt, or the exercise date/maturity date of a derivative contract.*

Standard – The expanded ISO 8601 Date Format standard YYYY-MM-DD should be used for this field.

OTC derivative specific requirement - If the instrument (e.g. option, warrant, spread bet, swap) has multiple expiration dates, the latest expiration date should be populated.

Questions to market participants

Q1: Do you agree that the Unit Price should be the premium per single underlying of the contract as it is in market practice and not per contract?

Q2: Do you agree that the Venue Identification should be XXXX in order to differentiate transactions on OTC derivative instruments from off-market transactions of instruments admitted to trading, marked as XOFF? Do you think this should also be the case if the transaction is executed on an MTF?

Q3: Any other views on the above?

F. Population of fields per type of derivative

The following table presents the requirements in terms of population of fields above per type of derivative. It again concentrates only on the relevant fields as the other fields should always be populated.

	Options	Warrants	Futures	CfDs and TRS	Spread bets	Swaps (other than CfDs, TRS and CDS)	CDS	Complex derivatives
Put/call identifier	M	M	N	N	N	N	N	O
Price multiplier	M	M	M	N	O	M	N	O
Strike Price	M	M	N	N	O	N	N	O
Expiration date	M	M	M	O	O	M	O	O

Legend

M – The field should always be populated for this type of instrument.

O – The field might be populated for this type of instrument in some cases.

N – The field should not be populated for this type of instrument.

II. OTC options

1) *Description of the instrument type*

An option contract gives the holder, in return for paying a premium to the option seller, the right to buy (call) or sell (put) a financial instrument during a given period. A significant volume of option trading takes place over-the-counter.

OTC options are options traded on the over-the-counter market, where participants can choose the characteristics of the options traded. The flexibility of these options is attractive to the participants as both parties can benefit from avoiding the restrictions that normal standardized exchanges place on options. The flexibility allows participants to achieve their desired position more precisely and cost effectively.

2) *Principles*

Put/call identifier

If this information is not known at the time of the transaction because, for example, the buyer can decide at a further stage whether it is a put or a call, the instrument is considered as a complex instrument and you should refer to chapter IX of this document.

3) *Example 2.1*

i. CONTEXT

An investment firm A buys 2000 contracts from investment firm B. The contracts are call options. Each contract represents 100 shares of France Telecom at a 17€ Strike Price, expiring on 31/10/09. The premium per share is 0.6€.

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-09-17	2009-09-17
Trading time	15:35:21	15:35:21
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	2000	2000
Unit Price	0.6	0.6
Price Notation	EUR	EUR
Derivative type	O	O
Ultimate underlying identification	FR0000133308	FR0000133308
Put/call identifier	C	C
Price multiplier	100	100
Strike price	17	17
Expiration date	2009-10-31	2009-10-31
Instrument identification		

iii. EXPLANATIONS

Ultimate Underlying identification

This is the ISIN code of France Telecom SA.

Unit Price

The unit price is the premium per share e.g. 0.6€.

4) *Example 2.2*

i. CONTEXT

An investment firm A buys 2000 contracts from investment firm B. The contracts are call options. Each contract represents 100 shares of France Telecom at a 17€ Strike Price. The premium per share is 0.9€. However, the buyer of the option has the choice to exercise their options between three dates 28/02/10, 31/03/10 or 30/04/10.

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-09-17	2009-09-17
Trading time	15:35:21	15:35:21
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P

Quantity	2000	2000
Unit Price	0.9	0.9
Price Notation	EUR	EUR
Derivative type	O	O
Ultimate underlying identification	FR0000133308	FR0000133308
Put/call identifier	C	C
Price multiplier	100	100
Strike price	17	17
Expiration date	2010-04-30	2010-04-30
Instrument identification		

iii. EXPLANATIONS

Expiration date

As the option has multiple expiration dates, the latest expiration date is populated.

Questions to market participants

Q4: Do you agree that in the case of multiple expiration dates, the field should be filled in with the latest expiration date?

Q5: Any other views on the above?

III. OTC Warrants

1) Description of the instrument type

OTC warrants are tradable long term call or put options, which give the holder the right to buy or sell a given number of units of underlying, usually shares in a company at a fixed price called the 'subscription price' at some future date - usually for a period of several years.

A warrant gives the holder the right to buy or sell the underlying at some predetermined date but the warrant holder is under no obligation to do so. Like options, warrants pay no interest or dividends and also like options, they have a substantial gearing effect.

Generally speaking, the price of a warrant tends to move up and down in line with the price of the underlying to which it is related. Warrants are often issued with new share issues to provide a geared incentive for new and existing investors. If the underlying shares fall substantially, the warrants are likely to be worthless.

For investors looking for higher than average returns and happy to take the extra risk, warrants can provide the answer.

2) Example 3.1

i. CONTEXT

Investment firm A buys 200 warrants from B; each warrant gives the right to sell 100 shares of France Telecom at 17,50€, expiring 30 September 2014. The premium per share is 0,6€.

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-09-17	2009-09-17
Trading time	13:30:36	13:30:36
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	200	200
Unit Price	0.6	0.6
Price Notation	EUR	EUR
Derivative type	W	W
Ultimate underlying identification	FR0000133308	FR0000133308
Put/call identifier	P	P
Price multiplier	100	100
Strike price	17.50	17.50
Expiration date	2014-09-30	2014-09-30
Instrument identification	BE0AV00133308	

iii. EXPLANATIONS

Instrument Identification

As the warrant has an ISIN, investment firm A can report it in the instrument identification field.

IV. OTC Futures / Forwards

1) Description of the instrument type

A future or forward contract gives its buyer the obligation to purchase the underlying asset and the seller to sell (and deliver) it at a preset price and date. If the futures/forward holder liquidates his position prior to expiration, the delivery clause is voided.

The growth of OTC derivatives trading has been fostered by the existence of liquid futures and options exchange markets in which the risks of the customized OTC instruments can be transferred to a broader marketplace.

The OTC futures/forward markets have developed in parallel to exchange traded futures markets whose characteristics can be standardised. Some types of OTC asset classes may over time become commoditised and migrate to the exchange environment but this is not always the case.

2) Example 4.1

i. CONTEXT

Investment firm A buys 200 forward contracts from firm B; each forward contract relates to 100 bonds issued by Bekaert with maturity 31 December 2010 and a future price of 103.

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-09-17	2009-09-17
Trading time	13:30:36	13:30:36
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	200	200
Unit Price	103	103
Price Notation	EUR	EUR
Derivative type	F	F
Ultimate underlying identification	BE0002160266	BE0002160266
Put/call identifier		
Price multiplier	100	100
Strike price		
Expiration date	2010-12-31	2010-12-31
Instrument identification		

V. Contracts for Difference (CfDs)¹

1) Description of the instrument type

A CfD on a share is a derivative product that gives the holder an economic exposure, which can be long or short, to the change in price of a specific share over the life of the contract. Contracts are normally open-ended, and can be closed out by the CfD holder on demand. The contract does not give the holder either ownership of the referenced shares or any ownership rights, such as voting rights. As the contract is normally cash-settled, it does not usually create any right to take delivery of the shares in place of cash settlement. Contracts for difference offer all the benefits of trading shares without having to physically own them. Contracts for difference mirror the performance of a share or an index. When applied to equities, such a contract is an equity derivative that allows investors to speculate on share price movements.

Contracts for difference allow investors to take long or short positions, and unlike futures contracts have no fixed expiry dates, standardised contract or contract size. Trades are conducted on a leveraged basis with margins typically ranging from 5% to 30% of the notional value for CfDs on leading equities. Because contracts for difference trade on margin, investors only need a small proportion of the total value of a position to trade.

One of the basic characteristics of a CfD is that the investor is able to gain an economic exposure to a movement in the referenced share at a small fraction of the cost of securing a similar exposure by acquiring the shares themselves. CfD contracts generally require the investor to lodge an initial margin payment of no more than 5%-30% with the CfD provider. So, in a case where a 10% margin is required, an investor putting up an initial deposit of €100 Euros may be able to enter into a CfD (long) position referenced to shares with a value (at the outset) of €1,000 Euros. However, since the writer of the CfD often hedges its risk by taking a corresponding position in the shares underlying the contract, it also needs to recover the financing charges it incurs (to support purchases that hedge

¹ CfDs are also called 'equity total return swaps' by some market participants.



a long CfD). The financing charge is typically calculated on a LIBOR + x basis (majority of CfDs written in UK).

CfDs also mirror any corporate actions that take place. CfD contracts usually provide for adjustments related to dividend payments and share issues (synthetic dividends and adjustments) that take place during the life of the contract. The owner of a share CfD will receive cash dividends and participate in stock splits.

CfDs enable investors to gain economic exposure to an equity without actually owning the equity itself. For the investor, it is extremely similar to investing in the equity but it enables the investor to gain leverage by only paying a margin on the investment. For example, an investor could buy 10,000 Vodafone shares on the LSE at £1.36 a share and would pay a total consideration of £13,600. Alternatively, the investor could gain the same exposure by buying 10,000 CfDs at £1.36, but instead of paying £13,600, the investor would only have to pay a margin percentage (e.g. 10% requiring an initial payment of £1,360). If Vodafone share price increased to £1.50, the investor could sell the CfD for £15,000 making a profit of £1,400. This is the same monetary profit as trading the equity, but the percentage profit would be 103% using CfDs but only 10.3% using the cash equity. Of course, if the share price had decreased, the CfD investor would have had to pay additional margin payments and the percentage loss would be far greater.

2) Example 5.1

i. CONTEXT

Investment firm A buys 10 000 CfDs on Vodafone shares at 1.36 GBP from investment firm B.

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-09-01	2009-09-01
Trading time	09:30:10	09:30:10
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	10000	10000
Unit Price	1.36	1.36
Price Notation	GBP	GBP
Derivative type	D	D
Ultimate underlying identification	GB00B16GWD56	GB00B16GWD56
Put/call identifier		
Price multiplier		
Strike price		
Expiration date		
Instrument identification		

3) Example 5.2

i. CONTEXT

Investment firm A buys 10 000 Total Return Swaps on Vodafone shares at 1.36 GBP from investment firm B expiring on 16 December 2009.

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-09-01	2009-09-01
Trading time	09:30:10	09:30:10
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	10000	10000
Unit Price	1.36	1.36
Price Notation	GBP	GBP
Derivative type	D	D
Ultimate underlying identification	GB00B16GWD56	GB00B16GWD56
Put/call identifier		
Price multiplier		
Strike price		
Expiration date	2009-12-16	2009-12-16
Instrument identification		

Questions to market participants

Q6: Do you agree that an option on a CFD on an equity is not a complex derivative as the terms of the bet can be accommodated in the transaction reporting fields?

VI. Spread Bets

1) Description of the instrument type

Spread bets are similar to CfDs in that they enable investors to gain economic exposure to an equity without actually owning the equity itself while also offering leverage. Unlike CfDs, spread bets have an expiry date – usually on the futures quarterly cycle of March, June, September and December (although they can be closed out at any time).

Normally there are three types of financial spread bets:

- Daily bets: expire at the end of the trading day
- Future bets: expire monthly or quarterly
- Rolling bets: Do not expire and carry a financing charge in the same way as a CfD

Typically, a spread bet will allow the investor to 'bet' an amount of pounds/euros for every penny/cent movement in the underlying stock. Using the same example as the CfDs, an investor could buy a June contract for £100 a penny movement in Vodafone plc at £1.36 (136p); the equivalent of 10,000 shares. If the price moved up and the spread betting firm offered a quote of 150



– 151, the investor could sell out the position at 150p and make $\pounds 100 \times (150-136) = \pounds 1400$. As with the CfDs, the investor wouldn't be asked to pay $\pounds 13,600$ consideration, but also as with CfDs, the investor would pay around an initial 10% margin and the profits (or losses) would be far greater than the cash equity trade. Recent events in markets have resulted in some cases in dramatic increases in the % levels of margin requirements, even for large, liquid securities.

Spread bets are often considered to be a retail version of CfDs. Some 'bets' are small, perhaps a pound/euro per point, and therefore unlikely to be the focus of any investigation, however, many bets are far larger.

2) Principles

Unit Price

The unit price is the reference price for the transaction and should be in the currency of the underlying instrument.

Price Notation

This field should reflect the currency of the underlying instrument.

Quantity

This is the amount 'bet' for each movement in the price of the underlying instrument.

Price Multiplier

This field should be populated to validate what movement in the price of the underlying instrument the spread bet is based on e.g. 100 for 1 point (cent/penny); 1 for 1Euro/Pound.

Expiration Date

This is the final expiration date for the spread bet, unless it is a rolling bet.

Note: the spread bet can be closed out at any time.

3) Example 6.1

i. CONTEXT

Investment firm A buys a spread bet from investment firm B. The spread bet is for €100 for every cent movement in the price of Ryanair Holdings Plc from €3.30, the reference price for the transaction. The spread bet expires on 31 December 2009.

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-08-24	2009-08-24
Trading time	15:40:11	15:40:11
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	100	100
Unit Price	3.30	3.30
Price Notation	EUR	EUR
Derivative type	X	X

Ultimate underlying identification	IE00B1GKF381	IE00B1GKF381
Put/call identifier		
Price multiplier		
Strike price		
Expiration date	2009-12-31	2009-12-31
Instrument Identification		
Venue Identification	XXXX	XXXX

4) Example 6.2

i. CONTEXT

Investment firm A buys a spread bet from investment firm B. The spread bet is for €100 for every cent movement in the price of Ryanair Holdings Plc from €3.30, the reference price for the transaction. The spread bet has no expiry date.

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-08-24	2009-08-24
Trading time	15:40:11	15:40:11
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	100	100
Unit Price	3.30	3.30
Price Notation	EUR	EUR
Derivative type	X	X
Ultimate underlying identification	IE00B1GKF381	IE00B1GKF381
Put/call identifier		
Price multiplier		
Strike price		
Expiration date		
Instrument Identification		

iii. EXPLANATIONS

Quantity

This is the amount of Euros ‘bet’ for every cent movement in the price of Ryanair i.e. €100.00.

Ultimate Underlying identification

This is the ISIN code for Ryanair Holdings Plc.

Unit Price

This is the reference price for Ryanair for the transaction i.e. €3.30.

Expiration Date

This is not populated as the spread bet does not have an expiry date.

5) Example 6.3

iv. CONTEXT

Investment firm A buys a spread bet on a call option from investment firm B. The spread bet is for £100 for every cent movement in the premium of the Vodafone December 2010 140p call option, the reference price for the transaction. The spread bet expires on 18 December 2010.

v. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-10-24	2009-10-24
Trading time	15:40:17	15:40:17
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	100.00	100.00
Unit Price	0.10	0.10
Price Notation	GBP	GBP
Derivative type	X	X
Ultimate underlying identification	GB00B16GWD56	GB00B16GWD56
Put/call identifier	C	C
Price multiplier	100	100
Strike price	1.40	1.40
Expiration date	2010-12-18	2010-12-18
Instrument Identification		

vi. EXPLANATIONS

Quantity

This is the amount of GB Pounds 'bet' for every penny movement in the premium/price of the Vodafone December 2010 140p call option i.e. £100.00.

Ultimate Underlying identification

This is the ISIN code for Vodafone Plc.

Unit Price

This is the premium/price of the Vodafone December 2010 140p call option.

Strike Price

This is the strike price of the option

Expiration Date

This is the final expiration date for the Vodafone December 2010 140p call option and therefore the final date for the spread bet in Example 6.3

Questions to market participants

Q7: Do you agree that the Quantity field should contain the amount of the 'bet'?

Q8: Do you agree that the Unit Price field should contain the reference price for the transaction?

Q9: Do you agree that the Unit Price should be in the currency of the underlying instrument?

Q10: Do you agree that the Price Notation field should reflect the currency of the underlying instrument even when the spread bet is made in a different currency?

Q11(a): Do you agree that the Price Multiplier field should be populated to validate what movement in the price of the underlying instrument the spread bet is based on e.g. 100 for 1 point (cent/penny); 1 for 1 Euro/Pound movement?

Q11(b): Do you agree that the spread bet will normally be based on a movement of one point (cent/penny) movement in the price of the underlying instrument and the Price Multiplier field should only be populated when the spread bet is **not** based on a movement of one point?

Q12: Do you agree that a transaction report is required for opening and closing a spread bet and for the expiration of a spread bet?

Q13: Do you agree that an option on a spread bet on an equity is not a complex derivative as the terms of the bet can be accommodated in the transaction reporting fields?

Q14: In relation to spread bets on other MiFID instruments, do you have any views on how the fields in a transaction report should be populated?

VII. Equity Swaps

1) Description of the instrument type

An equity swap is an exchange of cash flows between two parties that allows each party to diversify its income, while still holding its original assets. The two sets of nominally equal cash flows are exchanged as per the terms of the swap, which may involve an equity-based (variable) cash flow that is traded for a fixed-income cash flow. The two cash flows are usually referred to as "legs" of the swap, one leg is usually pegged to a floating rate e.g. LIBOR, commonly referred to as the "floating leg". The other leg of the swap is based on the performance (total return) of either a share or a stock market index, commonly referred to as the "equity leg"

Apart from diversification, transaction costs and tax benefits, equity swaps allow large institutions to hedge specific assets or positions in their portfolios. In recent years equity swaps have emerged as one of a series of equity derivative products that are playing an increasingly integral part in how hedge funds gain exposure to global markets.

Equity swaps are conventionally documented under the International Swaps & Derivatives Association (ISDA) Master Agreement and schedules to that agreement. Under an equity swap, the 'Equity Amount Payer' (as defined under ISDA documentation) will pay the economic return on the underlying security. This return is based on an agreed reference price and is paid at a specified reset date or dates. The Fixed Rate Payer (the other party to the equity swap) pays an amount based on a reference interest rate or a fixed rate. This amount accrues over the term of the swap.

If the total return on the equity leg of the swap is negative, the fixed interest leg party pays the amount of the decline in addition to the agreed interest payment. For the equity leg of the swap



therefore, the total return on the underlying equity instrument matches the amount received from (or paid to) the fixed interest counterparty.

2) Principles

Unit Price

This is the initial reference price of the underlying equity on which the equity returns are calculated. When the initial reference price is not known when the Equity Swap is traded -because it depends on the performance of the stock price (i.e. mid prices, VWAP)-, then the Unit Price will be the closing price of the stock when the Equity Swap is traded, and later, when the real reference price is known, the information about the transaction is amended.

Ultimate underlying identification

This field contains the specific information about the stock on which the equity returns are calculated.

3) Example 7.1

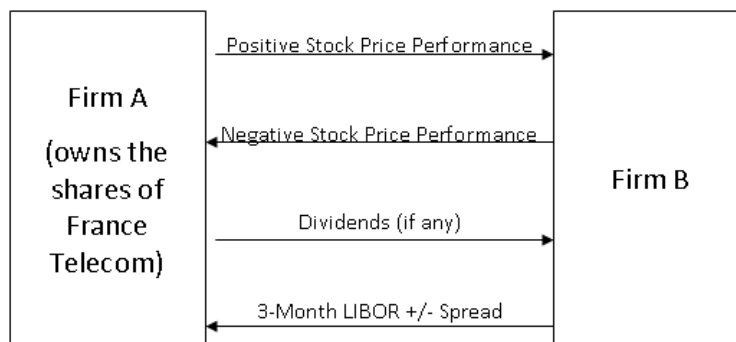
vii. CONTEXT

On 16-09-09, report firm A ('Equity Amount Payer') enters into a two-year, cash-settled, equity swap with report firm B ('Fixed Rate Payer') whereby report firm A agrees to pay at maturity the total performance of France Telecom stock (initial reference price: € 18.50) and receives quarterly the total performance of three-month LIBOR minus a spread. The notional value of the equity swap is € 18-500-000. Each quarter, report firm B will pay the three-month LIBOR rate minus a spread, divided by four, multiplied by € 18 500 000 to firm A. At maturity, report firm A will pay to report firm B the total percentage positive price performance of France Telecom stock multiplied by € 18 500 000. Dividends will be paid to report firm B when the investor receives them.

viii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-09-16	2009-09-16
Trading time	13:05:00	13:05:00
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	S	B
Trading capacity	P	P
Quantity	1000000	1000000
Unit Price	18.50	18.50
Price Notation	EUR	EUR
Derivative type	S	S
Ultimate underlying identification	FR0000133308	FR0000133308
Put/call identifier		
Price multiplier	1	1
Strike price		
Expiration date	2011-09-16	2011-09-16
Instrument identification		

ix. EQUITY SWAP DIAGRAM



x. EXPLANATIONS

Buy/Sell Indicator

The buyer of the Equity Swap (Buy/Sell Indicator, B) is who gets the risk of the price movement of the underlying (the Fixed Rate Payer and Equity Amount Receiver). So the seller (S) is the Equity Amount Payer and Fixed Rate Receiver

Unit Price

This is the reference price of France Telecom when the Equity Swap is traded.

Price Multiplier

This field must contain the number of underlying instruments that one contract represents. So, if one Equity Swap contract represents € 18500000 (Quantity field), the number of shares covered by the swap is 1000000 at the initial reference price of € 18.50 and the Price Multiplier is 1.

4) Example 7.2 (Equity Swap with two equity legs)

xi. CONTEXT

Most equity swaps involve a floating leg and an equity leg, although some exist with two equity legs. Consider the following example:

On 16-09-09, report firm A ('Equity Amount Payer') enters into a two-year, cash-settled, equity swap with report firm B ('Fixed Rate Payer') whereby report firm A agrees to pay at maturity the total performance of France Telecom stock (initial reference price: € 18.50) and receives quarterly the total performance of Telefonica (initial reference price: € 19). The notional value of the equity swap is € 18500000. At maturity, report firm B will pay performance of Telefonica, divided by four, multiplied by € 18500000 to firm A, and report firm A will pay to report firm B the total positive price performance of France Telecom stock multiplied by € 18500000. Dividends will be paid to report firm A (Telefonica) and to report firm B (France Telecom) when the investor receives them.

An Equity Swap with two equity legs will be reported with two different transaction reports with the same Transaction Reference Number for both reporting firms:

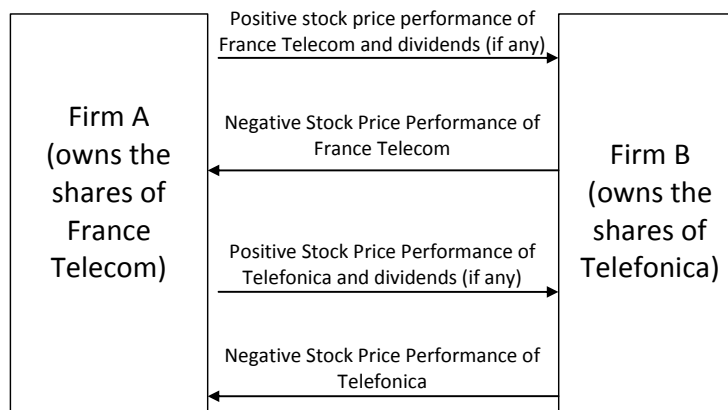
xii. DATA (TRANSACTION REPORT 1)

Field	Report from firm A	Report from firm B
Trading day	2009-09-16	2009-09-16
Trading time	13:05:00	13:05:00
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	S	B
Trading capacity	P	P
Quantity	1000000	1000000
Unit Price	18.50	18.50
Price Notation	EUR	EUR
Derivative type	S	S
Ultimate underlying identification	FR0000133308	FR0000133308
Put/call identifier		
Price multiplier	1	1
Strike price		
Expiration date	2011-09-16	2011-09-16
Instrument identification		

xiii. DATA (TRANSACTION REPORT 2)

Field	Report from firm A	Report from firm B
Trading day	2009-09-16	2009-09-16
Trading time	13:05:00	13:05:00
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	973684	973684
Unit Price	19.00	19.00
Price Notation	EUR	EUR
Derivative type	S	S
Ultimate underlying identification	ES0178430E18	ES0178430E18
Put/call identifier		
Price multiplier	1	1
Strike price		
Expiration date	2011-09-16	2011-09-16
Instrument identification		

*xiv. **EQUITY SWAP DIAGRAM***



*xv. **EXPLANATIONS***

Buy/Sell Indicator

The buyer of the Equity Swap (Buy/Sell Indicator, B) is who gets the risk of the price movement of the underlying.

Unit Price

This is the reference price of the underlying asset when the Equity Swap is traded.

Price Multiplier

This field must contain the number of underlying instruments that one contract represents. So if one Equity Swap contract represents € 18500000 (Quantity), the number of shares covered by the swap is 1000000 at the initial reference price of € 18.50 and the Price Multiplier is 1.

Questions to market participants

Q15: Do you agree that the buyer of the Equity Swap (Buy/Sell Indicator field, B) should be the Fixed Rate Payer?

Q16: Do you agree that the Quantity field should be the notional value of the Equity Swap or the number of shares subject to the agreement?

Q17: Do you agree that the Unit Price field should contain reference price of the underlying equity on which the equity returns are calculated?

Q18: Do you consider that when the initial reference price is not known when the Equity Swap is traded, this product should be considered a Complex Derivative?

Q19: Do you agree that Equity Swaps with two Equity legs should be reported with two different transaction reports with the same Transaction Reference Number for both reporting firms?

VIII. Credit Default Swaps

*1) **Description of the instrument type***

A credit default swap ("CDS") transfers the credit exposure of fixed income products between parties. In many ways, it is like an insurance product. The buyer of a credit swap receives protection against a default so that the risk is transferred from the holder of the fixed income security to the seller of



the swap. In return for this protection, the buyer has to pay an interest rate a number of basis points above a 'riskless' benchmark. For example two parties enter into an agreement whereby one party (the buyer of the swap) pays the other a fixed periodic coupon for the specified life of the agreement. The other party (the writer) makes no payments unless a specified credit event occurs. Credit events are typically defined to include a material default, bankruptcy or debt restructuring for a specified reference asset. If such a credit event occurs, the party makes a payment to the first party, and the swap then terminates. The size of the payment is usually linked to the decline in the reference asset's market value following the credit event.

2) Principles

Unit price

There are various models for CDS pricing. The implementation of the “big bang protocol” has led to some standardization around the model of upfront payment + 100 bps or 500 bps coupons. Whatever the breakthroughs between upfront and running fees, taking into account the maturity date of the CDS (typically, 5 years), it is easy to compute an “equivalent annual payment” on the expected duration of the CDS for a given notional amount. Indeed, the understanding of CESR is that the information on equivalent annual payment is available in standard market practice. This number shall be expressed in bps.

For instance, as computed by Markit² given certain assumptions on interest rates and credit spread curve, it is equivalent to pay for the hedging of 10 M\$ notional bonds:

- 500 basis points annual coupon and a \$485K upfront payment
- 100 basis points annual coupon and a \$2 MM upfront payment
- 625 basis points annual coupon and no upfront payment
- No annual coupon and paying a \$2.4 MM upfront payment

Although the standardization of payments has led to fixed 100 and 500 bp coupons, it is still market practice to quote prices in equivalent all-running spread.

Underlying instrument identification

The understanding of CESR is that, in defining events of default, CDS do not specifically refer to a list of obligations whose credit event would trigger the CDS settlement / the payment by the protection seller. Nor do standard contracts refer to one specific obligation as being deliverable in case of physical settlement. On the contrary, cash settlement has now become standard market practice. Besides, the reference obligation merely is used to define the seniority level of the debt protected by the CDS. Data providers display examples of possible reference obligations for a given issuer and a given seniority level, also indicating whether they are currently preferred for the purpose of CDS contracts referencing.

Market practice has evolved towards the direct exchange of “clips” which are the combination, offered by a data provider (Markit) against payment, of an issuer code and a reference obligation code for a given seniority level. Since this is the major standard if not the only one for exchanging CDS transaction data, the group considers that one option could be to adopt this format for reporting to the regulators, although it is the property of a commercial provider. Of course, public intervention is not supposed to grant a competitive advantage to any such provider. This would be a breach of competition fairness. However, the rationale for competition fairness is to minimize the costs for all market players. In that specific case, adopting a different standard than the one that already emerged from the market would not be cost-efficient. Thus, if the relevant data provider could be committed to grant access to “clips” to any market participants at a low cost, in particular for small firms, this may be an adequate solution in the end. Regulators should also have an easy access to the provider's tables enabling to track back the relevant issuer for any “clip”.

² “The CDS big bang”, March 13 2009, page 16

If consultation feedback proves that this option is not acceptable by market participants, an adequate Underlying instrument should be identified. At first glance, it seems that the reference obligation should be reported as the ultimate underlying instrument, since it is the only financial instrument formally related to the CDS.

However, as mentioned before, the reference obligation is only quoted in contracts as a proxy to the seniority of the debt protected, and does not play any direct role in settlement. Furthermore, the investigations of operational market surveillance will mainly be “issuer-driven”. For instance, market surveillance departments will need to review the transactions on all CDS protecting against events of default of an issuer such as Danone or Vodafone, in particular ahead of announcements impacting the ability of such issuers to reimburse their debt. Therefore, the relevant criterion for market surveillance teams to query the database of CDS transactions will be the identity of the issuer of either bonds or shares. While this issuer may not be easily identified per se through the ISIN of the reference obligation, he would be most in cases better caught through the ISIN of its stock. Without the ISIN of the stock, regulators would have to design their data mining to proceed through tedious tables of bonds per issuer, which some regulators have already implemented, but which are not available to others at a cost they are prepared to pay.

Hence, CESR considers three different approaches at this stage:

- 1) The ultimate underlying instrument should be the Markit “clip” of the CDS ;
- 2) The ultimate underlying instrument should be the ISIN of the reference obligation if any;
- 3) The ultimate underlying instrument should be the ISIN of the stock of the issuer of the debt protected, where relevant.

It should be noted that these three options are mutually exclusive. There should be only one acceptable standard for the underlying instrument, so as to enable regulators to implement efficient data processing.

In all three cases, the underlying instrument triggering the duty to report is the existence of a reference admitted to trading a regulated market obligation, since it is the only legal underlying.

Scope of transactions to be reported

Since there is no obligation for clearing CDS transactions at this stage, market practice has evolved to allowing some specific transactions that are commonly used as a proxy for clearing. Some of these should be reported for the purpose of market surveillance.

Early termination (full or partial): the parties may agree on early termination of a CDS. In practice, one of the parties may have proposed early termination to take advantage of an inside information. Thus, early terminations should be reported. They would usually take the form of reverse transactions of the initial one.

Assignments (full or partial): The buyer of protection forces the seller of protection to transfer the contract to another seller. Although this is a major issue for the monitoring a financial stability, it is very unlikely that such transaction may conceal market abuse. As a result, from the pure point of view of market surveillance, it may not be meaningful to report assignments to market surveillance regulators.

Compression: these transactions play the role of a clearing between participants. For instance, if A has bought protection for 5 M€ of notional amount on issuer X from B at 100 bp, B has bought protection for 2M€ of notional amount on the same issuer from C at 95 bp, and C has bought protection for 3M€ of notional amount from A at 105 bp, specific transactions (including payments due to the different in prices) can be agreed on so as to reduce the size of notional amount protected for each counterpart. In the end, A will still get protection for 3 M€ of notional amount from B, and grant protection on 1M€ of notional amount for C; there will be no contract anymore between B and C. Like in the above case of assignments, these transactions do not change the overall exposure of



any market participant to an issuer's risk, and are of little interest to regulators. Thus, it is suggested that they should not be reported.

3) Example 8.1

i. CONTEXT

Client A sells protection to firm B for 20 million Euros in Alcatel debt. Reference obligation is Alcatel 4,75% January 2011 (FR0000189201).

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-09-17	2009-09-17
Trading time	15:35:31	15:35:31
Reporting firm identification	A	B
Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	S	B
Trading capacity	P	P
Quantity	20000000	20000000
Unit Price	625	625
Price Notation	EUR	EUR
Derivative type	Z	Z
Ultimate underlying identification	FR0000189201 OR FR0000130007	FR0000189201 OR FR0000130007
Put/call identifier		
Price multiplier		
Strike price		
Expiration date	2014-03-20	2014-03-20
Instrument identification		

iii. EXPLANATIONS

Buy / Sell indicator: B is for the buyer of protection, S for the seller of protection.

Unit Price

In this example, a transaction requiring a 500 basis points annual coupon and a \$485K upfront payment should be reported as a 625 basis point transaction (see details above).

Quantity: this is the notional amount for which protection is bought / sold. The amount of debt protected is expressed in Euros (NOT in standard 10M contracts)

Questions to market participants

Q20: Which instrument should be reported as the ultimate underlying instrument for a CDS? the market clip, the reference bond if any, or the ISIN of the stock of the issuer? (warning: these are mutually exclusive options, i.e. participants would not have the choice between different reporting options. Once one of them has been selected, it would become the only standard for reporting)

Q21: Do you agree that the price should be an equivalent all-running payment price expressed in basis points?

Q22: Do you agree the price notation should be the currency of the debt protected by the CDS?

Q23: Do you agree that early terminations should be reported, while assignments and compression should not be reportable?

IX. Complex derivatives

1) *Description of the instrument type*

CESR would encourage firms to use the derivative types detailed above as far as possible. However, CESR also recognises that there will be certain OTC derivatives that might share certain characteristics of these OTC derivative types, but have sufficiently different characteristics to prevent them being grouped with other derivative types.

This derivative type classification should be used for example:

- where the OTC derivative is an option that cannot be classified as a call or put option at the time the transaction is entered in to.
- where the OTC derivative is an option or warrant that has multiple puts and calls.
- where the OTC derivative is an option that allows the purchaser to choose whether the option is a call or a put on a particular date in the future (often referred to as a chooser option).
- where the OTC derivative is an option or a warrant and the strike price is not known at the time the transaction is entered into and is instead based on the average price over an averaging period.

This category must not be abused and we would expect firms to agree with their local CAs that this category is suitable for certain OTC derivatives before it is used.

2) *Example 9.1*

i. CONTEXT

On 4 November 2009 at 10:24:46 UCT, an investment firm A enters an agreement to buy 5000 chooser option contracts from investment firm B. Each contract allows investment firm A to either buy or sell 1000 Vodafone shares of Vodafone plc common stock for 140p at any date up to 31/12/09. The contract premium is 15p

ii. DATA

Field	Report from firm A	Report from firm B
Trading day	2009-12-31	2009-12-31
Trading time	10:24:46	10:24:46
Reporting firm identification	A	B
Instrument Description	Vodafone 140 Chooser Option 31 Dec 09	Vodafone 140 Chooser Option 31 Dec 09

Counterparty code	B	A
Venue identification	XXXX	XXXX
Buy/Sell Indicator	B	S
Trading capacity	P	P
Quantity	5000	5000
Unit Price	0.15	0.15
Price Notation	GBP	GBP
Derivative type	K	K
Ultimate underlying identification	GB00B16GWD567	GB00B16GWD567
Put/call identifier		
Price multiplier	1000	1000
Strike price	1.4	1.4
Expiration date	2012-12-31	2012-12-31
Instrument identification		

*iii. **EXPLANATIONS***

Put/call Identifier

Although the instrument is an option, the put/call identifier cannot be populated as the option gives the right to either sell or buy the underlying instrument.

Instrument description

CESR does not intend to exchange the instrument description through TREM, due to languages differences.

However, a free text field for instrument description might be useful for local regulators to distinguish diverse instruments that might otherwise be grouped together in a single instrument code, and to get additional information on a “suspicious” derivative transaction without having to send an ad hoc request.

Questions to market participants

Q24: Do you have any other relevant examples that should be added into CESR guidelines? Please give detailed explanations of the example.

Q25: Do you agree that the Instrument Description field should be required to be populated at local level, in order to explain the derivative being reported?



Annex 1 – List of questions

Population of fields per type of derivative

Q1: Do you agree that the Unit Price should be the premium per single underlying of the contract as it is in market practice and not per contract?

Q2: Do you agree that the Venue Identification should be XXXX in order to differentiate transactions on OTC derivative instruments from off-market transactions of instruments admitted to trading, marked as XOFF? Do you think this should also be the case if the transaction is executed on an MTF?

Q3: Any other views on the above?

OTC options

Q4: Do you agree that in the case of multiple expiration dates, the field should be filled in with the latest expiration date?

Q5: Any other views on the above?

Contracts for Difference (CfDs)³

Q6: Any views on the above?

Spread Bets

Q7: Do you agree that the Quantity field should contain the amount of the 'bet'?

Q8: Do you agree that the Unit Price field should contain the reference price for the transaction?

Q9: Do you agree that the Unit Price should be in the currency of the underlying instrument?

Q10: Do you agree that the Price Notation field should reflect the currency of the underlying instrument even when the spread bet is made in a different currency?

Q11(a): Do you agree that the Price Multiplier field should be populated to validate what movement in the price of the underlying instrument the spread bet is based on e.g. 100 for 1 point (cent/penny); 1 for 1 Euro/Pound movement?

Q11(b): Do you agree that the spread bet will normally be based on a movement of one point (cent/penny) movement in the price of the underlying instrument and the Price Multiplier field should only be populated when the spread bet is **not** based on a movement of one point?

Q12: Do you agree that a transaction report is required for opening and closing a spread bet and for the expiration of a spread bet?

Q13: Do you agree that an option on a spread bet on an equity is not a complex derivative as the terms of the bet can be accommodated in the transaction reporting fields?

Q14: In relation to spread bets on other MiFID instruments, do you have any views on how the fields in a transaction report should be populated?

Equity Swaps

³ CfDs are also called 'equity total return swaps' by some market participants.



Q15: Do you agree that the buyer of the Equity Swap (Buy/Sell Indicator field, B) should be the Fixed Rate Payer?

Q16: Do you agree that the Quantity field should be the notional value of the Equity Swap?

Q17: Do you agree that the Unit Price field should contain reference price of the underlying equity on which the equity returns are calculated?

Q18: Do you consider that when the initial reference price is not known when the Equity Swap is traded, this product should be considered a Complex Derivative?

Q19: Do you agree that Equity Swaps with two Equity legs should be reported with two different transaction reports with the same Transaction Reference Number for both reporting firms?

Credit Default Swaps

Q20: Which instrument should be reported as the ultimate underlying instrument for a CDS? the market clip, the reference bond if any, or the ISIN of the stock of the issuer? (Warning : these are mutually exclusive options, i.e. participants would not have the choice between different reporting options. Once one of them has been selected, it would become the only standard for reporting)

Q21: Do you agree that the price should be an equivalent all-running payment price expressed in basis point?

Q22: Do you agree the price notation should be the currency of the debt protected by the CDS?

Q23: Do you agree that early terminations should be reported, while assignments and compression should not be reportable?

Complex derivatives

Q24: Do you have any other relevant examples that should be added into CESR guidelines? Please give detailed explanations of the example.

Q25: Do you agree that the Instrument Description field should be required to be populated at local level, in order to explain the derivative being reported?