9th February 2015

Record Currency Management Limited response to European Securities and Markets Authority (ESMA) Consultation Paper "*Review of the technical standards on reporting under Article 9 of EMIR*" published 10th November 2014 (ESMA/2014/1352)

Background information

Record Currency Management Limited ("Record") is a leading independent currency management firm managing $52.7 billion, at 31st December 2014, for institutional investor clients in the UK, continental Europe, Asia and North America. The principal activities undertaken by Record are passive and dynamic currency hedging services for pension funds and other institutional investors, and currency for return products. Record always acts as agent for its clients, rather than as principal.

The vast majority of Record's UK and European clients have delegated authority to Record to undertake the reporting obligations imposed by the European Market Infrastructure Regulation ("EMIR"). Record reports FX forwards, both deliverable and non-deliverable, FX options, plus a small number of exchange traded derivative (ETD) contracts / positions. Since the reporting obligation came into effect in February 2014, Record has reported approximately 9,000 FX forward / NDF / option contracts on behalf if it's clients.

All reports are made to Regis-TR.

Responses to each of the questions posed in the Consultation Paper are provided on the following pages.

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Responses to individual questions

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.

We do not envisage any difficulties removing the "Other" category from derivative class and type descriptions in Articles 4(3)(a) and 4(3)(b) of ITS 1247/2012.

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.

The clarifications introduced in this section will help improve the data quality of reports. We do not envisage any of the changes posing significant new difficulties.

Q3   What difficulties do you anticipate with the approaches for the population of the mark to market valuation described in paragraphs 21 or 19[1] 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.

We would suggest adopting the "replacement cost" approach for all derivatives transactions. We believe this would: a) reflect a consistent approach across all derivatives types; b) reflect most uniformly the gross realised gain or loss were the contract closed-out or terminated early; and c) bear closest resemblance to the exposure that could be mitigated by exchange of variation margin.

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.

The adaptations proposed will help improve the data quality of the reports.

Any difficulties will relate to the co-ordination of when and how the adaptations are implemented. For example, reporting counterparties will likely have to update static data fields and co-ordinate changes to reporting templates or interfaces with the roll-out of the

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[1] *This question has been reproduced in full as per the Consultation Paper text, although we have assumed that the reference to paragraph 19 here should in fact be a reference to paragraph 23*

adaptations by one or more trade repositories. Firms using intermediaries to connect to multiple trade repositories will need their service providers to update static data and co-ordinate changes to interfaces with each trade repository. Subject to the timing of implementation and any transition period, it is possible that any inter-TR reconciliations will suffer multiple breaks as firms and service providers implement the adaptations

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.**

The introductions proposed will help improve the data quality of the reports.

Any difficulties will relate to the co-ordination of when and how the introductions are implemented. For example, reporting counterparties will likely have to update static data fields and co-ordinate changes to reporting templates or interfaces with the roll-out of the introductions by one or more trade repositories. Firms using intermediaries to connect to multiple trade repositories will need their service providers to update static data and co-ordinate changes to interfaces with each trade repository. Subject to the timing of implementation and any transition period, it is possible that any inter-TR reconciliations will suffer multiple breaks as firms and service providers implement the introductions.

Firms may experience difficulties with the separation of initial and variation margin; currently, reporting counterparties may simply be reporting a single account balance, representing the total value of all margin posted.

IN ADDITION, we would propose to add a new field (*Counter Amount*) for use in reporting FX forward / NDF contracts. ***Please see Addendum below for further details on this proposal.***

Q6 **In your view, which of the reportable fields should permit for negative values as per paragraph 40[2]? Please explain.**

The mark-to-market valuation field should permit negative values. This is consistent with the "replacement cost" approach for mark-to-market valuations.

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[2] *This question has been reproduced in full as per the Consultation Paper text, although we have assumed that the reference to paragraph 40 here should in fact be a reference to paragraph 44*

Q7 **Do you anticipate any difficulties with populating the corporate sector of the reporting counterparty field for non-financials as described in paragraph 42[3]? Please elaborate.**

We do not anticipate any difficulty with populating the corporate sector of the reporting counterparty field for non-financials.

Q8 **Do you envisage any difficulties with the approach described in paragraph 45[4] 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 respect to the identification of indices and baskets, any difficulty may relate to the availability of the relevant static data in firms systems to enable clear and consistent reporting.

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.**

We have no comment on this question.

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?**

We recognise the potential difficulty with reporting strategies, and in particular the need to decompose the strategy into multiple derivative contracts, and the ensuing problems faced by firms as a result. However, our limited use of such strategies means that we are not able to comment with any great authority on this issue.

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[3] *This question has been reproduced in full as per the Consultation Paper text, although we have assumed that the reference to paragraph 42 here should in fact be a reference to paragraph 46*

[4] *This question has been reproduced in full as per the Consultation Paper text, although we have assumed that the reference to paragraph 45 here should in fact be a reference to paragraph 49*

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.

We believe that clarifying the notional amount as described would add clarity and be sufficient to report the main types of derivatives.

Please see overleaf for the Addendum referred to in our response to Question 5.

Addendum

Proposal for new field ("Counter Amount") for reporting FX forward / NDF contracts

We propose adding a new field ("*Counter Amount*") for use in reporting FX forward / NDF contracts. The rationale for this proposal is as follows:

The industry standard for electronic trade confirmation of FX forward and FX NDF contracts is the exchange of SWIFT MT300 messages. The convention used in the SWIFT MT300 message is for Counterparty 1 to report the following information:

- The currency bought by Counterparty 1
- The amount of currency bought by Counterparty 1
- The currency sold by Counterparty 1
- The amount of currency sold by Counterparty 1

Counterparty 2 reports the same information but, by definition, the currencies and amounts are transposed. This makes confirmation of the currencies and amounts straightforward, simply matching the buys (Counterparty 1) with the sells (Counterparty 2), and matching the sells (Counterparty 1) with the buys (Counterparty 2).

The traded rate, while provided by each counterparty in each MT300 message, is not a matching field.

The approach used by SWIFT in the MT300 message is clear, simple, and concise, and is more recognisable to market participants.

This approach does not suffer from some of the issues we have experienced with the interpretation of the current technical standards; e.g. how the notional currency or notional amount is determined by each counterparty; and whether each counterparty is buying or selling.

This approach can also be used for non-deliverable forward contracts. The current ESMA proposal using the definition "*the seller shall be the counterparty delivering the currency which is first when sorted alphabetically*" is currently open to mis-interpretation for NDFs, since neither counterparty will deliver the "non-deliverable currency". Both parties may or may not deliver the "deliverable currency" once the contract is fixed at final settlement.

Adopting this approach would also mean that there is no requirement to maintain the "*Exchange rate basis*" field (Table 2 Field 44) – the basis of the traded rate is not required since both sides of each transaction are reported in full.

Below we propose a convention to adopt in the technical standards, utilising the proposed new field:

Field	Counterparty 1	Counterparty 2
Counterparty side (Table 1 Field 13)	Buy or sell; reports action on Notional Currency 1	Buy or sell; reports action on Notional Currency 1
Notional Currency 1 (Table 2 Field 5)	three digit ISO code; relates to currency bought (or sold) subject to value in Counterparty Side	three digit ISO code; relates to currency bought (or sold) subject to value in Counterparty Side
Notional Currency 2 (Table 2 Field 6)	three digit ISO code; relates to currency sold (or bought) subject to value in Counterparty Side	three digit ISO code; relates to currency sold (or bought) subject to value in Counterparty Side
Notional Amount (Table 2 Field 14)	Numerical (monetary) amount to 2 dps; relates to amount of Notional Currency 1 bought (or sold) subject to value in Counterparty Side	Numerical (monetary) amount to 2 dps; relates to amount of Notional Currency 1 bought (or sold) subject to value in Counterparty Side
Counter Amount (**NEW FIELD**)	Numerical (monetary) amount to 2 dps; relates to amount of Notional Currency 2 sold (or bought) subject to value in Counterparty Side	Numerical (monetary) amount to 2 dps; relates to amount of Notional Currency 2 sold (or bought) subject to value in Counterparty Side

Under the above convention, both counterparties may report the trade as a buy, but the notional currencies and amounts will be transposed (by definition). Similarly, if both counterparties report the trades as a sell, the notional currencies and amounts will likewise be transposed. However, if one counterparty reports as a buy (or sell), and the other counterparty reports as a sell (or buy), then the notional currencies and amounts will be aligned.

The benefits with adding a new field ("Counter Amount") and adopting the above convention would be:

a) Greater clarity of how to report FX forward and FX NDF contracts for participants, consistent with the long-standing and robust approach used by SWIFT, improving the consistency and quality of reports made by counterparties under EMIR

b) Ease of inter-TR reconciliation, subject to trade repositories adopting an approach to reconciliation that is conditional; i.e. reconciling the report made by Counterparty 1 subject to the buy / sell indicator compared to the buy/sell indicator reported by Counterparty 2

c) Better information for regulators on the volume of FX transactions reported, without any need to calculate notional amounts from traded rates, conditional on the exchange rate basis reported with the trade

We trust that this proposal is of interest, and we would be willing to engage further on the subject, as required.