

European Securities and Markets Authority

By email.

19 March 2012

Dear Sirs,

Re: ESMA Discussion Paper – Draft Technical Standards for the Regulation on OTC Derivatives, CCPs and Trade Repositories (the “Discussion Paper”)

Tradeweb Europe Limited (“Tradeweb”) welcomes the opportunity to comment on the Discussion Paper.

Tradeweb is a leading global provider of electronic trading platforms and related data services for the fixed income and derivatives marketplaces. Tradeweb operates an electronic multi-dealer to institutional customer platform in Europe (the “Tradeweb System”) through which institutional investors access market information, request bids and offers from, and execute transactions with dealers that are active market makers in fixed income securities, money markets and derivatives.

Tradeweb is authorised and regulated by the UK Financial Services Authority as an investment firm with permission to operate an MTF. In Europe, Tradeweb is active in 17 fixed income, money market and derivatives markets. Tradeweb’s institutional dealer-to-customer platform enables institutional buy-side clients to access liquidity from sell-side liquidity providers. These buy-side clients comprise some leading asset managers, pension funds, and insurance companies, as well as most of Europe’s central banks.

Question 25

Are potential conflicts of interest inherent to the organisation of CCPs appropriately addressed?

It is appropriate that CCPs should have robust conflict of interests’ compliance obligations because of the critical nature of their position in the markets. As some CCPs may also be affiliated with other businesses (or may operate other businesses) which may in themselves pose conflict of interest issues for the CCP we believe that, in addition to the matters already identified by ESMA in the Discussion Paper, ESMA should require a CCP to implement stringent conflict of interest policies with regards to their other businesses to help mitigate against possible conflict of issues concerns.

Question 29

Should a principle of full disclosure to the public of all information necessary to be able to understand whether and how the CCP meets its legal obligation be included in the RTS? If

yes, which should be the exceptions of such disclosure requirements?

It is critical that a CCP be required to disclose publicly the policies and procedures by which it ensures compliance with its obligation under Article 5 to provide equal access to trading venues.

In mandating equal access to CCPs under EMIR, European regulators have recognised that such equal treatment is essential to ensure fair competition so that market participants will be able to clear their contracts with equal operational and cost efficiency, whilst still having access to multiple competing trading venues.

However, unless there are specific and detailed standards applicable to CCPs that are publicly available for enforcement by regulators on a concerted and ongoing basis, the general principle of equal access reflected in EMIR may be insufficient to ensure that there is a fair and competitive environment for trading venues and to protect venues from potential discriminatory treatment by CCPs.

A CCP could provide preferential access to a particular trading venue through various overt or subtle measures. Such preferential treatment could result in a significant competitive advantage and potentially a dominant market position for the favoured trading venue notwithstanding the general principle of non-discrimination incorporated into EMIR.

Vertical silos that incorporate both clearing houses and trading venues present particular concerns from a competition perspective. CCPs within vertical silos may be incentivised to implement measures that favour their own trading venues at the expense of competing venues. Moreover, new entrants within the derivatives clearing market are likely to encounter substantial obstacles in competing with incumbent CCPs due to the nature of the clearing business.

Overt or subtle measures adopted by a CCP that could in practice impede equal access and treatment for a trading venue include the following:

Timing of Access. A venue of execution that gains access to a CCP even one month earlier than a competitor (perhaps even before a product is required to be cleared under the regulations) could make a large and permanent difference to competitiveness.

Timing of Registration/Updates. It is a requirement of participants executing derivatives transactions that the CCP registers the transactions as soon as possible after the time of execution, to reduce counterparty and/or execution risk. If a CCP provides faster updates (whether through frequency and/or speed of updates) to a particular execution venue, it would likely to be a significant competitive advantage to that venue of execution.

Efficiencies of Workflows. Participants take into account the efficiency of clearing workflow in their choice of execution platform; e.g., if a participant is required to undergo a more cumbersome and manually intensive confirmation process in the access arrangements then this will represent a competitive disadvantage.

Cost. Direct and indirect costs are clearly a factor. Price discrimination clearly impacts competitive advantage. Equitable and transparent pricing structures are vital, to ensure fair competition.

Access Specifications. Availability, accuracy and clarity of detailed access arrangements and technical specifications are clearly important to ensure equitable access.

Reliability of Access. If there is even a perception that one execution venue has more reliable access than a competitor, then this will affect competitiveness.

Access to User Testing Facilities. If a venue of execution is provided with less favourable access to testing facilities then this could have an impact on the ability of that venue to compete with other venues to provide its clients with access to the CCP.

At a minimum, CCPs should be required to disclose publicly the policies and procedures by which they ensure compliance with their obligations under Article 5 along the aforementioned parameters, i.e., relating to timing of access, timing of registration/updates, efficiencies of workflows, costs, access specifications, reliability of access and access to user testing facilities. In the absence of such publicly available policies, the critical principle of equal access reflected into EMIR may not be achievable in practice.

Point of Clarification on Question 23

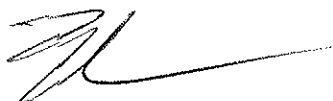
What are your views on the notion of liquidity fragmentation?

Paragraph 63 of the Discussion Paper states that, “[A]ccording to Article 8a of EMIR, *access to a CCP by a venue of execution* can only be granted if such access would not require interoperability or threaten the smooth and orderly functioning of markets in particular due to liquidity fragmentation” (emphasis added).

By way of clarification, we note that Article 8a is entitled “Access to a venue of execution” and does not cover access to a CCP by a venue of execution, as referenced in Paragraph 63. Whereas Article 8a provides that a venue of execution may deny access to a CCP due to “liquidity fragmentation” concerns, Article 8 does not permit a CCP to deny access to a trading venue due to “liquidity fragmentation” concerns. When drafting technical standards relating to liquidity fragmentation, ESMA should distinguish between these circumstances accordingly.

We hope you find the responses helpful, and we would be pleased to discuss further any aspects of the response. To that end, please feel free to contact the undersigned if you have any questions or require any additional information.

Yours faithfully,



Eric Kolodner
Managing Director



Alex Rutter
International General Counsel