



Date: 2 February 2009
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CALL FOR EVIDENCE

**ON THE TECHNICAL STANDARDS TO IDENTIFY AND
CLASSIFY OTC DERIVATIVE INSTRUMENTS FOR TREM; CESR's TRANSACTION REPORTING EXCHANGE
MECHANISM**

Introduction

1. According to Article 25(3) of the Markets in Financial Instruments Directive (MiFID)¹, investment firms shall report details of transactions executed in financial instruments admitted to trading on a regulated market to their competent authorities.
2. OTC derivatives² are used to take positions equivalent with positions that can be taken with financial instruments admitted to trading on regulated markets. Reporting of the transactions on OTC derivatives is not mandatory under MiFID, but some CESR Members have taken advantage of Recital 45 of MIFID to extend the scope of transaction reporting to OTC derivative instruments where the underlying is an instrument admitted to trading on a regulated market in the EEA. Therefore, some CESR Members require reporting, whereas others do not.
3. In order to allow CESR Members to exchange transaction reports on OTC derivatives, CESR is considering modifying its existing IT system, the Transaction Reporting Exchange Mechanism (TREM). Transaction reporting is a key element used in the detection and investigation of suspected market abuse. CESR Members have started to study the technical aspects of the project and launched (in December 2008) a work stream in order to study the inclusion in TREM of the features needed to facilitate the exchange of transaction reports on OTC derivatives among those CESR Members that are willing to participate in such an exchange.
4. CESR, at this time, expects to launch a project to adapt TREM by Q3 2009. The new mechanism would then be in place by Q3 2010. CESR notes that funding for this project has been discussed with the European Commission.
5. The aim of this call for evidence is **to seek interested parties' views on which classification and identification standards should be used for OTC derivative instruments.**
6. At this stage, CESR is mainly interested in the scope of instruments that are currently reported in the Member States that have used Recital 45 of MiFID to extend the scope of transaction reporting. Therefore, this call for evidence is focused on OTC derivatives where the underlying instruments are securities admitted to trading on regulated markets in the EEA. The types of instrument currently collected are, for example contracts for difference, spread bets, credit default swaps, equity swaps, options, futures, warrants, etc.

Call for evidence

7. There are a number of issues that have to be considered before the eventual launch of the system. CESR has identified the classification and identification of the OTC derivative instruments as one of the major challenges of the upcoming project.
8. The ISO 6166 standard, called ISIN (for identification), and the ISO 10962 standard, called CFI (for classification), are available and widely used for shares and bonds admitted to trading on regulated markets, but do not currently cover fully OTC derivative instruments.

¹ Directive 2004/39/EC

² In the context of this call for evidence, the term "OTC derivatives" represents derivative instruments which are not admitted to trading on an EEA regulated market.



9. For transaction reporting and market monitoring purposes, CESR expects to classify the instruments by type using a classification system. It would also either use an identifier (such as the ISIN) or generate an identifier based on a certain number of characteristics. These two fields would facilitate the manipulation of data by IT systems.
10. CESR notes that the selection of technical standards in TREM might influence the design of local reporting systems of CESR Members in the future. However, it does not imply that CESR Members will use these standards for transaction reporting locally.
11. CESR invites all interested parties to submit their views as to what CESR should consider while defining how to identify and classify OTC derivatives within TREM. It also invites them to report on how they are currently identifying and classifying OTC derivative instruments. In particular, CESR invites views on the following questions:
 1. **What technical standards do you use or intend to use to classify and identify OTC derivatives?**
 2. **If you do not use standards, how do you classify and identify OTC derivatives within your IT systems? Please provide your classification and identification systems where possible.**
 3. **What characteristics do you use to create identifiers for OTC derivative contracts for your systems (if relevant)? Please provide practical examples.**

All contributions should be submitted online via CESR's website under the heading Consultations at www.cesr.eu by COB on 27 February 2009.