



MINISTÈRE DES FINANCES
ET DES COMPTES PUBLICS

MINISTÈRE DE L'ÉCONOMIE,
DE L'INDUSTRIE ET DU NUMÉRIQUE

DIRECTION GÉNÉRALE DU TRÉSOR

Paris, le

Mr Mark Carney
Chairman
Financial Stability Board
Basel, Switzerland

Dear Mark,

Thank you for your letter of 13 May 2016, in which you invite us to provide a report on the measures taken by France in order to facilitate the OTC derivatives trade reporting, following the report of 4 November 2015 published in the context of a FSB thematic review.

Please note that this report focuses on the legal barrier (secrecy law) stemming from the French law. We understand that the European Commission will, in a separate response, address any barriers arising directly from the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories ('EMIR'), which is directly applicable in France as well as in other EU Member States.

Secrecy law was the only barrier to OTC trade reporting stemming from the French law identified in the report (see Tables 6 and 7 of the report). More specifically, it was identified as a barrier to the reporting of information by French market participants to trade repositories (TR) pursuant to a foreign reporting requirement.


Under French law, financial institutions such as central counterparties (CCP), credit institutions or investment firms are indeed subject to specific requirements regarding secrecy law pursuant to Articles L.440-4, L.511-13 and L.531-12 of the Monetary and Financial Code, which prevent them to provide information covered by secrecy law (such as the counterparty ID) without a prior consent of their counterparty.

In order to remove this barrier, the French Government proposed, on 30 March 2016, to amend the relevant Articles of the Monetary and Financial Code so as to allow financial institutions to report information covered by secrecy law to TR pursuant to the legislation or regulation of a non-EU jurisdiction, without requesting prior consent of their clients (which is the usual way to cure secrecy law, as noted in the report of the FSB Thematic Review).

This amendment (which can be found at Article 23 of a draft law entitled « *projet de loi relatif à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique* », <http://www.assemblee-nationale.fr/14/projets/pl3623.asp>) has been adopted on 9 June 2016 by the National Assembly, and should be adopted in the coming weeks by the Senate. It will then directly enter into force, thus allowing France to comply with the recommendation #2 of the FSB Thematic Review.

As you can see, France is and will remain committed to increasing the transparency of OTC derivatives markets, which is a key objective of the G20.

Yours sincerely,



Bruno Bézard