



The European Association of Corporate Treasurers

Response to the Financial Stability Board's consultation on the Feasibility study on approaches to aggregate OTC derivatives data

28 February 2014

The European Association of Corporate Treasurers (EACT)

The EACT is a grouping of national associations representing treasury and finance professionals in 18 countries of the European Union. We bring together about 12,000 members representing 6,500 groups/companies located in the EU. We comment to the European and international authorities, national governments, regulators and standard-setters on issues faced by treasury and finance professionals across Europe.

We seek to encourage the profession of treasury, corporate finance and risk management, promoting the value of treasury skills through best practice and education.

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1 - Introductory remarks

The EACT, representing real economy end users of financial services, welcomes the opportunity to comment on this consultation. This is important especially as non-financial corporate end-users are having to divert considerable resources to comply globally with a multiplicity of new regulatory requirements in respect of OTC derivatives. As part of their efforts to implement these new regulatory requirements, non-financial end-users are faced with various inconsistencies and uncertainties, both within the European legal framework and between different international legal frameworks.

Non-financial corporate end-users typically use derivatives only for hedging purposes, to reduce the risk associated with certain commercial exposures, including on inter-affiliate and financing transactions. As such, these transactions do not present any significant systemic risk. In fact, we would suggest that the inclusion of such large numbers of low-risk transactions potentially blurs regulatory oversight of higher risk transactions relating to financial institutions. Furthermore, it seems that many trade repositories are struggling to handle the mass of data being reported.

We note that the FSB's analysis in the consultation document (on page 10) states that *"Even once reporting requirements are in place in all jurisdictions, no single authority or body will have a truly global view of the OTC derivatives market, even on an anonymised or aggregate-level basis, unless a global aggregation mechanism is developed"* and (on page 14) that *"TRs themselves have different interpretations of terminologies, reporting specifications and data formats depending on the rules in their jurisdictions and their own choices. TR data must therefore be transformed into a common and consistent form for use in analysis on an aggregated level. This would be easier if the same interpretations and data standards are implemented across TRs. Where data standards and interpretations are different, harmonising the data is more difficult and perhaps in some cases impossible."*

We feel that there is a risk that the aggregation of derivatives reporting data will be seen principally as a *technical* challenge instead of a challenge relating to the international inconsistency of the new regulatory requirements in respect of the reporting of OTC derivatives. The consultation paper gives some excellent examples of these inconsistencies, such as differing Unique Trade Identifier taxonomies. There is some risk, however, that the aggregation project may itself entrench the current inconsistencies instead of first encouraging the streamlining of the requirements. We believe that this opportunity should be used for bringing more consistency in the reporting at international level.

2 - Responses to specific questions

Question 1: Does the analysis of the legal considerations for each option cover the key issues? Are there additional legal considerations - or possible approaches that would mitigate the considerations - that should be taken into account?

The EACT would suggest that FSB Feasibility Study should take this opportunity to propose harmonisation of the reporting requirements in a way that would reduce the volume of data that shall be required to be aggregated in future as follows:

- i) Require "one-sided" instead of "two-sided" reporting. Therefore the majority of transactions would be reported by financial institutions instead of by end users.
- ii) Inter-affiliate transactions should be excluded from the reporting requirement for non-financial entities.

iii) Foreign exchange transactions relating to an underlying commercial/hedging requirement should be excluded from the reporting requirement for non-financial entities.

Question 2: Does the analysis of the data and technology considerations cover the key issues? Are there additional data and technology considerations - or possible approaches that would mitigate those considerations - that should be taken into account?

We note that the consultation paper in section 5.6.3 (“Business Continuity”) examines some potential threats to the aggregation models proposed by FSB. We would suggest to widen this analysis to examine in more detail the potential risk that the connectivity required for the aggregation of derivatives data may in itself open up the global financial system to increased risk of “cyber-attack”, such as by computer virus, that could more easily be transmitted via the linked trade repositories to infect all counterparties (including corporate end-users).

Section 1.3: Aggregation models analysed

It is important that any information made public should ensure anonymization / aggregation in a way that nobody other than the regulators can derive information on the counterparties of a transaction. Only in case of a potential insolvency should the regulators be entitled to exchange information, including the identity of specific counterparties.

Independently of the mechanisms and data formats chosen for aggregation it should be ensured that the reporting formats for market participants remain stable in order to avoid any additional implementation efforts resulting from potential changes. The impact of such changes on business processes and systems is often underestimated by decision-makers.

Therefore we would be in favour of option 2 (“logically centralized model of aggregation”) where only an index of aggregated data is centralized. For reasons of data protection and control the centralized data storage should be a public entity in contrast to the privately organized TRs.

Chapter 5: Data & Technology Considerations

The EACT considers that, in addition to the legal data privacy concerns mentioned in the consultation paper, there are also commercial data privacy concerns where, for example, a derivative hedge may effectively disclose the existence of an underlying commercial exposure (such as a forthcoming acquisition).

