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LSEG Response to FSB Consultation Paper: Feasibility study on approaches to aggregate OTC derivatives data

EXECUTIVE SUMMARY

1. On the basis of the current and planned environment for the reporting of derivatives to trade repositories, the assumptions used and the objectives of the feasibility study, we broadly agree that the aggregation options analysed, the legal considerations and the assessment criteria are appropriate. However, we agree that there will be significant challenges in overcoming the differences in trade reporting requirements and data standards between jurisdictions to deliver aggregated data from trade repositories.
2. While the Consultation Paper does refer to the potential need to source data on exchange-traded derivatives, it generally focuses on the aggregation of OTC derivatives data. However, we believe that such an approach could lead to confusion over what data is held in TRs. We urge the FSB to clarify whether the aggregation of data should be limited to OTC derivatives only or whether capturing aggregate OTC positions and any additional or offsetting ETD positions would also be beneficial to regulators, where this is possible.
3. While we do not preclude the use of TR data for market surveillance and detection of market abuse where this is necessary, or the only option, we suggest that any framework should avoid the need for authorities to request/aggregate data from TRs that would lead to the duplication of transaction level data received by those authorities via different reporting regimes.
4. There are a number of essential pre-requisites required regardless of aggregation model adopted:
 - Common instrument and product identification standards;
 - Consistent treatment of client clearing transactions, including the definition of trading capacities and clarity regarding trading scenarios and the identity of counterparties to a contract;
 - Global coordination by regulators (with the industry where appropriate) regarding a global system for unique transaction identifiers (UTI);
 - Recognition that aggregate positions can be calculated from position reports submitted by participants, as well as from trade report data.

Contacts:

Matt Leighton, Regulatory Strategy, LSEG

David Nowell, UnaVista Ltd



INTRODUCTION

5. London Stock Exchange Group plc (LSEG) welcomes the opportunity to respond to the FSB Consultation Paper on its “Feasibility study on approaches to aggregate OTC derivatives data”. This submission represents the views of the LSEG and the companies within it.
6. In providing this response, we have drawn on our experience as an operator of multiple neutral, well regulated markets within Europe’s leading diversified exchange group, operating four trading venues (London Stock Exchange, Borsa Italiana, Turquoise, Euro MTS); four Central Counterparties (CC&G in Italy and three within LCH.Clearnet Group Ltd, in which the Group holds a majority stake); and a Central Securities Depository (Monte Titoli). The Group also operates a trade repository (UnaVista Ltd) which is approved under EMIR by the European Securities and Markets Authority (ESMA) across all asset classes for both exchange-traded and OTC derivatives.
7. We believe that the establishment of reporting obligations for derivatives contracts is an important step in the development of tools that allow regulators to have access to more information regarding trading in those markets. In particular, we understand the need for regulators to be able to have access to data that provides a clear understanding of the size of the market, the size and risk profile of outstanding positions and their potential impact in the event of a default or systemic failure.
8. We note the assumptions outlined in Section 1.6 of the Consultation Paper. In the context of the current and planned environment for the reporting of derivatives contracts, these assumptions seem appropriate. However, as the FSB recognises, there will be significant challenges in overcoming the differences in trade reporting requirements and data standards between jurisdictions and addressing the absence of global standards for data items such as unique product and transaction identifiers.
9. In responding to this report, we raise some questions regarding the scope, and use, of any proposed aggregation model and the approach to the principles of data standards/management. We also highlight other potential causes of inconsistency between TRs and different jurisdictions.
10. We acknowledge that this response may be published by the FSB.



LSEG KEY ISSUES

OVERALL COMMENTS

11. On the basis of the current and planned environment for the reporting of derivatives to trade repositories, the assumptions outlined in Section 1.6 of the Consultation Paper and the objectives of the feasibility study, we broadly agree that the aggregation options analysed, the legal considerations and the assessment criteria are appropriate.
12. Considering the approach to providing regulators access to TR data (further to the CPSS-IOSCO guidance of August 2013) and given the way that such access is being implemented/managed in some jurisdictions (e.g. the EU), Option 3 may be the most suitable way for a single authority to aggregate data. However, this would require all regulatory authorities to use a uniform methodology to produce consistent results. It would also, as the Consultation Paper highlights, require regulators to expand cross-border access to data through additional international agreements, the absence of which would prevent the provision of some forms of globally aggregated data. While Options 1 and 2 would appear to avoid these issues through the provision of a centralised database/calculation engine, the legal considerations outlined in Chapter 4 may inhibit the TRs' ability to distribute this data.
13. At this stage of the analysis, an estimation of the costs has, understandably, not been undertaken. However, it is clear that the costs of aggregating data across multiple repositories and jurisdictions will be significant. Future analysis must identify these costs and where/by whom they will be borne, as well as to what extent they can be mitigated by the removal of inconsistencies between TRs and different jurisdictions.
14. Similarly, regardless of which aggregation approach is adopted, aggregated data will need to be cleaned. Any further analysis will need to establish the extent to which TRs will be able to complete all cleansing activity without recourse to the original data submitters and in the event that they are not, clarify any impact on industry participants.
15. Independently of the choice of aggregation model, we have a number of observations/questions on the scope/use of aggregated data and the approach to data standards. These are outlined in the sections below.

SCOPE – OTC VS EXCHANGE TRADED DERIVATIVES

16. While the Consultation Paper does refer (in sections 3.3(b) – calculation of exposures – and section 5.5.2 – data standardisation) to the potential need to source data on exchange-traded derivatives, it generally focuses on the aggregation of OTC derivatives data. However, we believe that such an approach could lead to confusion over what data is held in TRs. In the EU, the reporting obligation under EMIR includes all derivatives contracts, covering both OTC and



exchange-traded derivatives (ETDs). Any subsequent assessment of the aggregation options must, therefore, consider, and clarify:

- Whether the aggregation of data should be limited to OTC derivatives only;
 - Whether capturing aggregate OTC positions and any additional or offsetting ETD positions would also be beneficial to regulators, where this is possible.
17. If the intention is to limit the scope of any aggregation model to OTC derivatives, such a framework would need to recognise that there is no global definition of an OTC derivatives contract. For example, in the US, Dodd Frank applies to 'swaps' and 'security based swaps', while in the EU, EMIR defines an OTC derivatives contract as a contract the execution of which does not take place on a regulated market (RM). Derivatives executed on a multilateral trading facility (MTF) would, under EMIR, be treated as OTC.
 18. That notwithstanding, it is essential that there is a reliable way of identifying OTC derivatives contracts stored by a TR, particularly where that TR also includes ETDs. Ideally this would be consistent with current and planned requirements for the content of reports submitted to TRs and which therefore would not create additional burdens for participants, TRs and authorities.
 19. Given that different reporting regimes may involve the use of different flags and that a number of reporting regimes do not have, or require, dedicated fields to flag OTC derivatives (e.g. under EMIR there is no field specified to reflect this), it is important for TRs and authorities to be able to accurately, and consistently, identify these transactions, without having to build complex reference data solutions.
 20. In practice this is likely to involve the use of product IDs, instrument/derivative type or trading venue IDs, either by way of specific values or by requiring these fields to be populated only in the case of OTC derivatives. We would urge the FSB regulators to consider this aspect of any framework, if the intention is to limit its scope to OTC derivatives only.

SCOPE – USE OF DATA FOR MARKET SURVEILLANCE

21. While the data in TRs, particularly at transaction level, may be appropriate for authorities looking to fulfil their mandates regarding market surveillance/market abuse, and may be the only accessible source of such data for authorities in some jurisdictions, the data aggregation model needs to recognise that many authorities already have access to, or are in receipt of, transaction level data for the same purposes.
22. For example, in the EU, the transaction reporting regime is primarily designed to identify instances of suspected market abuse and this is about to be extended in MiFID2 to a wider scope of financial instruments, including derivatives not admitted to trading on a regulated market.



23. For transactional data to be used for the detection of potential market abuse, it ideally needs to be combined with transactions in the underlying securities to provide a holistic view of market activity. These reports would be captured by transaction reporting regimes, but not necessarily by requirements to report to TRs, and would thus limit the use for market surveillance purposes of transaction level data held by TRs.
24. While we do not preclude the use of TR data for market surveillance and detection of market abuse where this is necessary, or the only option, we suggest that any framework should avoid the need for authorities to request/aggregate data from TRs that would lead to the duplication of transaction level data received by those authorities via different reporting regimes.

DATA STANDARDS/MANAGEMENT REQUIRED FOR AGGREGATION

25. The Consultation Paper recognises that a number of processes and data standards are core to any aggregation of derivatives data. We broadly agree with many of the areas considered (and acknowledge the challenges in achieving these), but would make the following additional observations:
- Common instrument and product identification standards are essential. We would urge the adoption across all jurisdictions of the existing ISIN ISO standard, which we believe is robust and internationally established and accepted, for both derivatives and the underlying instruments. Such a code uniquely identifies the instrument and enables participants to understand the attributes of that instrument through the associated reference data. In addition, we believe that this standard is capable of extension to new asset classes such as commodities and interest rates.
 - The treatment of client clearing transactions within TRs is inconsistent across different jurisdictions and legal models. The Consultation Paper does not address the need to have common standards for, and definitions of, trading capacity (e.g. what is meant by agency vs. principal) and how this is reflected in different reporting requirements¹. This requires clarification around the identification and treatment of different trading scenarios and responsibilities for reporting (e.g. executing broker vs. clearing member). This should be considered alongside the issue of child-trades/modifications discussed in Section 3.2 of the Consultation Paper.
 - Global coordination by regulators (with the industry where appropriate) is also needed for a global system for unique transaction identifiers (UTI). Such a standard is needed to match counterparty reports and linked transactions and to address anonymisation issues. However, this will require standardisation of trading capacity and trading scenarios – see previous bullet point.

¹ For example, in the UK a trade between a bank and two clients may consist of 2 back-to-back principal transactions, while in other jurisdictions (e.g. the US), this is seen as one agency transaction.



- We fully support the use of the Legal Entity Identifier (LEI) for participants/counterparties. However, to ensure a consistent approach to data aggregation, this also needs to be seen in the context of the clarity required regarding the determination of the counterparty to a derivative transaction, i.e. confirmation of trading scenarios and definitions of trading capacity.
- It is essential that the FSB recognises that different approaches exist to calculate aggregate positions. In the EU, participants can report at a position level, for both ETD and OTC, with business events reported against the positions rather than the original trades. It is no longer possible, therefore, to calculate position aggregations from trade reports alone.
- Additionally, we believe the FSB needs to consider the timing implication of any matching or quality checks on the reported data. For example, for EMIR reporting, trade data from 'two-sided' reporting isn't considered for inclusion into position calculations until data from both counterparties is paired and matched. This matching only starts on T+2 and will impact the timeliness of position aggregations.