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Bundesverband Investment
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Secretariat
Technical Committee
International Organization of Securities Commissions

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Sent by mail: OTC-Data-Report@iosco.org

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Secretariat
Committee on Payment and Settlement Systems
Bank for International Settlement

Sent by mail: cpss@bis.org

BVI response to the consultative report on OTC derivatives data reporting and aggregation requirements

Dear Sir and Madam,

In response to the above mentioned consultation, please find below BVI¹ views on the subject at hand.

We are pleased to have the opportunity to comment the consultative report on OTC derivatives data reporting and aggregation requirements.

We support the implementation of a reporting to trade repositories (TRs) on the basis of minimum transaction level data elements and the development of a standard Legal Entity Identifier (LEI). We believe that the recommendations will enhance the transparency of information to relevant authorities and the public and will therefore improve the financial stability.

We would like to make the following comments:

Director General:
Thomas Richter
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¹ BVI Bundesverband Investment und Asset Management is the interest representative for German fund and asset management companies. Its 85 members manage currently assets close to Euro 1.8 Bn in both open-ended investment funds and individual mandates. For more information, please visit www.bvi.de.

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General remarks:

- **Reporting requirements**

BVI acknowledges CPSS/IOSCO views that Europe has established other channels for transaction reporting obligations to competent authorities under the Markets in Financial Instruments Directive (MiFID). We favour the use of CCPs, exchanges and Multilateral Trading Facilities (MTFs) as reporting channels for the buy side transactions to TRs.

BVI believes that the double reporting of OTC derivative transactions under the intended MiFID transaction reporting regime and the proposed reporting requirements to trade repositories under EMIR should be avoided. Sell side firms should be primarily responsible for reporting the transactions to TRs. However, we think that TRs should be required to transmit OTC derivative transactions to the competent authority.

BVI feels that the final determination of the minimum required data elements should be carried out in consultation between the regulators and the relevant market participants (e.g. investment fund management companies). Such consultation should help defining an industry wide action plan for the implementation of a comprehensive minimum data structure for all OTC derivatives.

We think that an important aim is to achieve a consistent and compatible reporting standard and message formats between the reporting parties, TRs, CCPs, regulators and other service providers (e.g. collateral management agents). A reduction in the number of required reports and the use of centralized information platforms is absolutely necessary. Otherwise cost and complexity of the system may become unmanageable.

For the investment fund management companies it is important to avoid proliferation of trade repositories with different interfaces/input systems, which would increase costs and operational risk in the middle and back office. Therefore we support the idea to use only a small number of (European) TRs.

BVI strongly supports that all (OTC) derivative transaction arrangements should be based on open international industry messaging and communication standards such as ISO 20022. ISO 20022 is the leading industry multi-syntax financial messaging standard. Without prescribing the use of specific



open identification and transaction standards, interoperability between all market participants and the competent authorities will not be possible.

For regulatory and data protection issues it is necessary that TRs are not organized as single global entities but offer regional access and service capabilities.

- **Regulators access to OTC derivatives data**

Trade repositories should be required to, among other things, provide aggregated data and statistics on types of transactions and types of counterparties to the public and to the competent authorities.

BVI supports CPSS/IOSCO views that TRs should only disseminate data in an aggregated form to the public. Supervisory authorities and the public policy should recognize that there are reasons for the coexistence of different levels of transparency, and should push for higher transparency only in those cases where it can remarkably increase market efficiency as well as benefits for participants.

Any information given to the general public should be carefully considered. A publication of e.g. individual open positions may influence the price formation process in the OTC markets and may reduce liquidity.

A TR should provide individual counterparty data on open positions, trading volumes and prices only to competent supervisory authorities for the purpose of maintaining financial stability. This detailed disclosure should also include information on the largest exposure to certain products and parties in order to be better able to assess the level of risk concentration in the market.

BVI feels that disclosure of individual company positions to the general public should be avoided in order to protect proprietary portfolio information. The level of granularity of information needs to be considered carefully. Only disclosure of statistics on standard products aggregated at a sufficiently high level to the public should be considered.

BVI believes that transparency is good, but only if it does not reduce liquidity. The reporting of positions and transactions on a daily basis may be difficult as many products are not daily priced, valuations may differ between counterparties, and reconciliation within a TR may require additional rules and requirements.



The information stored in a TR should be maintained at least as long as the parties to the relevant OTC-contract would be obligated to maintain the data. The TR should not be able to claim any intellectual property rights for the industry-delivered content of the data repository. There should be no license requirements or fees for the use of the data repository content in internal systems of market participants.

Specific comments:

1. Data Gaps

BVI acknowledges that TRs need further types of information beyond the principal transaction level databases for assessing systemic risk and financial stability but currently not supported by a trade repository. However we believe that the transmission of further data on each of the types of information (e.g. netting and collateralization information) from the relevant market participants (e.g. investment fund management companies) to the TRs needs careful consideration and should not be rushed. We think that the extension of the required data elements should be defined in close consultation between the regulators and the financial industry.

BVI feels that the CPSS/IOSCO recommendations on minimum data reporting requirements including further information but currently not supported by a TR should be line with the applicable OTC derivative legislation. We think that the intended CPSS/IOSCO proposals will incorporate more data requirements than is currently foreseen by the EMIR EU regulation (see Article 7 para 4). A more detailed level of data requirements could increase the cost and the operational burden for all market participants and the competent authorities without adding value for the purpose of assessing systemic risk and financial stability.

2. Development and Implementation of a LEI

We support CPSS/IOSCO position to develop and implement a system of LEIs. A coalition of financial Trade Associations embraces the development of a Legal Entity Identifier.

- **Expeditious Development and Implementation of a standard LEI**

A number of trade associations, supported by the BVI, have made recommendations for a LEI standard and a operating model, specifically:



- Standards body – The International Organization for Standardization, i.e., ISO's new standard, ISO 17442, is recommended for use as the new, authoritative legal entity identification standard.
- Core Issuing and Facilities Manager – The Depository Trust & Clearing Corporation (DTCC) and the Society for Worldwide Interbank Financial Telecommunications (SWIFT), along with DTCC's wholly-owned subsidiary AVOX Limited, are recommended as key partners to operate the core LEI utility as the central point for data collection, data maintenance, LEI assignment, and quality assurance.
- Federated Registration – ANNA, through its network of local national numbering agencies (NNAs), is recommended as a key partner in the solution for registering, validating and maintaining LEIs for issuers, obligors, and other relevant parties in their home markets. The NNAs are envisioned to serve as the "face" of the LEI Utility to those markets while leveraging the functionality of the centralized LEI Utility for the assignment, further validation and global distribution of LEIs.

BVI and other Trade Associations believe that the LEI standard, issuance capability and management solution outlined above represent a basis on which the LEI governance and operating system can be built between regulators, central banks and the industry. CPSS/IOSCO as well as the FSB have recognized the progress made by the industry in this regard and we encourage the use of these proposals as the backbone of a robust LEI system.

In Section 5.2.1 of the report, CPSS/IOSCO recommends that the industry process include the development of an LEI standard and an issuance capability under the auspices of organizations with international membership and experience in developing and publishing international standards for the financial sector.

As noted above, BVI and other Trade Associations have recommended the International Organization for Standardization (ISO) for the development of the standard and DTCC-SWIFT-ANNA for issuance and management of the LEIs and LEI database. All of these organizations have strong international membership and/or governance and experience in the international financial services industry.



- ISO is located in Geneva, Switzerland and is the premier standards body responsible for the development and management of international standards (currently more than 18,100 standards) through its worldwide network of national standards bodies.
- DTCC currently provides custody and asset servicing for 3.6 million securities issues from over 120 countries and territories. DTCC, through its Avox subsidiary, has nearly ten years of experience in collecting and validating legal entity information from over 200 jurisdictions.
- SWIFT is a European-based global utility; a member-owned cooperative used by more than 9,000 banking organizations, securities institutions, and corporate customers, and regulators in 209 countries. SWIFT, based in Europe, is subject to regular oversight by a group of G-10 central banks, led by the National Bank of Belgium.
- ANNA is a net work of 110 national numbering agencies for the ISIN and the CFI standards.

BVI and other Trade Associations hope this alliance of service providers and standard developers will satisfy regulators preference for strong international membership, regional presence, and experience in creating and managing the LEI solution.

With respect to expeditious implementation, the Trade Associations have been working very closely with the DTCC-SWIFT-ANNA alliance and ISO to ensure the LEI solution can be implemented and available for use before the effective date of any required reporting to Trade Repositories (TRs) in any region of the world. The time frames these organizations are currently operating under are as follows:

- Target end date for completion of LEI standard, following the global ISO process, by January 2012 (see August 2011 Update on the SIFMA website at <http://www.sifma.org/issues/operations-and-technology/legal-entity-identifier/resources/>)
- DTCC-SWIFT-ANNA will have self-registration, payment engine and staffing in place by Q3 2012 with a minimum of 50,000 LEIs scrubbed and populated in the LEI database; over estimated 400,000 records will be available by the end of 2012.



BVI and other Trade Associations and solution providers look forward to working with the TRs and regulatory community to ensure these timeframes satisfy future reporting requirements and that any implementation questions are resolved in a timely fashion so as to achieve these timeframes.

- **Basic principles for the LEI**

BVI supports the basic set of principles set forth in the report. The characteristics of the LEI standard outlined in the report are largely consistent with the data model set forth in the Trade Associations Requirements document (<http://www.sifma.org/issues/operations-and-technology/legal-entity-identifier/resources/>) and represent characteristics that we believe are important for the LEI to be successful. The Trade Association Requirements document also recommended that the LEI be “structurally fixed”, specifically:

“The LEI should be structurally fixed in that it should remain static with respect to its format (e.g., alphanumeric) and character sets. Revising or expanding the LEI format (e.g., adding another character) over time can have significant negative impacts on systems relying on the existing LEI structure.”

BVI recommends that CPSS/IOSCO consider adding this characteristic to its set of Basic Principles.

BVI agrees with the principle in the report that easy and free access to LEI data ensures the data is a public good and does not unfairly benefit one party over another. In addition, broad access improves the data quality and its ultimate benefit to all users as well as promotes the use of the LEI for many other business purposes.

The Trade Association Requirements document also highlighted another very important principle that we believe warrants mentioning as part of the recommendation around LEIs in the CPSS/IOSCO report. For the LEI solution to be successful there must be appropriate incentives to encourage legal entities to self-register for LEIs, to maintain high quality data, and to certify the accuracy of its LEI information on at least an annual basis. In our view, it will be incumbent on the regulatory community to help facilitate this compliance. The CPSS/IOSCO recognizes in section 4.5.2 that a “fundamental obstacle” to prior efforts to adopt a LEI has been the lack of “legal compulsion.” We agree. Therefore, we urge CPSS/IOSCO to include legal or regulatory compulsion as a one of its basic principles of an effective LEI sys-



tem and to work with the regulatory community to promote the use of a single, universal LEI standard.

- **Data aggregation**

We have noted that the report highlights the importance of data aggregation for the purposes of systemic risk management and surveillance and that robust data aggregation involves, for example, understanding “parent-subsidiary relationships or legal entity aggregation based on a shared performance obligation.” We also note that the report highlights possible topics of discussion for the FSB workshops including “the hierarchical or affiliation reference data needed by authorities for effective use of LEIs and whether such data should be kept confidential”.

BVI and other Trade Associations agree that risk management capabilities are improved with good, detailed affiliation and hierarchy information. However, as documented in the LEI Requirements document, the Trade Associations felt that given the short time frame with which an LEI solution needed to be established, a pragmatic approach to the hierarchy data collected in the initial phase of the solution was needed. Specifically, the Requirements document indicates that the entity's ultimate parent owner (i.e., “ultimate parent”) is a mandatory data element. However, trying to collect all hierarchy information would be overly complex for the initial implementation of the solution.

Notwithstanding, the position taken in the Requirements document, the Trade Associations are beginning discussions on the issue of expanding hierarchy information as part of ongoing work on implementation issues.

BVI believes that the LEI system should enable the identification of company structures and company trees in order to avoid the additional operating expenditure for creating cross reference with existing master data. Ultimate parent company information is a starting point which should be expanded upon in due course.

- **Appropriate governance of the LEI system**

As outlined in the Trade Associations requirements document, the Trade Associations believe the LEI standard, issuance and management should be governed by a single global governance committee (i.e., “LEI Governance Committee”) comprised of global market participants (e.g., trade associations, regulators and supervisors, utilities). The coalition proposed that the



LEI Governance Board should be responsible for leading the interests and ensuring the overall success of the LEI system. The Board would have oversight of all the activities of the LEI Solution Provider(s) including the issuance of the LEI, the management and distribution of the data, and any additional potential services that the Solution Provider would endeavor to deliver. The Board would also interact closely with the Standards Body to ensure any changes to the standard itself or related data model are made with the best interests of the LEI Solution in mind.

BVI would like to note that this proposal is to be viewed only as starting point to focus the discussion on a viable internationally accepted governance structure. The governance structure, however, should primarily satisfy the needs of the global regulatory community because the global LEI will not succeed without its support.

The LEI Governance Framework is a key critical success factor to the legitimacy and adoption of a uniform and global LEI standard. The framework must properly represent and balance the interests of market participants, policymakers, regulators as well as be sensitive to financial market and geographic considerations.

We hope that our views are of assistance to CPSS/IOSCO and remain at your disposal for further clarification of the issues at hand. Our response can be made public.

With kind regards

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(Managing Director)

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