



11 April 2013

## **CPSS-IOSCO consultative report on Authorities' access to trade repository data**

### **Cover note for public consultation**

The Committee on Payment and Settlement Systems (CPSS) and the Board of the International Organization of Securities Commissions (IOSCO) are publishing a consultative report on *Authorities' access to trade repository data*.

Trade repositories (TRs) are entities that maintain a centralised electronic record (database) of OTC derivatives (OTCD) transaction data. TRs will play a key role in increasing transparency in the OTCD markets by improving the availability of data to authorities and the public in a manner that supports the proper handling and use of the data, while taking into account confidentiality requirements.

#### **1. Objectives of the report**

The report seeks to provide guidance to TRs and authorities on the principles that should guide authorities' access to data held in TRs, as well as possible approaches to addressing confidentiality concerns and access constraints.

In October 2011, the Financial Stability Board (FSB) advocated that the CPSS and IOSCO, in coordination with other relevant authorities, take forward the work on authorities' access to TR-held data in line with FSB Recommendation 16 that states "Market regulators, central banks, prudential supervisors and resolution authorities must have effective and practical access to the data collected by trade repositories that they require to carry out their respective regulatory mandates. Access to trade repository information by official international financial institutions also should be permitted in appropriate form where consistent with their mandates."<sup>1</sup> In carrying out this work, CPSS and IOSCO took into account data security and previous work by the OTC Derivatives Regulators' Forum.<sup>2</sup>

Within the framework of recommendation 16, the report considers that a broad range of authorities (eg market regulators, central banks, prudential supervisors and resolution

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<sup>1</sup> FSB, *Report on the Implementation of OTC derivatives market reforms* (October 2010).

<sup>2</sup> This report follows-up on the report published by the CPSS and IOSCO in January 2012, on requirements regarding data to be reported to TRs and aggregation of that data ("Data Report"). The Data Report provided recommendations for minimum data reporting requirements and potential methodology and mechanisms for data aggregation on a global basis.

authorities), as well as official international financial institutions, are interested in obtaining access to data reported to TRs in order to perform their respective responsibilities.

## **2. Approach of the report**

The guidance in the report is addressed to both TRs and authorities, in support of the expectations set out for each, respectively, in Principle 24 and Responsibility E of the CPSS-IOSCO Principles for financial market infrastructures (PFMI).

To describe the typical expected data needs of authorities, the report follows a functional approach. The functional approach considers the legal mandate of an authority in contrast to an institutional approach which would look at the type of authority that performs the mandate. The functional approach recognises that some authorities may perform several functional mandates and that these mandates may be combined in various ways depending on the legal framework of the different countries.

Additionally, the report includes a data access mapping table, which aligns each function with the minimum level of data access that authorities would typically require in support of their mandate(s).

The report also offers guidance on how TRs and authorities might address non-typical data requests. Non-typical requests can be either for data outside of the dimensions of data access relevant to the mandate(s) of the authority as stated in the report or requests for access to data from an authority with a functional mandate that has not been listed in this report.

The report provides guidance on how to handle these non-typical requests for data by clarifying the expected roles of the different parties involved: the requesting authority, the TR, and the TR's supervisor. Possible safeguards have also been identified to address legal, procedural or confidentiality constraints, in order to facilitate authorities' access to TR-held data.

## **3. Request for comments on the report**

CPSS and IOSCO request comments on the contents of the consultative report and in particular on the following points:

- A. Is the list of functional mandates comprehensive? Are there other functional mandates carried out by authorities that are not currently listed?
- B. Are the descriptions of the functional mandates listed in the report clear and comprehensive to facilitate a mapping between these mandates and a particular authority? If not, how can the description be improved to ensure it is clear and comprehensive? Do the descriptions provide for sufficient flexibility to account for the potential of changing data needs of authorities over time (eg as the regulatory regimes for mandatory clearing of OTC derivatives mature, the information needs of regulators may also change)?
- C. Does the mapping table, on its own, provide enough guidance to both authorities and TRs on the level of data access that an authority may typically require in support of its mandate(s)? If not, what changes should be made?

Question to the TRs: do you have examples of instances in which you did decline access based on a functional mandate? If so, why?

- D. Is the guidance to address non-typical requests sufficient to allow TRs to make a determination on these types of requests? If not, how could the guidance be improved? Would the types of information listed in the illustrative template facilitate a TR's decision making process when considering an authority's request for data? What additional information, if any, would be required?

Question to the TRs: do you have examples of instances in which you did decline access in response to a non-typical request? If so, why?

- E. What are the specific issues or challenges in creating anonymised data? How does the TR ensure that the identity of the counterparties cannot be inferred from the data provided, while making a sufficient level of data available to the requesting authority in support of its mandate(s)? Does it seem feasible to ensure the anonymity of data transmitted without unduly restricting data access?
- F. Are the approaches and safeguards presented to address legal and confidentiality constraints sufficient? What other approaches or safeguards would be effective? Are there any other constraints or obstacles that need to be addressed?
- G. What are the specific issues and challenges in further investigating the possibility for the public sector to identify a centralised or other mechanism to collect and share global aggregated data, as a complement to the direct access by the different authorities to TR held data? Would either a “logical” centralisation of federated TRs applying common technical reporting standards or a central public entity be possible options to collect and share global aggregated data?
- H. How do you assess the progress made so far in terms of technical standardisation of data reported to TRs and implementation of tools and methods to facilitate the aggregation of data stored in TRs? Do you see the need for additional initiatives and in which specific areas?

Comments on the report are invited from all interested parties and should be sent by 10 May 2013. After the consultation period, CPSS and IOSCO will publish a final report taking into account the comments received.