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by email:

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Comments on the CPSS/IOSCO consultation on trade repositories in the OTC derivatives market

Dear Mr. Tanzer,

In response to the above mentioned consultation, please find below BVI's¹ views on the subject at hand.

We are pleased to have the opportunity to comment on the consultation on trade repositories (TR) in the OTC derivatives market.

We support in general the proposed factors for consideration by trade repositories and relevant authorities. However, we believe that the following elements are crucial for the creation of a trade repository:

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.

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Rudolf Siebel

¹ BVI Bundesverband Investment and Asset Management e.V. represents the interest of the German investment fund and asset management industry. Its 85 members currently manage assets in excess of EUR 1.7 trillion both in mutual funds and mandates for some 16 million investors. For more information, please visit www.bvi.de.

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Trade repositories should be required to, among other things, provide aggregate data and statistics on types of transactions and types of counterparties available to the public and to the OTC market's supervisory authorities.

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.

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

BVI feels that disclosure of individual company positions to the general public should be avoided in order to protect proprietary portfolio information. It should be noted, too, that disclosure of derivatives positions without knowledge of other portfolio positions they could be hedging is of doubtful use and could actually be entirely misleading. 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.

Therefore, it is significant that supervisory authorities determine in close cooperation with market participants, industry associations and service providers scope and details of publication of the OTC data.

Furthermore, adequate representation of buy-side users must be reflected in any TR's governance rules and organizational structure. Buy-side representation on the body governing of a TR is needed to ensure fair treatment of all users, especially in case of a monopolistic TR.

The governance structure of a single TR utility for specific or all OTC derivative transactions must allow for adequate regulation of the monopoly, in particular adequate representation of the different user groups. For data protection issues it should be considered to require a monopolistic (non-EU) TR to establish a separate European (single point of information) facility. The situation of a non-EU monopolistic TR is similar to the SWIFT case. Like

SWIFT, a TR should be able to separate OTC transactions involving European markets/products from the rest of the world.

The investment management industry indicates that operational costs of TR for reporting firms have to be considered. However, a central repository can also reduce the reporting burden for individual financial institutions.

BVI believes that competent authorities should also receive individual position reports from the sell side or its agents such as TR, or alternatively should be able to make inquiries (report requests) at such repositories in order to provide for stability in this part of the financial system.

User fees should be primarily based on the service delivered (i.e. data feeds). We believe that if the TR provider cannot demonstrate that the total revenue across all clients on a like-for-like basis is only increasing by either (a) inflation (RPI) or similar, or (b) an adjustment to reflect an expansion in OTC transaction coverage, then the governing body should not approve the TR pricing schedule.

For the fund management industry 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 accept the idea of a single TR.

We support in principal the idea that all OTC-derivatives transactions should be maintained in a trade repository. However, some derivative products might not be recorded in a TR any time soon because of their low monetary value or low volume of transactions and/or complexity of the instrument. These are the products which are less likely to be standardized in the foreseeable future, which makes their recording in the TR difficult and cumbersome. Any extension of transparency must be carefully calibrated. BVI reiterates its position that transparency is good, but only as long as it does not reduce liquidity.

The functionality of a TR should not be less than what is actually provided by the Trade Information Warehouse (TIW) which is operated by DTCC in the US. Moreover, this service leads to a substantial reduction of operational risk.

The regulators need to consult with the market place on the relevant contract categories to be reported and for each contract category the timing of reporting and level of granularity of information needed. Such consultation should help defining an industry wide action plan for the implementation of a comprehensive reporting system which will increase safety and soundness in the derivatives markets going forward.

The TR provider should act as a service provider to the industry. The work of such a repository should be based on open data standards, especially ISO standards for the identification of parties, instruments and accounts. Identification of OTC transactions should be based on the ISIN (ISO6166).

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.

A TR based in the European Union should be registered, regulated and supervised. The necessary EU regulation should be harmonized as far as possible with the US proposal to regulate the local trade repository.

Given the important role of a TR in a central settlement, novation, affirmation and portfolio compression of OTC derivatives transactions, its protocols and market procedures will have a strong harmonizing effect on the overall (post) trading process of OTC derivatives, thereby fostering safety and efficiency.

We hope you will find our comments helpful. Our response can be made public.

With kind regards

BVI Bundesverband Investment und Asset Management e.V.

(signed)
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(signed)
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