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29th June 2010

Dear Mr Tanzer and Mr Heller,

Considerations for trade repositories in OTC derivatives markets

General remarks

1. The International Banking Federation (IBFed) agrees with the Committee on Payment and Settlement Systems' (CPSS) and International Organization of Securities Commissions' (IOSCO) view over the growing importance of Trade Repositories (TRs) in enhancing market transparency in over-the-counter (OTC) derivatives markets and welcomes the draft policy guidance put up for consultation as a first step towards an agreement on international standards for TRs.
2. The Federation considers that the work on TRs is concomitant with the work that is being carried out for Central Counterparties (CCPs), notably with regard to the latter's record keeping functions on OTC derivatives trade information.
3. The Federation is in broad agreement with the proposed factors for consideration by trade repositories and trade authorities as TRs develop and operate in the market. The specific comments below refer to certain aspects where the Federation is, however, more critical of the suggested guidance. The Federation's comments are fundamentally made from the perspective of that of participants reporting OTC derivatives trades to TRs.
4. As a preliminary and fundamental remark, the Federation would like to note that it is crucial to ensure that no guidance eventually prevents that a trade repository can collect

data on all contracts traded in one (or several) segment(s) of the OTC derivatives' markets, centrally and non-centrally cleared.

5. Additionally, the Federation believes that no "one-size-fits-all" approach should be promoted across OTC derivatives markets. The implementation of responses to improve transparency and restore investor confidence in OTC derivatives markets needs to be based on a number of considerations specific to the particular market in terms of whether regulatory or market driven responses will enhance transparency and promote trading efficiencies without imposing undue and prohibitive costs on transactions.

Specific remarks on the factors

6. On factor 2, in connection with market transparency and availability (page 7) the Federation considers that all TRs should be subject to equivalent requirements with regard to the amount of information that can be made publicly available. If the amount of publicly available data is a function of the competence of the authority overseeing the TR, the risk exists that TRs may end up locating in jurisdictions where the law is more restrictive.
7. Furthermore, the Federation considers that, provided the main objective of TRs is to enhance market transparency and to provide access to information to supervisors with a view to monitor financial stability, these infrastructures should not be authorised / recognised by third countries if they are based in jurisdictions that would restrict the TR's ability to provide the necessary data for the fulfilment of the aforementioned objectives.
8. Additionally, the Federation would like to see language clarifying that, as TRs are natural data aggregators, direct reporting obligations from participants in the OTC derivatives markets to competent supervisory authorities should be reassessed and eliminated if they duplicate the functions performed by TRs.
9. With regard to factor 5 on access and participation (page 10), the Federation agrees that TRs' support for interconnectivity with other providers of clearing services should be accorded on request. However, the conditions around that request need to be clarified. The Federation considers that TRs would need to demonstrate significant user or customer demand.
10. In the context of factor 9 on communications procedures and standards (page 11), the Federation agrees that, given that TRs are likely to operate in a global context, they should adopt standards for data reporting and access. There is a role for international standards setters, notably IOSCO, to draft common standards in this area.
11. In connection to TRs' regulation and oversight (factor 12, page 13), the Federation considers that the cooperative manner envisaged for the examination and inspection of TRs could be articulated on the basis of international supervisory colleges. These could operate underpinned by the recent IOSCO Principles Regarding Cross-Border Supervisory Cooperation.¹

Conclusion

¹ <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD322.pdf>

12. The Federation considers that the proposed CPSS-IOSCO factors are adequate and has no strong reservations to them. TRs should be able to collect data on all contracts traded in one (or several) segment(s) of OTC derivatives' markets, centrally and non-centrally cleared. TRs must ensure continuous and timely access to recorded information to (i) regulators and supervisory authorities (i.e. unlimited access for the performance of their respective functions); and (ii) the reporting entities and the entities on whose behalf the transactions are conducted (i.e. only on the relevant information concerning the reporting transaction). TR's authorisation / recognition should be on condition that such access is assured.

Yours sincerely,



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