

EFAMA Reply to CPSS-IOSCO's consultative report on OTC derivatives data reporting and

EFAMA¹ fully supports the establishment of to trade repositories (TRs) for the collection, storage and dissemination of OTC derivatives data, and agrees TRs can play an important role in providing information to authorities and the public to promote financial stability. We support the implementation of reporting to trade repositories (TRs) on the basis of minimum transaction level data elements and the development of a standard Legal Entity Identifier (LEI).

General comments

- **Reporting requirements**

EFAMA supports the use of CCPs and trading venues as reporting channels for buy side transactions to TRs.

The European Union is planning to establish channels for transaction reporting obligations to competent authorities under the Markets in Financial Instruments Directive (MiFID), while further provisions are foreseen in the upcoming Regulation of OTC derivatives and central counterparties (EMIR). Our members consider that consistence in transaction reporting requirements is crucial, and double reporting of OTC derivative transactions should be avoided. Sell-side firms should be primarily responsible for reporting the transactions to TRs. TRs should then be required to transmit OTC derivative transactions to the competent authorities.

EFAMA considers that the final determination of the minimum required data elements must be carried out in close consultation between the regulators and the relevant market participants, including both sell- and buy-side firms.

It is crucial to achieve consistent and compatible reporting standards and message formats between the reporting parties, TRs, CCPs, regulators and other service providers. A reduction in the number of required reports is necessary to avoid exceedingly high costs and extreme system complexity.

¹ EFAMA is the representative association for the European investment management industry. EFAMA represents through its 26 member associations and 56 corporate members approximately EUR 14 trillion in assets under management of which EUR 8 trillion was managed by approximately 54,000 funds at the end June 2011. For more information about EFAMA, please visit www.efama.org.

For investment managers it would also be important to avoid a proliferation of trade repositories with different interfaces/input systems, which would increase costs and operational risk in the middle and back office.

EFAMA believes that all (OTC) derivative transaction arrangements should be based on open international industry messaging and communication standards.

- **Regulators' access to OTC derivatives data**

Trade repositories should provide data and statistics to the public and to the competent authorities. However, EFAMA members strongly believe that TRs should disseminate data to the public only in aggregate form. Different levels of transparency are necessary to protect confidential information on trading and open positions which, if made public, could expose both counterparties to negative consequences in terms of price and liquidity (especially because of the potentially large size of the contracts).

Information to be made public and its level of granularity should be subject to careful consideration, but competent supervisory authorities should have full access to individual data on open positions, trading volumes and prices for the purpose of maintaining financial stability.

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

EFAMA acknowledges that TRs may require further types of information 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 to the TRs requires careful consideration, and an extension of the required data elements should be defined in close consultation between the regulators and the financial industry.

EFAMA is concerned that the CPSS/IOSCO recommendations on minimum data reporting requirements including further information currently not supported by a TR may not be in line with applicable OTC derivative legislation, and may incorporate more data requirements than is currently foreseen by the EU derivatives regulation under discussion (EMIR). Higher data requirement levels could increase the cost and the operational burden for all market participants and the competent authorities, without adding value towards the assessment of systemic risk and financial stability.

2. Development and implementation of a LEI

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

- **Expeditious development and implementation of a standard LEI**

A number of trade associations, supported by EFAMA, have made recommendations for a LEI standard and an 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.

We 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.

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.

- **Basic principles for the LEI**

EFAMA 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”.

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

- **Data aggregation**

EFAMA 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, we feel 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.

- **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.

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.

Brussels, 23 September 2011