

BVI position on the FSB Consultation Paper on the "Feasibility study on approaches to aggregate OTC derivatives data"

The BVI¹ gladly takes the opportunity to present its views on the Feasibility study on approaches to aggregate OTC derivatives data.

BVI strongly supports the initiative taken by the FSB to develop a global aggregation mechanism for (OTC) derivatives which will enable regulators worldwide to identify and mitigate systemic risk in the market. Only data in aggregated and high quality form ensures that competent authorities will obtain a comprehensive and accurate view of the global (OTC) derivative markets in order to meet the financial stability objectives of the G20 calling for a comprehensive use of Trade Repositories (TR).

Pursuant to EMIR, since 12 February 2014 financial counterparties (e.g. OGAW, AIF) have to report (OTC) derivative contracts to TRs. Our members are connected to distinct TRs (e.g. DTCC, Regis-TR) located in different jurisdictions. In preparation of the EMIR reporting obligation our members experienced technical issues and shortcomings as outlined in the Consultation Paper (lack of data standardization: e.g. trade identifier, product identifier, incomplete data for derivative products and different TR formats and contents). A clear and comprehensive concept of the Unique Trade Identifier (UTI) and of the Unique Product Identifier (UPI) was not available during the implementation phase and essential guidelines on the subject were delivered by ESMA only one day before the reporting state date.² The mentioned ESMA concept needs to be implemented in the market and further developed in cooperation with the financial community.

Therefore, we share the FSB view that data standardization is a necessary tool for effective high quality aggregation under each OTC data aggregation. We also support the assessment of the FSB that the most straightforward method for achieving standardization is to implement consistent international standards for reporting of data to TRs and/or from TRs to authorities. It has to be ensured that data standards developed for reporting of data to distinct TRs located in different jurisdictions are used in the same way (e.g. format and content) and are not interpreted separately by the Trade Repositories.

Otherwise, it may be possible that incomplete data by different TRs could not be aggregated and could therefore distort the accurate view of the global (OTC) derivative market. BVI strongly supports the usage of internationally accepted (ISO) data standards. The implementation of the LEI at global level is a good starting point in order to establish further important data standards for the purpose of the (OTC) derivative reporting obligation.

¹ BVI represents the interests of the German investment fund and asset management industry. Its 79 members currently handle assets of EUR 2.0 trillion in both investment funds and mandates. BVI enforces improvements for fund-investors and promotes equal treatment for all investors in the financial markets. BVI's investor education programmes support students and citizens to improve their financial knowledge. BVI's members directly and indirectly manage the capital of 50 million private clients in 21 million households. (BVI's ID number in the EU register of interest representatives is 96816064173-47). For more information, please visit www.bvi.de.

² Please see http://www.esma.europa.eu/system/files/2014-164_qa_vi_on_emir_implementation_-_11_february_14.pdf



Any global aggregated data requirements agreed between the TRs and the regulators should not increase the data obligation currently laid down in the EMIR regulation for reporting of data from the financial counterparty (e.g. UCITS, AIF) to the TRs. Moreover, aggregated data models should not create amendments on current data content and formats which are used between the financial counterparties and the TR. Otherwise, TRs could charge the additional data fields to the end users which would go beyond the requirements as foreseen in the EMIR regulation.

We would like to make the following comments:

1. Does the analysis of the legal considerations for each option cover the key issues? Are there additional legal considerations - or possible approaches that would mitigate the considerations - that should be taken into account?

In general we agree. Local TRs which provide reporting data to regulators worldwide should have in place clear and strict data protection regimes (e.g. data protection laws, secrecy laws and confidentiality requirements) in order to ensure that at any time the transaction data are protected sufficiently. The data protection regime will depend on the preferred model:

- Physically centralized model of aggregation

The central database will be subject to the laws and regulations of the jurisdiction in which it will be located. It should be ensured that the transaction data is sufficiently protected at any time. Therefore, it is unclear at which place the central database could be located and which impact a change of the applicable laws and regulations could have. If FSB prefers to implement this option, the central database should be located at the place which is subject to the strictest data protection regulation.

We hope that these issues have been discussed in full by the G20 and the FSB in the context of the LEI system. We agree that the LEI system provides a good blueprint for a global TR data aggregation utility. It should be secured, however, that the financing of the utility is secured from the start.

- Logically centralized model of aggregation

The data is only stored within the local TR. No data will be stored outside the TR database. However, in order to avoid a circumvention of data protection regulation which applies in different jurisdictions at which TRs are located, it should be ensured that no collected data is locally stored outside the relevant TRs.

- Collection of raw data from local TR databases by individual authorities

This option ensures that no data is stored outside the relevant jurisdiction(s) and that no third party is involved. The TRs should be obliged to provide the relevant authorities with data in the format which allows the relevant authority to aggregate the data of the two jurisdictions relevant for the given derivative contract.

We support in general a public private partnership framework for the operation of the entity which could be implemented for option 1 or 2. As stated, the experience made during the establishment of the LEI



structure (e.g. ROC) could be a good starting point to design a global framework governing a TR data aggregation mechanism if it is run by a private entity.

The governance structure of the public private partnership could develop issue and monitor adherence to market and data standards for the reporting obligation which needs to be implemented by all TRs globally. Therefore, all TRs and market participants have to adhere to the same standards which do not leave any room for interpretation by the Trade Repositories located in different jurisdictions as currently experienced by European TRs.

2. Does the analysis of the data and technology considerations cover the key issues? Are there additional data and technology considerations - or possible approaches that would mitigate those considerations - that should be taken into account?

We agree with the FSB analysis made for the data and technology aspects. We clearly welcome the assessment that the counterparty identifier (LEI), the product identifier/product taxonomy and the transaction/trade identifier should be key (OTC) derivatives data elements for an aggregated form. As mentioned above, data standardization is a necessary tool/prerequisite for effective high quality aggregation under each OTC data aggregation system.

*3. Is the list of criteria to assess the aggregation options appropriate?
4. Are there any other broad models than the three outlined in the report that should be considered?*

We think that the FSB covers all possible options for the implementation of a global aggregation mechanism for (OTC) derivatives. However, it needs to be ensured that the implementation of one of the proposed options will not increase the cost for the reporting obligation which at the end will be borne by the end investors.

5. The report discusses aggregation options from the point of view of the uses authorities have for aggregated TR data. Are there also uses that the market or wider public would have for data from such an aggregation mechanism that should be taken into account?

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