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Feasibility study on approaches to aggregate OTC derivatives Trade Repository data

Our industry very much appreciates being given the opportunity to provide comments on the above feasibility study and we have endeavoured to capture all the comments from our members below.

1. Introduction

Given the market crises of the past and the fact that regulators lacked oversight of the accumulation of concentration risk amongst institutions and the systemic risk these positions posed to their economies, we very much support the need for a model that would eliminate the possibility of this happening in the future.

We feel that this level of consultation would have been very beneficial before the Commodities Futures Trade Commission and other regulatory bodies first started looking at Trade Repository's ("TR's") and are cognisant of the fact that uneven implementation across jurisdictions will have an economic impact on jurisdictions that have not yet been able to establish a TR infrastructure.

We fully concur that a great amount of legal, formatting and other regulatory rules and requirements will need to be agreed upon under each option to ensure a more concise response, but we have provided our comments to the questions below as follows:

1. Does the analysis of the legal & data 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?

We feel that all three options rely on standardised data and standardised taxonomies within all the TR's and / or across all the jurisdictions. Challenges with data definitions and standardisation required would need to be addressed in any aggregation model.
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We do not see much difference between a physically centralised or logically centralised model as they seem to provide the same solution, its more about how technically it gets managed and then will come down to the data speed / timing / storage & costs considerations that will be a deciding factor between the two.

We feel that a great deal of attention needs to be considered to different privacy laws within different jurisdictions. The FSB needs to be cognisant of the fact that a chain of data protection needs to occur in both the reporting process as well as the dissemination (to affected countries) process. We also need to be aware that with respect to South Africa, special dispensation will need to be made in terms of the Protection of Personal information Act (unless full anonymity is mandated). If full anonymity is mandated, a solution to eliminate possible double-counting will need to be derived at.

In order to address the problems indicated above the following approach would need to be adopted:

All regulatory authorities would need to agree to the same method (or at least a method that standardises data to one universal form) for reporting. They will also then need to agree to disclose such information to the other relevant regulatory authorities (possibly in another country); possibly bearing in mind that data protection may not be equivalent to one another.

At the very least, commitment by governments will need to be given to ensure their continued efforts towards OTC initiatives.

2. Is the list of criteria to assess the aggregation options appropriate?

We expect the cost of access and the cost of ongoing data maintenance to drive the list of criteria that will feed the aggregation engine. To this extent, consideration should be given to the timing of aggregation runs and consequently, accessibility to the data. A potential issue with a centralised approach is that the receiving regulator will likely be limited to a global data-run scheduling process.

To elevate this issue, consideration could be given to the speed and ease of querying the data, based on the complexity of the central database vs the indexing.

Under a regulator model, although very difficult, a domestic regulator could aggregate data across different TR's or different jurisdictions but each Authority may have a slightly different method and therefore risk inconsistency of how the different authorities view the same data – this would need to be clearly defined / agreed in terms of aggregation across the authorities.

3. Are there any other broad models than the three outlined in the report that should be considered?

Locally established TR with global aggregation function. This would allow for the global assessment of derivative activity per currency type. It is possible (and exists in the instance of ZAR) that large offshore derivative flows affect the local financial system but the local authorities are (and would be) unaware of these flows without global aggregation.

A national aggregation model that aggregates all domestic TR activity and then allows for

a second level of global aggregation. This is different from option 1 & 2 where there are multiple TR's regulated by a single domestic regulator and thus allows national/regional aggregation prior to a latter global aggregation

4. 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?

The use of the data by the regulators to gauge a risk event is the most important consideration. With the possible evolution of a supra prudential/systemic risk regulator, the importance of affording that entity (even if just the G20) a macro view could be beneficial. A more basic perspective is that disclosure of this data allows regulators to position themselves from a risk management point of view and allows for internal risk mechanisms. This approach is in line with G20 commitments.

Our Financial Markets Act ("ACT") provides for the creation of a TR that will look to maintain a secure and reliable central electronic database of transaction data pertaining to all open OTC derivatives. Our Act is not prescriptive about a repository structure and, or ownership, however the TR will be required to maintain and adequate business continuity policy including disaster recovery and establishing back up facilities. Our Act does not mandate alignment to an international format. Unless this is specifically made a requirement for licensing (the requirement to report in a specific manner) TR's are generally not obliged to report in a format that may be readable universally.

We would support the "centralised" aggregation database model for following reasons:

- This would create a single data source which would be accessible to regulators globally
- We would expect such a model to naturally start asserting itself with other TR's for more standardisation of what is being reported
- This should lead to options where reporting can be made directly to single repository
- Smaller TR's been absorbed into a global repository over time, and
- A single structure for global regulators to set up the global governance and board membership structures

2. Conclusion

Public, transparent and aggregated information builds greater confidence in and understanding of the market and informs and builds support for public policy objectives. Moreover, transparency supports investor protection and market discipline.

Yours sincerely



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