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Global Foreign Exchange Division
St Michael's House
1 George Yard
London
EC3V 9DH

TO:

Senior Manager, Post-trading and OTC Derivatives
Financial Market Infrastructure
Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000

1 May 2013

Re: Consultation Paper 205: Derivative transaction reporting

The Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association (GFMA) welcomes the opportunity to comment on behalf of its members on the consultation paper issued by the Australian Securities and Investments Commission (ASIC). The GFXD was formed in co-operation with the Association for Financial Markets in Europe (AFME), the Securities Industry and Financial Markets Association (SIFMA) and the Asia Securities Industry and Financial Markets Association (ASIFMA). Its members comprise 22 global FX market participants¹ collectively representing more than 90% of the FX market². Both the GFXD and its members are committed to ensuring a robust, open and fair marketplace and welcome the opportunity to set out its views in response to your consultation paper.

Introduction

The FX market presents some unique challenges for reporting when compared with other asset classes: notably the high volume of transactions and the wide universe of participants, given that FX forms the basis of the global payments system. These present practical challenges to ensuring that all relevant reporting participants are able to report and, given the cross-border nature of the FX market, ensuring that they are able efficiently to report in multiple jurisdictions.

We are supportive of the approach outlined in the consultation paper and provide below specific comments with respect to the requirements and your questions. Given the above, we particularly welcome your efforts to harmonise reporting requirements under the regime with those that will apply internationally.

¹ Bank of America Merrill Lynch, Bank of New York Mellon, Bank of Tokyo Mitsubishi, Barclays Capital, BNP Paribas, Citi, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Lloyds, Morgan Stanley, Nomura, RBC, RBS, Société Générale, Standard Chartered Bank, State St., UBS, and Westpac.

² According to Euromoney league tables

B. General Reporting Obligation

1. Who the reporting obligation applies to

We agree with the proposed dual-sided reporting approach with the ability to utilise agents / third parties for reporting. We also support the proposal for further consultation for Phase 3 entities and would encourage ASIC to set any threshold (or require single-sided reporting) at a level that recognises the sophistication needed to build complex reporting processes.

We note that the reporting obligation is intended to apply to clearing houses. We would welcome clarification as to how cleared trades should be reported. In our view, clearing represents a novation of the original bilateral trade and should form part of the original trade record and be subject to continuity of reporting (2.2.5). In this case, we assume that it is sufficient to link the UTI of a cleared, novated trade to the UTI of the original bilateral trade.

2. Categories of reportable transaction

We have no specific comments here other than that we support the concept of alternative reporting for foreign entities or branches to enable parties to satisfy their reporting obligations via reporting under the requirements of a substitute regime.

3. Derivative transactions required to be reported

No comment.

4. Deadline for reporting of reportable transactions

We agree with the proposed T+1 approach for reporting. This is consistent with most jurisdictions other than the US, which is requiring intra-day reporting. We do not believe a shorter deadline for reporting would provide Australian regulators with materially enhanced oversight when balanced against the potential complexities of intra-day reporting, particularly with respect to smaller market participants.

Regarding the reporting of changes, we would suggest that in order to minimise the complexities of reporting, lifecycle events that occur during any given day may be aggregated to show the final position as at the end of the day. These would then be required to be reported within the T+1 timeframe. This choice of approach is allowable under the CFTC rules (notwithstanding the intra-day reporting requirement data relating to new trades and the public reporting requirement for pricing information) and enables both market participants and trade repositories some flexibility in implementation without materially affecting the value of regulatory data held at any particular point in time. This may be of particular benefit for less sophisticated market participants who may prefer snapshot rather than event-based reporting. We note that it would be helpful in this regard to have international convergence on the timing of reportable events.

For transactions executed outside Australia, we believe it would be preferable for reporting parties to be able to report by close of business T+1 on the basis of their home time zone. This would assist particularly in instances where a party (notwithstanding the possibility of alternative reporting) may be required to report in multiple jurisdictions, recognising the global nature of the FX market. As an example, this would help to harmonise valuation reporting, which is typically done at end of day in the home jurisdiction. More generally, it would be helpful if business day could refer to the close of business in the specific counterparty's home jurisdiction in order, again, to recognise the global nature of the market.

C. Reporting to overseas trade repositories (alternative reporting)

Overall, we believe that the alternative reporting regime is helpful in assisting participants to meet their reporting obligations, particularly given the global nature of the market. Whilst the principles behind alternative reporting and the conditions for accessing such reporting seem sensible, clearly the practicalities around (i) assessing what is a substantially equivalent regime (we believe this should include reporting in jurisdictions where only single-sided reporting is required) (ii) concluding appropriate cooperation agreements and (iii) being able readily to access data from third-country TRs will all impact the success of alternative reporting. Our members have always been of the view that, given the global nature of the market, internationally consistent regulations that permit participants to report once to a repository to satisfy multiple regulators is preferable on the grounds of efficiency.

D. Information to be reported to trade repositories

1. Data required to be reported

Use of industry standards and codes

We welcome the approach to adopting, where available, internationally agreed standards in respect of identifiers such as the LEI. We believe it is in the interests of regulators and participants alike to harmonise standards for LEIs and product and trade identifiers.

We believe this principle of harmonisation should extend to common definitions for each of the data items required by different regulators. This will help avoid confusion and allow for an international, standard reporting language (e.g. FpML) to be used. Otherwise participants may be required to persist and transmit two or more different elements for the same data field e.g. price.

Table 1: Common Data

Item	Label	Comment
1	Unique transaction identifier	<p>In the interests of harmonising global reporting and assisting transparency across jurisdictions, we would suggest that reporting parties be able to submit trades utilising a UTI used in reporting for other jurisdictions where one is available. To the extent that ASIC wishes to determine the specifications of such a UTI, we would request that this be a field of up to 42 alphanumeric digits. We note that these are the specifications that have been adopted by both the CFTC and ESMA.</p> <p>There are complications regarding identifier exchange that are particularly prevalent for the FX industry, given the mature nature of the market, non-centralised infrastructure and high volume / participant characteristics. These make establishment of a common UTI difficult in bilateral trading scenarios where no central infrastructure is present (e.g. execution, affirmation or confirmation platform). We have commented on this further in the section on trade identification below this table.</p>

2	Unique product identifier	As regards UPIs we suggest that until such time as an internationally agreed UPI is introduced, ASIC should utilise existing industry work in respect of taxonomies. The FX industry has proposed a taxonomy to apply for FX transactions that would cover forwards, non deliverable forwards, non deliverable options, simple exotics and complex exotics. This has been published by ISDA, along with proposed taxonomies for the other asset classes ³ . We believe that these taxonomy fields are appropriate for foreign exchange and that it would be sensible to harmonise the taxonomy used by ASIC with other jurisdictions to enable consistent data analysis and grouping. A common reference to the taxonomy would also allow it to evolve over time in the same way for different jurisdictions.
3	Contract type	As discussed above, for contract type, we would suggest utilising industry-agreed taxonomies.
5, 7, 10, 12, 15, 19	Entity identifiers	We respectfully suggest that in such cases where a global LEI has yet to be agreed, that ASIC allow participants to utilise other existing industry identifiers, such as the BIC code, prior to utilising local identifiers. This would be consistent with other jurisdictions' approaches e.g. ESMA and HKMA and would assist in both harmonising reporting standards and reducing the costs of accommodating a further set of identifiers.
6, 8, 11, 13, 14, 16, 18, 20	Names and domiciles	We would suggest that, to promote consistency of data, where such information is available under the LEI, that these fields need not be provided.
21	Whether the contract has been confirmed	We note that the concept of confirmation has not been defined. We suggest that this rely on the reporting party's view as to whether a trade is deemed to be confirmed.
23	Confirmation timestamp	Similarly, we note that confirmation timestamps may not be common amongst the counterparties to the trade, particularly where trades are not confirmed through a central confirmation matching system (for example, due to differing internal latency of STP systems). We suggest that this field reflect when the trade is deemed confirmed by the reporting party.
25	Method of execution	This data is not automatically captured in reporting systems. We suggest that ASIC might wish to derive execution method based on the execution venue information already provided, depending of course on the purpose for requiring such information e.g. for aggregating trades by execution method. We respectfully note that this information is not required under CFTC or ESMA reporting.

³ <http://www2.isda.org/identifiers-and-otc-taxonomies/>

26 & 27	Master agreement type and date	The requirement to report data relating to the master agreement type and date will add additional burden to trade reporting. Such information is generally stored on separate systems i.e. not those from which reporting of other trade attributes occurs. Mapping and enrichment of data would therefore be required and it is not clear the additional value to be gained from such information to be included with each trade, rather than interrogated on a case by case basis as necessary. We ask that ASIC considers potentially phasing in this requirement at a later date and note that the CFTC in its final rule dropped the requirement for these data fields.
33	Valuation type	We note that valuation type is not typically captured in trade reporting systems and the approach amongst regulators for this information is not consistent (it is not required under the CFTC's rules but has been requested as part of ESMA's final technical standards).
38	Submission of order entry timestamp	We note that this information may not be captured across participants' trading systems and are not clear what value this information provides in addition to the execution timestamp. Accordingly, we believe ASIC should remove this (we note that this is not required in other jurisdictions as far as we are aware).
44 – 47	Collateral fields	Please see our general comments under 3. below and on 46 & 47 here.
46 & 47	Value & currency of collateral	We believe these fields should not be required on each trade record if reporting is done on a portfolio basis (although clearly it would need to be kept with the portfolio record). A consequence of this is that any change in the amount of collateral held will require all trade records linked to that portfolio to be updated every time the collateral value is changed (as part of the modification reporting requirements). This will add significant reporting burden, particularly if collateral reporting for portfolios is already being provided separately. The same issue applies for changes in currencies held as collateral.
54	Value for options	It is not clear what this field refers to?
55 & 56	Payout & Barriers and type	We note that at present there is no electronic means by which to submit this data. Industry is working towards incorporating relevant fields into FpML to accommodate reporting of this type.

Table 4: Foreign exchange derivative data

Item	Label	Comment
1 & 2	Notional amount 1 & 2	For options we would suggest that notional amount 1 refer to the call amount and notional amount 2 to the put amount, to avoid confusion.
3 & 4	Currency 1 & 2	As above, we suggest that for options currency 1 refer to the call currency and currency 2 refer to put currency.

Trade identification

We support the idea of universal transaction identifiers that will minimise the number of identifiers to be managed by each counterparty to a trade. As discussed above, in order to support

this, we would ask that the format for the identifier field accommodate a floating (maximum) length of 42 alphanumeric characters (this will enable potential common usage with identifiers under Dodd Frank reporting in the US, which currently comprises a ten character alphanumeric namespace and 32 digit trade identifier, and under EMIR).

The workflows around agreeing a common identifier are particularly complex for the FX industry given that it has by far the greatest volume of bilaterally executed trades and, given the diverse nature of the infrastructure, which is not confirmed through a central third party which could be used to assign a common ID. This reflects the fact that the FX industry has developed specialized and bespoke infrastructure to support its differing client bases, which comprises a wider universe of market participants than other asset classes.

There are several points at which a trade identifier might be exchanged:

- At point of execution (whether bilateral, via platform or via broker)
- At point of trade recap or affirmation
- At point of confirmation
- Through an acknowledgement message from a trade repository notifying a counterparty that a trade has been alleged against that counterparty

Ideally, exchange of identifier information will occur as close to point of execution as possible and would be issued by the execution platform (if executed on a platform). However, this will depend on the method of execution (platform, broker, bilateral) and confirmation. It may also mean that counterparties to a trade report a trade to the trade repository before they have swapped identifier information (for example, to accommodate jurisdictions where data must be reported as soon as possible). There is also then the issue of which counterparty's identifier should be deemed the unique identifier.

With that in mind, the GFMA's Market Architecture Group has been developing a proposed protocol for the exchange of trade identifiers. This document is available on our website at [http://www.gfma.org/initiatives/foreign-exchange-\(fx\)/fx-market-architecture/](http://www.gfma.org/initiatives/foreign-exchange-(fx)/fx-market-architecture/).

Key to this protocol is the concept that a trade record can contain each counterparty's (unique) trade identifier – referred to here and in our paper as the “your ref / our ref” protocol.

The process works as follows: Where trades are executed bilaterally or off-platform, firms may assign their own unique identifier. This same identifier would be used where the trade is reported to multiple trade repositories (i.e. for different jurisdictions). Counterparties exchange identifiers through one of the points of exchange set out above and the relevant trade records are updated at the trade repository.

For jurisdictions where the concept of a reporting party exists (e.g. the US) a trade repository can then determine the reporting party and the appropriate identifier to use as the unique transaction identifier. In jurisdictions where dual sided reporting is supported e.g. under the Australian rules and EMIR, a regulator is able to enquire of a specific trade by utilising either counterparty's identifier, both of which will link to the same trade. This has the advantage of creating operational consistency for all trades, limiting the number of identifiers a firm has to manage across multiple regulators, alleviating the need for firms to implement reporting party rules specific to any jurisdiction and limits the number of identifiers parties will need to manage on any given trade.

As such, we believe that it would be helpful for ASIC not specifically to require that a trade record be submitted with a “UTI”, but to allow dual identifiers to be recorded on the trade record. We believe that this methodology will also help in reconciling data across multiple TRs.

2. Complying with international data standards

We support an approach that adopts globally recognised / agreed identifiers, subject to the comments made in the table above and in more detail on UTIs below.

Specifically, with respect to data formats, rule 2.2.4(d) sets out a requirement to report in the format required by a licensed TR except where a format conflicts with one specified by the rules. We believe that 2.2.1(d) should specify that formats used should be consistent with commonly agreed international data standards and formats, to prevent TRs adopting proprietary standards and formats that will increase the complexities of both reporting for participants and data reconciliation for regulators.

3. Reporting of mark-to-market valuations and collateral information

The reporting of collateral presents an enormous challenge for the industry. Firms generally do not have a tight linkage between collateral and trading systems. Forcing a tighter integration between market risk and collateral systems on a trade by trade basis would be highly disruptive to the primary architecture of most FX front offices and would require significant change to the reporting infrastructure to provide meaningful data. We appreciate the recognition that collateral is often managed on a portfolio basis and the flexibility to report information as such.

However, even with this accommodation in mind, generating and providing the data as envisaged under the rules is difficult. In order to address the requirements for visibility into collateral, we would ask that industry be given time to develop an alternative solution e.g. to provide details of collateral held as part of a collateral repository. Given the portfolio nature of collateral, this might seek to link individual transaction records to the portfolio of collateral held. We therefore respectfully suggest that these fields be removed for a grace period to provide flexibility to develop acceptable alternative solutions (or to meet the requirements set out here or harmonise collateral reporting with other jurisdictions). We note that ESMA has provided a further 180 days from the reporting commencement date for collateral data to be reported for each asset class. We would welcome a similar approach to phasing in of any collateral requirements here.

We note that one outcome of the proposed rules will be that every time the amount of collateral held on a portfolio basis changes (or the currencies held change), this will in effect require an update for each trade record that links to that collateral portfolio. This is potentially a significant requirement given the number of trades for FX.

E. Implementation of the reporting obligation

1. Phased implementation

We agree with the proposed phasing approach set out in the proposal and believe this is consistent with other jurisdictions' approaches.

2. Requirement for derivative position information

Subject to the specific comments made on the data fields under D.1. above, we agree with the approach set out in the rules.

We appreciate the opportunity to share our views on ASIC's consultation paper. Please do not hesitate to contact me at _____ should you wish to discuss any of the above.

Yours sincerely,

A handwritten signature in black ink, appearing to read "James Kemp".

James Kemp

Managing Director

Global Foreign Exchange Division