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Mr. Laurence White
Senior Manager, Post-trading and OTC Derivatives
Financial Market Infrastructure
Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000
Via Email: OTCD@asic.gov.au

Dear Mr. White

Re: Derivative Transaction Reporting – Consultation Paper 205

By way of background InterGen Australia (**InterGen**) is owned by InterGen N.V. and the China Hua Neng Group (**CHG**), China's largest generation company. InterGen and CHG are leading developers and operators of electricity generation facilities worldwide. In Australia, InterGen is the operator and majority owner of the 852MW Millmerran Power Station and a 50% owner of the 840MW Callide C Power Station, both located in Queensland.

InterGen welcomes the opportunity to provide this submission to the *Derivative Transaction Reporting (DTR)* consultation paper 205 (**CP205**), released by the Australian Securities and Investments Commission (**ASIC**). InterGen expects to be significantly affected by the introduction of CP205.

InterGen acknowledges and supports the Government's position that no decisions will be made with respect to electricity derivatives until the completion of the Australian Energy Markets Commission's National Electricity Market (**NEM**) financial market resilience review. We see it as imperative that any additional regulation of electricity derivatives be considered within the context of its use in supporting the continued efficient operation of the NEM.

InterGen is concerned that:

- the DTR consultation is unnecessarily rushed with no case made for its urgent implementation. The schedule has not provided adequate time to facilitate a robust regulatory impact assessment and for affected stakeholders to fully consider its implications; and
- applying a DTR obligation to end users of commodity derivatives will provide only limited insight as to the level and significance of potential systemic risk within commodity markets due to its

separation from the underlying physical positions these derivatives support. It is likely that any analysis derived from the DTR data will mislead rather than inform policy makers and regulators.

InterGen's more specific comments are provided below.

Reporting Obligation

InterGen supports the proposed ability for reporting entities to delegate reporting obligations to a third party.

InterGen does not support the proposed broad definition of an OTC derivative transaction as it lacks sufficient clarity for reporting entities to adequately meet the imposed regulatory obligation. Our preference is for the development of precise definitions of affected classes and classifications of derivatives that must be reported. For each defined derivative class/classification, ASIC should also consider the impact on the efficiency of the relevant commodity market, as well as the costs and benefits associated with its application, before applying a DTR obligation.

We note the proposal for T+1 day reporting to a trade repository. InterGen sees there is little additional benefit to regulators for such frequent reporting given the significant regulatory burden it would create. We suggest alternative reporting timeframes be considered that better align with affected businesses settlement procedures, for example the end of each week or month.

We note the requirement for reporting entities to provide up to 75 data items per commodity derivative transaction. In the absence of detailed explanatory material, reporting entities will necessarily apply their own interpretation of the data requirement thus reducing the efficacy and compatibility of the collected data. With respect to the highly bespoke OTC Electricity derivatives, InterGen also queries whether the collated data will provide any meaningful insight to support the Government's objectives¹.

Implementation

InterGen's preference is that ASIC focus on the implementation of the more significant classes of derivatives (e.g. interest rate, currency) and delay consideration of commodity derivatives. This would provide sufficient time for:

- any implementation issues of the major derivative classes to be resolved;
- international agreement on key DTR standards and definitions;
- international consensus as to usefulness of DTR for particular commodity derivative classes; and
- a robust regulatory impact assessment to be undertaken that considers whether there are unique conditions in the Australian market that justify the omission of electricity derivatives from the reporting framework (e.g. market size, degree of linkage to international markets if any, the relevance of natural positions, the adequacy of existing regulation)

¹ Consultation paper 205: Derivative transaction reporting, ASIC, March 2013, Item 4 page 7

Conclusion

InterGen welcomes the opportunity to comment on CP205. Given the significant regulatory burden introduced by a DTR requirement, InterGen strongly urges ASIC undertake a comprehensive regulatory impact assessment to better understand the issues and the costs and benefits of any DTR implementation. Please feel free to contact Mr. Robert Pane on [redacted] in the first instance regarding any queries related to this submission.

Kind regards



Sam Bristow
General Manager, Trading & Development
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