

01 May 2013

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

Submitted to OTCD@asic.gov.au

Re: **Consultation Paper 205: Derivative transaction reporting**

Dear Sir/Madam:

Markit is pleased to submit the following comments to the Australian Securities & Investments Commission (“ASIC”) in response to its *Consultation Paper 205: Derivative transaction reporting* (the “**Consultation Paper**” or the “**CP**”).¹

Introduction

Markit² is a provider of financial information services to the global financial markets, offering independent data, valuations, risk analytics, as well as processing services across regions, asset classes and financial instruments. Our products and services are used by a large number of market participants to reduce risk, increase transparency, and improve the operational efficiency in their financial markets activities.

Most of Markit’s processing services are provided by MarkitSERV,³ a company that offers confirmation, connectivity, and reporting services to the global OTC derivatives markets, making it easier for participants in these markets to interact with each other. Specifically, MarkitSERV provides trade processing, confirmation, matching, and reconciliation services for OTC derivatives across regions and asset classes, as well as universal middleware connectivity for downstream processing such as clearing and reporting. Such services, which are offered also by various other providers, are widely used by participants in these markets today and are recognised as tools to increase efficiency, reduce cost, and secure legal certainty. With over 2,500 firms globally using the MarkitSERV platforms, including agents for over 26,000 buy-side fund entities, our legal, operational, and technological infrastructure plays an important role in supporting the OTC derivatives markets in the Asia-Pacific region, North America, and Europe. In 2012, over 20 million OTC derivative transaction processing events were processed using MarkitSERV. In Australia, MarkitSERV has provided its services to many participants in the OTC derivatives markets for years. Today, all of the major market makers, inter-dealer brokers, and buy-side institutions are using the platform. On that basis, a large portion of activity in AUD-denominated interest rate swaps is processed and confirmed via our platforms.

Markit and MarkitSERV have been actively and constructively engaged in the discussion regarding regulatory reform of financial markets. We regularly provide regulatory authorities with our insights on current market practice, for example in relation to the confirmation of derivative transactions, efficient means of reporting transactions to Trade Repositories, clearing connectivity, or portfolio reconciliation

¹ ASIC Consultation Paper 205: Derivative transaction reporting. March 2013.

² Markit is a financial information services company with over 2,900 employees in Europe, North America, and Asia Pacific. The company provides independent data, valuations and processing services for financial products across asset classes in order to reduce risk and improve operational efficiency. Please see www.markit.com for additional information.

³ MarkitSERV, a wholly owned subsidiary of Markit Group Limited, provides a single gateway for OTC derivatives trade processing. The company offers trade processing, confirmation, matching, and reconciliation services across regions and asset classes, including interest rate, credit, equity, and foreign exchange derivatives. MarkitSERV also connects dealers and buy-side institutions to trade execution venues, CCPs, and trade repositories. Please see www.markitserv.com for additional information.

practices. We have also advised regulatory bodies on approaches to enable timely and cost-effective implementation of newly established requirements, for example through the use of multi-layered phase-in or by providing participants with a choice of means for satisfying regulatory requirements. Additionally, we work closely with the industry and other relevant third-party providers to ensure adequate preparation, testing and data loading. Over the last several years, Markit and MarkitSERV have submitted over 80 comment letters to regulatory authorities around the world, and participated in numerous roundtables. We have also responded to multiple proposals from the Australian Treasury in relation to the implementation of the Pittsburgh G20 commitments for OTC derivatives.⁴

Comments

We welcome the publication of ASIC's CP 205 on *Derivative transaction reporting* and we appreciate the opportunity to provide you with our comments.

Based on significant development work over the last several years, MarkitSERV today provides market participants with a universal solution for compliance with their real-time and regulatory reporting obligations based on its established connectivity between counterparties, execution venues, clearing houses and Trade Repositories ("**TRs**"). Many major derivative dealers use MarkitSERV to comply with their Dodd Frank reporting obligations and all of them rely on MarkitSERV to meet their ODRF reporting requirements for interest rates, credit and equity derivatives. We have recently enhanced our reporting service to support reporting to TRs in Japan according to the requirements of the JFSA⁵ and will further expand such services in the future to reflect the reporting requirements that will be established in other jurisdictions.

Given our extensive experience in helping market participants comply with requirements to report their OTC derivatives transactions to TRs in multiple jurisdictions, we believe that ASIC should follow several principles when implementing such requirements in Australia. Firstly, the reporting rules should provide counterparties with sufficient flexibility to simplify the task of reporting to an Australian derivative trade repository ("**ADTR**") as much as possible. Secondly, any reporting requirements should take into account the market practices that have been established in the global OTC derivatives markets over the years and permit that, where appropriate, such practices can be used to satisfy the newly created regulatory requirements. By following these principles, ASIC will not only enable a timely implementation but it will also help avoiding the creation of unnecessary cost.

Specifically, in response to ASIC's proposals in relation to Derivatives Transaction Reporting contained in the CP we recommend that ASIC: (i) make use of a Reporting Counterparty ("**RCP**") approach; (ii) provide clarification on some aspects of the delegation of reporting to third parties; (iii) clarify the reporting requirements for OTC derivatives transactions that are centrally cleared; (iv) use a two-pronged approach to determining the data fields that need to be reported to the TR; (v) provide market participants with sufficient flexibility regarding the identifiers that have to be reported; and (vi) design a multi-pronged approach to the phasing in of the reporting obligation.

A. Background to this consultation paper

ASIC stated that the draft derivative transaction rules "aim to comply with internationally agreed standards on derivative transaction reporting."⁶

We strongly support ASIC's commitment to promoting consistency of Australian requirements with reporting regimes for OTC derivative transactions that have been established in other jurisdictions. This is because we believe that such international harmonization of regulatory requirements will be crucial to enable a timely

⁴ See MarkitSERV's response to the Australian Treasury Consultation paper on "Derivative trade repositories" (12 April 2013) available [here](#) and MarkitSERV's responses to the Australian Treasury Consultation Paper on "Implementation of Australia's G-20 over-the-counter derivatives commitments" (15 February 2013 and 15 June 2012) available [here](#) and [here](#).

⁵ Japan Financial Services Agency (JFSA) Financial Instruments and Exchange Act.

⁶ ASIC CP 205, paragraph 12.

and cost effective implementation of the relevant G20 commitments around the globe.⁷ More specifically, in relation to the reporting of transaction data to TRs, we believe that the concept of a global TR that feeds the relevant data to local regulators or into other TRs would be the most efficient and cost effective approach, particularly given the complexity and global nature of the task. It will also be essential to avoid the dangers of double reporting and data fragmentation.⁸

B. General reporting obligation

- ***B1Q1 Do you support the overall scope of the reporting obligation?***
- ***B1Q2 Where both reporting entities entering into a reportable transaction are required to report the details of the transaction to a trade repository, should each reporting entity be required to report, or should only one reporting entity be required to report?***
- ***B1Q3 If only one reporting entity were required to report the details of a reportable transaction to a trade repository, how should it be determined which reporting entity is required to report?***

a) Reporting by both counterparties vs an RCP approach

We agree with ASIC that the accuracy of the data that is captured in TRs is of paramount importance. We believe that an important means to help ensuring such accuracy is to avoid duplicative reporting to TRs as it will increase the risk of inaccuracies and mistakes. We therefore do not share ASIC's view that "two-sided reporting is preferable to the approach taken in some jurisdictions of requiring only one reporting entity to report the details of a specific reportable transaction."⁹ Specifically, we believe that the reporting of a *single, verified record* of the transaction data *by one party* provides the advantages of creating clarity, avoiding duplication, reducing the potential for error, simplifying the workflow and herewith reduce the cost of reporting, while it also minimizes the burden for end-users. This view is based on the experiences we have gathered supporting reporting parties both in the United States, where a "reporting counterparty" ("**RCP**") or "one-sided reporting" approach has been established,¹⁰ and in Europe, where both counterparties have an obligation to report to the TR.¹¹ For the determination which of the counterparties would be the RCP and hence have the obligation to report the transaction to the TR we recommend that ASIC follow a hierarchy-based approach, similar to the one that has been established in the US.¹²

We believe that ASIC can best ensure the accuracy of the data that is reported to ADTRs by requiring, or at least encouraging, the reporting by only *one* party of transaction records that have been *verified by both counterparties*. The reporting framework should require ADTRs to use appropriate means to confirm the accuracy of the data they receive, differentiating by the source and nature of the data. Such approach to ensure data accuracy would significantly reduce the burden to counterparties and would be consistent with other jurisdictions.¹³ For example, under CFTC rules, a Swap Data Repository ("**SDR**") will not be required

⁷ ASIC CP 205, paragraph 11 and 12.

⁸ The ability to consolidate global derivatives data will be complicated by differing regulatory requirements and domestic practices. Two of the complications that are likely to arise due to differing reporting requirements are double reporting and data fragmentation. Double reporting will happen if more than one jurisdiction requires data reporting for cross-border transactions (and possibly even for transactions that do not stretch across any borders if that data had to be reported to multiple TRs). Data fragmentation occurs if the reported data is stored and/or disseminated by various entities, and cannot be easily consolidated. Both double reporting and data fragmentation can endanger the value of the transparency that is provided to regulators and the public.

⁹ ASIC CP 205, par. 23.

¹⁰ Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

¹¹ ESMA Final Report: Draft technical standards under the Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC Derivatives, CCPs and Trade Repositories. 27 September 2012.

¹² "Counterparty reporting would follow the hierarchy outlined in the statute, giving SDs or MSPs the duty to report when possible, and limiting reporting by non-SD/MSP counterparties to situations where there is no SD or MSP counterparty. Where both counterparties have the same hierarchical status, the proposed rule would require them to agree as one term of their swap which of them is to report, in order to avoid reporting delays." 77 Fed. Reg. 2138.

¹³ Swap Data Repositories: Registration Standards, Duties and Core Principles, 76 Fed. Reg. 54538 (September 1, 2011). When trade data is reported by a counterparty, the Swap Data Repository is required to notify both counterparties of the data reported and receive acknowledgement of the accuracy from both counterparties.

to affirmatively communicate with both counterparties when data is received from a third-party service provider, a CCP, or an execution platform if a) the SDR reasonably believes the data is accurate, b) the data reflects that both counterparties agreed to the data and c) the counterparties were provided with a 48-hour correction period. We believe that it would be sensible for ASIC to take a similar approach.

If, however, ASIC decided to require both counterparties to report their OTC derivatives transactions to ADTRs it should allow the counterparties to agree between them that only one of them would perform the reporting for both, herewith removing the reporting obligation for the other counterparty. In case that both counterparties decided (or were required) to report to the ADTR, it would be useful if ASIC established requirements to ensure that this happens without duplication. This objective could be achieved most effectively if the counterparties were to agree on the use of a common unique transaction identifier for the transaction, which is a requirement in other jurisdictions.¹⁴

b) The delegation of reporting

ASIC proposed that a reporting entity “may optionally delegate the reporting so that a third person reports on its behalf.”¹⁵

In this context ASIC should note that, with many derivatives transactions being cross-border, their processing is often facilitated by internationally operating providers of Independent Verification Services (“*IVS*”).¹⁶ We believe that the use of such entities for reporting to TRs, as well, provide benefits to the international regulatory authorities, as well as market participants. As a matter of fact, reporting required from Swap Dealers under CFTC requirements in the US has largely been delegated to third parties. It will therefore be important also for parties captured by ASIC’s regime to be able to delegate their various regulatory obligations to internationally-operating third party service providers. These entities tend to operate across jurisdictions, so it will often be easier and more efficient to task them with ensuring the compliance of participants across various national requirements than for counterparties to handle such responsibilities themselves.

We therefore support ASIC’s proposal that a “reporting entity may optionally delegate the reporting so that a third person reports on its behalf”.¹⁷ In addition, we encourage ASIC to provide clarification on the following aspects of delegation:

- ASIC proposed that, where the reporting is delegated to another entity, “the reporting entity remains responsible for ensuring the information reported to the trade repository is accurate.”¹⁸ We generally agree with this approach as it is consistent with other jurisdictions.¹⁹ However, we encourage ASIC to clarify that the responsibility of the delegating party is broader than just relating to the accuracy of the data reported. For example, it will also need to ensure that the information is reported at all and that the relevant data is reported in a timely manner.
- For the avoidance of doubt, ASIC should clarify that *all* parties that might be exposed to a reporting requirement, regardless of their nature,²⁰ will be permitted to delegate this task to a third party.

¹⁴ The CFTC’s Unique Swap Identifier (“USI”), for example, is a unique identifier assigned to all swap transactions which identifies the transaction (the swap and its counterparties) uniquely throughout its life time. The creation and use of the USI has been mandated by the CFTC and SEC as part of the Dodd-Frank Act. CFTC: Unique Swap Identifier Data Standard. October 2012

¹⁵ ASIC CP 205, B1(b).

¹⁶ We define IVS as “entities that act independently from and on behalf of the counterparties to the transaction to facilitate the agreement of a verified record of the complete transaction details that is used for subsequent processing.”

¹⁷ ASIC CP 205, B1(b).

¹⁸ ASIC CP 205, B1(c).

¹⁹ See CSA Consultation Paper 91-301 Derivatives Product Determination and Trade Repositories and Derivatives Data Reporting (December 6, 2012).

²⁰ Including, for example, CCPs.

- ASIC stated that “one reporting entity may delegate the reporting to the other reporting entity”.²¹ In this context we encourage ASIC to clarify that, in case that both counterparties were subject to a reporting obligation, they *both* have the right to delegate reporting to a third party, which could be individually, or they could agree between themselves to use one third party.

c) Which entities are subject to a reporting obligation

ASIC refers to “any counterparty subject to the reporting obligation (i.e. a ‘reporting entity, as defined in draft Rule 1.2.5, and which includes central counterparties for cleared transactions)”.²²

We encourage ASIC to further clarify the types of entities that might be subject to the reporting obligation as well as their respective obligations.²³ This is because, depending on the situation, it might be appropriate for different parties, i.e. counterparty and central counterparties, to have different reporting obligations in terms of the data and/or the timeliness of their reporting. For example, under the CFTC’s reporting rules²⁴ the reporting obligations have been defined as such that it will depend on the form of execution, whether the transaction is cleared or remains uncleared, the asset class and the nature of the counterparties which party has to report which data set to the TR within what timeframe.

B3 Derivative transactions to be reported

- ***B3Q3 Do you agree that both centrally cleared and non-centrally cleared OTC derivative transactions should be required to be reported?***

We agree with ASIC that both centrally cleared and non-centrally cleared OTC derivative transactions should be reported to TRs²⁵ to provide regulatory authorities with a complete picture of activity in the OTC derivatives markets.

However, we believe that, in this context, ASIC will also need to consider situations where transactions that will be submitted to clearing have not been accepted by the CCP yet. These cases have been explicitly addressed in other jurisdictions where the specific reporting obligations for transactions that are centrally cleared will depend on the timeliness of the acceptance for clearing.²⁶ Specifically, depending on the timeliness of clearing, ASIC might want to require the reporting of both the pre-cleared (alpha) and the post-cleared (beta/gamma) transactions.

B4 Deadline for the reporting of reportable transactions

- ***Q1 Do you agree with the proposed timing of reporting?***
- ***Q2 Should a shorter reporting deadline be set for those reporting entities that are subject to a shorter deadline for reporting to a trade repository under an overseas reporting obligation, or for particular types of reportable transaction (e.g. modifications or cancellations)?***
- ***Q3 Do you think a longer deadline is needed for reportable transactions executed outside Australia?***

ASIC proposed to require reporting entities to report the execution, amendment, termination or assignment of an OTC derivative transaction to a TR by no later than the business day following the day on which the execution, amendment, termination or assignment of an OTC derivative transaction takes place (commonly

²¹ ASIC CP 205 B1(d).

²² ASIC CP 205, B1(a).

²³ ASIC CP 205, B1(a).

²⁴ Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

²⁵ ASIC CP 205, B3(c).

²⁶ Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

known as 'T+1').²⁷ In this context, ASIC stated that it is considering whether the deadlines should be different for reporting to TRs and for real-time reporting.²⁸

We believe that ASIC should consider that trade reporting and real-time reporting requirements in other jurisdictions²⁹ have been established separately based on different rules.³⁰ We therefore believe that ASIC still has time to deliberate the pros and cons of proposing these rules together or separately and, if ASIC decided not to introduce real-time reporting requirements at the moment, it could still establish them later on. However, when doing so, ASIC should, to the extent possible, minimize the additional effort and resources needed by counterparties to report. Ideally, to allow for a timely and cost-effective implementation, the reporting requirements would be designed as such that any "real-time" reporting could be generated from the same data set that is reported for regulatory purposes.

C. Reporting to overseas trade repositories (alternative reporting)

As stated above we believe that, to the extent possible, ASIC should try to avoid creating additional burden on market participants and rely on already existing mechanisms to achieve its regulatory objectives. We therefore strongly support ASIC's proposal to allow "certain reporting entities entering into reportable transactions to meet a reporting obligation by reporting to a trade repository outside Australia" as long as certain conditions are satisfied.³¹

D. Information to be reported to trade repositories

D1 Data required to be reported

D1Q1 Do you have any comments on the proposed data fields in Part S2.1 of Schedule 2 that will need to be reported to trade repositories? Are there any data fields that it will be particularly burdensome to report?

We appreciate the fact that ASIC has set out a detailed list of data fields to be reported to ADTRs.³² However, we believe that ASIC should follow an approach similar to the one taken in other jurisdictions that require the reporting of primary economic terms (in electronic format) plus reporting of the full confirmation (in the appropriate format) to the TR given that these data sets in combination should allow TRs to provide data for *all* desired purposes.

We agree that determining which data fields have to be reported to a TR is complex and challenging. We note that a number of regulatory authorities have spent significant amounts of time aiming to capture all the intricacies of the almost infinite variety of products that trade in the OTC derivatives market. These efforts often resulted in the creation of numerous and complicated lists of data fields that differentiate both between asset class and product categories. In contrast, we believe that ASIC should follow a two-pronged approach in defining what data sets have to be reported to the TR to enable a timely and cost-efficient implementation of the reporting requirement:

- A basic data set that contains key economic terms in normalized data fields should be reported to a TR for every derivative transaction. Such data set could be applicable across asset classes and products, and the number of additional fields that are asset class specific would be very limited.

²⁷ ASIC CP 205, B4.

²⁸ ASIC CP 205, par. 37.

²⁹ For example in the United States under CFTC rules.

³⁰ Real Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 (Jan. 9, 2012) and Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

³¹ ASIC CP 205, C. Alternative reporting.

³² Part S2.1 Derivative Transaction Information. Table 1: Common data.

ASIC should take the views of TRs into account when making any determination about the appropriate data fields.

- All relevant elements of the transaction need to be captured in TRs so they can be made available to regulatory authorities if required. ASIC should therefore require counterparties to also report the full set of transaction confirmation data (either in normalized data fields or as a copy/electronic image of the paper confirmation where appropriate) to the TR for each OTC derivatives transaction.

We believe that the combination of reporting a limited set of key economic terms as normalized data fields in addition to the full confirmation will be an efficient way of achieving the regulatory goals of data reporting to TRs. Such approach also seems in line with requirements that have been established in other jurisdictions.³³ We recommend that international regulators coordinate their efforts to establish a verified set of minimum key economic terms. This harmonization would significantly aid parties in their attempts to satisfy the reporting requirements that are established by regulators globally.

D2 Complying with international data standards

D2Q1 Do you agree with the data formats we are proposing to specify, and agree that the other data formats should not be specified in the derivative transaction rules (reporting)?

We agree that the data fields to be reported to TRs should be internationally consistent and ASIC should, to the extent possible, make use of international standards. We believe that such approach will enable TRs to more easily and accurately aggregate datasets and provide information to regulatory authorities that is relevant for various purposes, such as the monitoring of systemic risk or the detection of insider trading or market abuse.

While ASIC is not planning to generally specify data standards or formats, it proposed requiring the reporting of Legal Entity Identifiers (LEIs), Universal Transaction Identifiers (UTIs) and Universal Product Identifiers (UPIs) where they are available. While we encourage the use of these specific identifiers that have been (or are expected to be) adopted globally we recommend that ASIC also allows for the use of other standards where appropriate. This is because recent experience has shown that alternative identifiers might be used in an interim period or industry participants might agree on using alternative versions of these identifiers that are most appropriate to specific jurisdictions or asset classes. We therefore recommend that ASIC only refer to a high level taxonomy and require that “relevant identifiers for counterparties, the transaction, or the product that have been agreed upon for reporting purposes (UTI, LEI, and UPI where they have been widely adopted) are reported to the ADTR.”³⁴

D3 Reporting of mark-to-market valuations and collateral information

D3Q1 Do you agree with the mechanism by which we are proposing to obtain information about mark-to-market valuations and collateral?

ASIC proposed that “a reporting entity must report up-to-date mark-to-market valuations, but not be required to undertake any valuation beyond what it is required to do under other rules”.³⁵ We agree that regulatory authorities will need to know the current value of derivatives contracts and the collateral that has been exchanged between counterparties in order to develop a meaningful view on counterparty exposures and systemic risk.

³³ Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

³⁴ Specifically, given the current status of the various identifier-related initiatives, ASIC’s regime should result in the following outcome: a) the use of UTIs as transaction identifiers would be required from the start, b) the use of LEIs as entity identifiers would be required when adopted while alternative entity identifiers could be reported in the interim, and c) the use of the industry-agreed high level ISDA product taxonomy as product identifiers would be permitted unless a UPI is subsequently created and adopted on a global basis.

³⁵ ASIC CP 205, D3(a).

We generally believe that this proposal is reasonable and consistent with requirements established in other jurisdictions.³⁶ However, we believe that ASIC should clarify its understanding of “up-to-date mark-to-market valuations” and its statement that parties would only need to perform valuations as required by other rules. It seems unclear which other rules ASIC is referring to and we are concerned that such approach could lead to an unlevel playing field where parties, depending on their current practices, would have to provide valuations of their derivatives exposures at different frequencies. Additionally, we encourage ASIC to clarify whether it requires mark-to-market valuations of transactions or positions as this is not entirely clear from the CP.

E. Implementation of the reporting obligation

E1 Phased implementation

E1Q1 Do you have any comments on the proposed timetable for the implementation of the reporting obligation for different categories of reporting entity?

E1Q4 Do you agree with the proposed phased implementation by asset class?

Based on our experience in assisting market participants to comply with requirements to report their derivatives transactions to TRs in various jurisdictions, we know about the significant burden that such requirements impose.³⁷ We believe that the provision of sufficient time to allow market participants to adjust to new requirements not only reduces the burden on market participants but it also enables a timely and cost-efficient implementation. We therefore agree with ASIC that reporting obligations should be phased in³⁸ and we encourage ASIC to work closely with the industry and the relevant 3rd party providers to ensure that adequate time is given for preparation, testing and data loading.

More specifically, our experience in facilitating confirmation of derivatives transactions across asset classes and regions has demonstrated that, for various reasons, the level of standardization and electrification differs significantly between asset classes. We therefore support ASIC’s approach where compliance in the asset classes of foreign exchange, equity and commodity derivatives will be required only several months after compliance for interest rate and credit derivatives, which is also consistent with other jurisdictions.³⁹

We also generally support ASIC’s proposal of further phasing in the reporting obligations by the nature of the reporting party, “beginning with an ‘interim reporting phase’ and followed by three further phases.”⁴⁰ We believe that such approach can reflect the varying level of preparedness, depending on whether the counterparties are active dealers, banks that use the product less frequently, or commercial entities that enter into derivatives transactions only occasionally to hedge.

ASIC should note that multi-pronged phase-in approaches will be used in other jurisdictions.⁴¹ We believe that their use would be equally appropriate in Australia.

E2 Requirement for derivative position information

³⁶ ASIC CP 205, D3.

³⁷ This is particularly true as such reporting requirements are being introduced in numerous jurisdictions at almost the same time.

³⁸ ASIC CP 205, paragraph 71.

³⁹ For example, the CFTC will require first reporting in the asset classes of credit and interest rates first, reflecting their higher degree of standardization and automation, to be followed by equity, FX, and commodities only several months later. See Real Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 (Jan. 9, 2012) and Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

⁴⁰ ASIC CP 205, Implementation of the reporting obligation.

⁴¹ In the United States, the CFTC’s final real-time and swap data reporting rules phase-in compliance with the reporting requirements by category of market participant, by asset class, and over time. See Real Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 (Jan. 9, 2012) and Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

E2Q1 Do you agree with the proposed requirements for derivative position information?

ASIC proposed that “a reporting entity must report to a trade repository...the derivative position information for OTC derivatives outstanding on the day that the reporting obligation commences for a particular asset class.”⁴²

We encourage ASIC to provide further clarification on, what we believe, is designed to be the reporting of “historical swaps”.⁴³ Specifically, ASIC should clarify if such reporting shall be performed for positions or for transactions. While references in the CP are mostly to “positions” the requirement in other jurisdictions applies to “transactions” that existed at a specific point in time.⁴⁴

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MarkitSERV appreciates the opportunity to comment on ASIC’s Consultation Paper 205: *Derivatives transaction reporting*. We would be happy to elaborate or further discuss any of the points addressed above. In the event you may have any questions, please do not hesitate to contact the undersigned or Henry Hunter

Yours sincerely,



Jeff Gooch
Chief Executive Officer
MarkitSERV

⁴² ASIC CP 205, E2(a)

⁴³ Under the CFTC rules a “historical swap” refers to “Swaps executed prior to the applicable compliance date and in existence on or after the date of enactment of the Dodd-Frank Act.” Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 Fed. Reg. 35200, 35203 (Aug. 13, 2012).

⁴⁴ Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 Fed. Reg. 35200 (Aug. 13, 2012).