



August 29, 2014

Laurence White
Senior Manager, OTC Derivatives Reform
Financial Market Infrastructure
Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3001

Via email: OTCD@asic.gov.au

Re: The Australian Securities and Investments Commission's ("ASIC") Consultation Paper 221 on OTC Derivatives Reform: Proposed Amendments to ASIC Derivative Transaction Rules (Reporting) 2013, released on July 25, 2014

Dear Sir or Madam,

On behalf of the Depository Trust and Clearing Corporation ("DTCC"), we appreciate the opportunity to comment on the Consultation Paper.

DTCC's Repository Service

DTCC operates companies that provide trade reporting around the world. These companies and the countries in which they are incorporated are listed below:

DTCC Data Repository (U.S.) LLC	("DDR")	United States
DTCC Derivatives Repository Ltd.	("DDRL")	United Kingdom
DTCC Data Repository (Japan) KK	("DDRJ")	Japan
DTCC Data Repository (Singapore) Pte Ltd	("DDRS")	Singapore

DDR, DDRJ and DDRS are licensed and are actively engaged in operating as trade repositories at present in their countries of incorporation. DDR anticipates being licensed as a trade repository in Canada in the near future by the Ontario Securities Commission, Manitoba Securities Commission and Autorité Des Marchés Financier respectively, to meet reporting compliance on October 31, 2014. DDRS has been licensed as a trade repository in Singapore by the Monetary Authority of Singapore ("MAS") since October 2013. DDRS has applied to the Australian Securities and Investments Commission to be licensed as a foreign trade repository in Australia and expects to receive its license in time to support reporting compliance on October 1, 2014. DDRL is

licensed to operate as a trade repository by the European Securities and Markets Authority ("ESMA") under European Market Infrastructure Regulation ("EMIR") and is also licensed as an FCA service company and offers trade repository services for voluntary reporting. DDRL is acting as an agent to facilitate banks and licensed corporations to report their trades to the Hong Kong Trade Repository ("HKTR").

DTCC through its subsidiaries offering the Global Trade Repository service is the only company that supports regulatory reporting in the Asia-Pacific region for all five major derivatives asset classes, including credit, interest rates, equities, FX and commodities. It now processes two million submissions a week from across the region.

Attached are our comments to the Consultation Paper. DTCC welcomes the opportunity to discuss these comments with ASIC in greater detail if you so desire.

Yours Sincerely,

Peter Tierney

Regional Head Asia, DTCC Deriv/SERV

Chief Executive Officer, DTCC Data Repository (Singapore) Pte. Ltd.

General Comments

DTCC appreciates ASIC's efforts to align their trade reporting standards with industry standards and to advance global data sharing. As myriad regulatory regimes emerge DTCC believes the harmonization of data will reduce data fragmentation and improve data quality in the global marketplace. In furtherance of such harmonization, DTCC has encouraged regulators around the world who are looking to implement or refine their trade reporting regulations to harmonize their requirements with ESMA as the de facto standard based upon the reality that more than 60% of the world's OTC derivative transactions are reported under EMIR to ESMA. The benefits to be gained by harmonization, standardization and simplification are in the reuse of technology, facilitation of data aggregation and data access across jurisdictions and more efficient alternative compliance.

Reuse of Technology

In the current global OTC trade reporting landscape, the majority of firms reporting OTC derivatives are reporting trades in accordance with ESMA requirements. To maximize reusability and reduce costs for firms, trade repositories, and other supporting platform vendors, DTCC has encouraged regulators who are looking to implement their trade reporting regulations to harmonize their requirements with ESMA. As a result of this effort regulators in other jurisdictions have adopted an "ESMA-like" standard and it is becoming the global standard for trade reporting.

Facilitation of Data Aggregation Across Jurisdictions

For trade repository data to be fully valuable to regulators around the world, such data must be in a form that allows for regulators to share data and/or for a central aggregation to take place to give regulators the ability to see a global view of the OTC derivative market as well as their jurisdictional view. Without common data sets, or at a minimum a core set of common data, meaningful aggregation will not be accomplishable.

Alternative/Substituted Compliance and Cross Jurisdictional Data Access

Jurisdictions around the world are proposing to allow for entities with reporting obligations in multiple jurisdictions to ease their regulatory burden by reporting to their home jurisdiction or in some case any other jurisdiction and thereby satisfy their reporting obligations in that jurisdiction. The key to such multi-jurisdictional compliance is reporting regimes that are sufficiently equivalent. The basis of any equivalence finding must be the data elements. If jurisdictions begin to align their core data fields, it will be far more feasible to have a determination of equivalence and thus allow for the benefits of cross border reporting.

DTCC applauds ASIC for taking a significant first step towards implementing alternate compliance. Recognition by ASIC of prescribed Trade Repositories, in theory, furthers the

G20 goals of increasing transparency and reducing systemic risk by providing regulators with a consistent view of the global marketplace whilst decreasing redundancy and increasing efficiency. Legally, and in practice, ASIC is ahead of the world's regulatory community due to the privacy laws in differing jurisdictions regarding cross border data sharing. Notwithstanding such a finding by ASIC, conflict of laws may arise and MOU's and indemnification agreements may still be required prior to the trade reporting commencement date for varying jurisdictions to obtain access to each other's data.

Timing Considerations - Industry readiness

DTCC applauds ASIC for proposing a phased implementation of its proposed rules. It has been DTCC's experience that phased implementations are more efficient in that they allow for the most sophisticated parties to lead the way and work through any challenges prior to the imposition of reporting requirements on the rest of the industry.

DTCC encourages ASIC to take into account the considerable amount of lead time necessary for firms to comply with new regulations. While ASIC can leverage the existing technical work that has been done by all stakeholders in OTC reporting, stakeholders need sufficient time to adapt their systems to any changes in reporting. Even with an emerging level of standardization, it is DTCC's experience, generally speaking, that expanding the reporting scope requires 9 to 12 months for the industry to prepare from the date the regulation is enacted. DTCC suggests ASIC take these factors into consideration when designating the reporting commencement dates for the proposed changes to reporting requirements.

Based on experience, DTCC strongly recommends that ASIC require any potential reporting entities (entities who have decided to report or are still evaluating their obligations) to indicate their intention to report by making a non-binding opt in statement with a licensed trade repository at least 6 months before the applicable reporting commencement date. Enacting such a requirement will ensure that the entities are included in all relevant communications and discussions related to the requirements and deadlines. This will also help the trade repositories to adequately mobilize and designate resources to support the target group of reporting entities and proactively identify any potential ad hoc reporting scenarios early in the process. This non-binding "opt-in" will also provide both the trade repositories and ASIC with a definitive basis for readiness assessment and any mitigation required.

DTCC's response to specific questions posed in the Consultation Paper is outlined below.

A. BACKGROUND TO THE PROPOSALS

A1Q1: Do you agree with our recommended option (Option 2)? If not, why not?

DTCC agrees with the recommended Option 2. DTCC believes the flexibility provided by Option 2 will serve to reduce regulatory burden on reporting entities without diluting the value of reporting information in a material way.

A1Q2: Will Option 2 reduce the compliance costs that you will incur in implementing OTC derivative transaction reporting? If so, please provide details.

The amendments proposed in Option 2 have a greater impact on reporting entities than they do on trade repositories. DTCC believes that the changes should reduce compliance cost for some reporting entities as it will allow them to reuse existing technical infrastructure and not have to spend on new infrastructure or other related start up costs such as training.

A1Q3: Please provide your specific feedback in relation to Option 2 by responding to the detailed proposals set out in Sections B-D of this paper.

See responses below.

A1Q4: Do you think we should adopt Option 1? Please give reasons for your answer.

No. DTCC believes ASIC has correctly identified the challenges posed by Option 1 and the benefits of moving to Option 2.

A1Q5: Do you think that we should adopt Option 3? Please give reasons for your answer.

The question of the extraterritorial reach of the reporting requirements is best left to be worked out by the reporting entities and ASIC, weighing the potential benefit of the additional information that might be gathered from "all" subsidiaries versus the cost and difficulty of compliance and the lack of cross border information sharing regulations needed to bring the data to Australia.

A1Q6: Are there any other options we should consider to meet our regulatory objective of minimizing compliance costs while ensuring that trade data is comprehensive and complete?

DTCC suggests continued consultation with the industry to determine the necessary lead time required by firms to ensure they can comply with their trade reporting obligations.

B. TECHNICAL AMMENDMENTS TO THE DERIVATIVE TRANSACTION RULES (REPORTING)

B1Q1: Do you agree with the proposal? If not, why not?

DTCC agrees with the proposal.

B1Q2: Will this proposal reduce your costs of implementing transaction reporting? If so, please provide details.

DTCC believes that providing reporting entities with the option to meet their reporting obligations with snapshot data should reduce the cost for reporting entities.

B1Q3: Taking into account the varying record-keeping practices and requirements applicable to relevant OTC derivatives market participants, are records currently maintained in a form that would support accurate recording of transactions (including 'time stamping') to facilitate investigations by financial regulators into (for example) market abuse in OTC derivatives markets (in absence of a transaction-by-transaction reporting obligation)?

No comment.

Question B1Q4: Do you support an exception to snapshot reporting being made for intraday trades (i.e. trades that are opened and closed on the same day, leaving no net end-of-day position)? What would the costs and benefits of such an exception be?

No comment.

B1Q5: Would you support a reversion to transaction-by-transaction reporting at some point in the future (e.g. if ASIC were in a position to undertake proactive and automated analysis of data in its supervision of market conduct)?

DTCC would leave this for the industry and ASIC to reevaluate the benefits of transaction-by-transaction reporting in the future. DTCC would like to highlight, however, that a reversion to transaction-by-transaction reporting at a future date would require significant technological changes and cost for the industry. Therefore, we would like to propose that ASIC allows the industry at least a one year lead time in order for the industry to prepare should ASIC decide to mandate this change.

ALTERNATIVE REPORTING TO PRESCRIBED TRADE REPOSITORIES BY FOREIGN REPORTING ENTITIES

B2Q1: Do you agree with this proposal? If not, why not?

DTCC agrees with this proposal. By allowing reporting entities to utilize any prescribed trade repository, ASIC has allowed firms much more flexibility in being able to meet their reporting obligation and remove obstacles for any firms with a reporting obligation outside of their home country but with no home country trade repository to utilize existing technology and contractual relationships to satisfy its reporting obligations in Australia.

DTCC would like ASIC to consider providing further guidance on the definition of “sufficiently equivalent reporting regime” and the list of reporting regimes that ASIC consider as “sufficiently equivalent”. DTCC would like to further highlight that in order to preserve high data quality and transparency globally, the “sufficiently equivalent reporting regime” should: (i) have data fields that are harmonized with the ASIC requirements, (ii) ensure data is explicitly tagged for ASIC and bilateral data sharing agreements are in place, and (iii) ensure a minimal level of operational standards and governance are enforced.

B2Q2: Will allowing the use of alternative reporting reduce your costs of implementing transaction reporting? If so, please provide details.

DTCC recognizes that where two regimes are sufficiently equivalent through standardized data field requirement, the existing legal and technological infrastructure can be used by the firms and economies of scale can be achieved which should reduce the overall trade repository operational costs.

TAGGING OF DERIVATIVE TRADE DATA UNDER ALTERNATIVE REPORTING

B3Q1: Do you agree with this proposal? If not, why not?

DTCC agrees with the proposal to “tag” trades as it places the obligation to the reporting party to determine which regulators a single trade needs to be reported to because the reporting party has the best knowledge to determine what to report for each jurisdiction in respect of its reporting obligation. Based on discussions with the industry at early stages of the GTR development, DTCC and the industry agreed that tagging is the simplest and most effective way to identify reporting obligation. Other alternatives (such as based on trade data elements) require complex logic and are error-prone. Currently, 100% of the data sent to the GTR is tagged by the reporting party.

B3Q2: Do you anticipate any practical difficulties with implementing ‘tagging’? If so, please provide details.

As mentioned above, all trades submitted to DTCC’s GTR are being tagged with at least one jurisdiction. Therefore, DTCC does not anticipate any practical difficulties with implementing ‘tagging’.

B3Q3: Are there any alternative approaches that may meet our regulatory objective of ensuring that regulators have prompt and complete access to derivative trade data reporting under alternative reporting arrangements?

DTCC believes that ASIC’s proposal regarding alternate compliance is a significant step towards global data sharing. DTCC sees no other alternative solutions in the short term due to legal and technological constraints. DTCC recommends continued discussion among regulators globally to identify and address the legal, technological and infrastructure obstacles that prevent global data sharing and industry commitment to implement alternative compliance globally.

AMENDED DEFINITION OF REGULATED FOREIGN MARKET

B4Q1: Do you agree with this proposal? If not, why not?

DTCC agrees with the proposal to the extent the definition of a Regulated Foreign Market brings Australian trade reporting in line with other jurisdictions that are enacting the G20 agreement to require reporting of OTC transactions.

B4Q2: Are there any alternative proposals that may meet our regulatory objective of excluding exchange-traded derivatives from the derivative transaction reporting regime (while ensuring that OTC derivatives executed on trading platforms are included)? If so, please provide details.

No Comment.

REPORTING TO PRESCRIBED TRADE REPOSITORIES

B5Q1: Do you agree with this proposal? If not, why not?

DTCC agrees with this proposal as a stop gap measure to ensure continuity of reporting in Australia should a trade repository not be licensed by October 1, 2014.

B6Q1: Do you agree with this proposal? If not, why not?

DTCC agrees with the proposal to remove ABNs from the hierarchy of entity identifiers. DTCC is a strong supporter of a global standard for the identification of legal entities. At

present, the global regulatory community and financial services industry has coalesced around LEI as the global standard for legal entity identification and several global regulators of the derivatives markets are now requiring LEIs for identification of reporting parties and all counterparties on submissions of trades to trade repositories. The more choices available to reporting entities for entity identifiers, the less likely there will be a consistently used identifier that will allow for cross border aggregation of data that will improve both systemic risk management by the regulatory community and counterparty risk management by the industry, which is the key objective of the LEI initiative driven by the Financial Stability Board and global regulators comprising the Regulatory Oversight Committee. DTCC encourages ASIC to require LEIs for reporting parties and counterparties to be included on all trade submissions and for all other identifiers to be removed from eligibility. Over 3,100 Australian entities have LEIs and the Global Markets Entity Identifier utility, a globally endorsed local operating unit of the Global LEI System, operated by DTCC, in collaboration with SWIFT, has issued almost 2,900 of those.

C. REPORTING OBLIGATIONS FOR FOREIGN SUBSIDIARIES OF AUSTRALIAN FINANCIAL ENTITIES

C1Q1: Do you agree with this proposal? If not, why not?

No comment.

C1Q2: Is the proposed threshold of \$5 billion appropriate? If not, what threshold or trigger would be more appropriate?

No comment.

C1Q3: If a foreign subsidiary starts (or ceases) to hold \$5 billion in gross notional outstanding OTC derivative positions, should the foreign subsidiary be required to start (or be permitted to cease) reporting transactions? If not, why not?

No comment.

C1Q4: Is the proposed timeframe for implementing reporting obligations for foreign subsidiaries of Australian entities appropriate? If not, what timeframe would be more appropriate?

As previously stated, DTCC believes a 9 to 12 month lead time post effective date of requirements is needed to allow stakeholders to prepare for any material changes to reporting such as the extension of requirements cross border.

D. A SAFE HARBOUR FOR DELEGATED REPORTING

D1Q1: Do you agree with this proposal? If not, why not?

DTCC recognizes that any proposal to encourage the use of delegated reporting will reduce the burden for small firms. However, DTCC believes that the best party to vouch for the accuracy, timeliness, and completeness of the data is the reporting entity itself. DTCC believes the value of this proposal hinges on the definition of the “reasonable steps” that the reporting entity and the delegate will need to take to ensure the accuracy, timeliness, and completeness of the data. DTCC would agree that firms below a de minimis size should not have to perform daily reconciliation with the trade repository. In this case, a bi-weekly or monthly reconciliation could suffice.

D1Q2: Do you consider that this proposal will encourage the use of delegated reporting? If not, why not?

No comment.

D1Q3: Will a ‘safe harbour’ for delegated reporting reduce your costs if implementing transaction reporting? If so, please provide details.

No comment.

D1Q4: Are there any other proposals that may meet our regulatory objective of encouraging the use of delegated reporting? If so please provide details.

No comment.