ISDA® Safe, Efficient Markets

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Mr K H Lee / Ms Pansy Pang
Hong Kong Monetary Authority
55th Floor, Two International Finance Centre
8 Finance Street, Central
Hong Kong

Dear Mr. Lee / Ms. Pang,

The International Swaps and Derivatives Association, Inc. (ISDA) appreciates this opportunity to provide comments on the soft consultation paper on the conceptual framework of the trade repository to be developed by the Hong Kong Monetary Authority (HKMA).

Since 1985, ISDA has worked to make the global over-the-counter (OTC) derivatives markets safer and more efficient. Today, ISDA is one of the world's largest global financial trade associations, with over 800 member institutions from 56 countries on six continents. These members include a broad range of OTC derivatives market participants: global, international and regional banks, asset managers, energy and commodities firms, government and supranational entities, insurers and diversified financial institutions, corporations, law firms, exchanges, clearinghouses and other service providers. ISDA has been a leader in promoting sound risk management practices and processes, and engages constructively with policymakers and legislators around the world to advance the understanding and treatment of derivatives as a risk management tool.

ISDA's members strongly support HKMA's goals of enhancing transparency in the OTC derivatives market and mitigating systemic risk, and we appreciate HKMA's attempts to provide adequate notice and opportunities for consultation regarding the trade repository proposal.

Section 1 – General feedback

Trade repositories are being proposed to meet the demands of the G-20 Commitments on OTC Derivatives. Given that final regulations and rules globally are yet to be defined, the industry strongly recommends that trade repositories are developed with significant flexibility so they can quickly react to new or changing regulatory requirements.

The industry encourages the use of global trade repositories not just because of comprehensiveness in trade data capturing (reporting by all global dealers), but also the ease by which all regulators can access the data simultaneously without the need to refer to various individual geographic trade repositories.

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Key advantages of leveraging global trade repositories include:

- **Cost effectiveness**
    - Developing and running a local trade repository has cost implications for both regulators and market participants. The infrastructure build out requires significant upfront capital expenditure, connectivity expenses and on-going support and maintenance.
- **Quicker time to market**
    - The industry only has finite resources, having the ability to connect to a single repository will ensure quicker time to market.
- **Data Consistency**
    - Market participants would be able to report product data via a single channel and under a global standardised format which will ensure the validity of the data (e.g. unique product identifier, legal entity identifier). The global trade repositories are designed to be accessed by regulators in a timely manner.
- **Non-commercialization of trade data**
    - The global trade repository vendors will have no ability to commercialize the data.

Not withstanding the above, the industry recognizes that issues such as data confidentiality and the potential requirement under Dodd Frank for foreign regulators to provide indemnification to global swap data repositories[1] before information can be shared, might lead home country regulators to prefer having their own trade data repositories. If the development of a local trade repository is pursued, it is critical that the data it requires uses the same format and parameters as that of the global trade repository. Further, it would be an advantage if it is capable of accepting trade feeds from global trade repositories so that market participants can efficiently feed their trade data through one channel.

If a local trade repository requires market participants to provide the trade data separately from the global trade repositories, it is important that the local trade repository allows trade feeds from existing commonly used electronic confirmation platforms. The trade data that is required should also specifically follow global standards, as this will lead to significant cost savings for all market participants.

The industry also notes that the data in a trade repository provides valuable information to regulators that should be thoroughly analyzed prior to making any determinations about the suitability of different products for mandatory clearing locally or globally.

Section 2 – Concerns Raised by the Soft Consultation Paper

[1] Recent comments by CFTC Commissioner Gensler suggest flexibility in avoiding this indemnification: http://www.cftc.gov/pressroom/speechestestimony/opagensler-86.html

The Paper raises a number of issues that the industry would be interested in discussing further with HKMA:

1. 'Public Disclosure' which is noted as a basic function. The industry would like to clarify;
    a) What data will be publically disclosed?
    b) How quickly this data must be submitted to the trade repository?
    c) How quickly it will then be made public?
    d) What is the purpose the regulator has in mind for public disclosure? What issue is the public disclosure intended to address?
    e) How will the data be disclosed?

   Individual counterpart trading agreements frequently include confidentiality requirements which the industry has to ensure are not breached. Specific product and trade size considerations (eg. block / large notional trades) should also be made when considering public disclosure as there can be adverse implications on market liquidity.

2. The specific nature of the reportable Valuation and Collateral data. Is this required at a transaction or summarized level? Although these data items may not be required in Phase 1, it's important for design purposes that market participants understand the data requirements from the beginning. If the regulator is looking to be able to compare valuations between participants then it should be noted that direct comparison may not be meaningful due to variant timing and sourcing of valuations. Additionally, as collateral is managed at the portfolio level, it would not be possible to link it back to an individual transaction.

3. The workflows laid out on page 31 show clearing flows being dependent on data feeds from the trade repository. This could result in delays to clearing and is inconsistent with existing global clearing model practice. Reporting and clearing processes should be independent of each other.

4. Trade reporting frequency – the industry requests clarification on the reporting frequency and whether it is applicable to all data (e.g. MTM valuation).

5. Client confidentiality – a number of jurisdictions may impose additional restrictions in allowing their banks or financial institutions to disclose the counterpart details to a trade to other trade repositories. The industry would like the regulator to clarify this further – especially the definition of a reportable trade to determine the applicability of client confidentiality.

6. Reportable trades – the industry would like further clarification on the criteria for which trade reporting would be required. We understand considerations are being made for both minimum thresholds in trade size and a participant's notional outstanding in a particular product.

Section 3 – Responses to Questions Posed In the Paper

We also set out below the feedback from the industry addressing the specific questions included in the Paper:

1. Does your institution envisage any problems or concerns to report new trades and post trade events? Do you have any concerns in case TR participants are required to provide valuation data to the TR?

   As noted above, the industry would like to rationalize its global trade repository feeds and strongly encourages the HKMA to leverage global trade repositories, preferably through direct data withdrawals or, at a minimum, through facilitating data feeds into their domestic market trade repository. Other key Industry concerns include:

   - **Data confidentiality** - as discussed above
   - **Data field requirements** - The document identifies 182 reportable data elements. Not all firms will be easily able to satisfy these data requirements even if these are fully incorporated within existing FpML language. The industry strongly prefers that a set of core reportable data fields (such as those required by electronic confirmation matching platforms) be defined and the remaining supplemental data elements be provided on a 'best efforts' basis. This will enable industry participants to more easily meet the end 2012 start date.
   - **Unspecified timing of the reporting** – the technology required to support real time reporting is significantly more demanding than that for end of day reporting.

   The reporting of valuation data is being requested by a number of regulators and industry participants strongly prefer to report trade level data once a day to all required trade repositories as this ensures global data consistency (note: a few firms expressed that they may need to study providing daily valuations further due to system capability limitations in handling such tasks on a daily basis). It should also be noted that some market participants who have their trades booked under a global booking entity may only be able to generate the valuations at a specific time (usually the end of day of the booking entity location) which could be different from local business hours. Irrespective of these concerns, some hybrid transactions may require a longer interval to be revalued given their illiquid nature. With these considerations in mind, the industry recommends a flexible reporting regime is put in place to accommodate these differences.

2. Does your institution envisage any problems or concerns to report trades according to the data formats prescribed. Please elaborate.

   FpML are industry data format standards and most market participants will be able to provide data in this format (or CSV) for standardized trades. The industry strongly recommends that the data format standards remain in line with that of global trade repositories. Where a trade requiring reporting is an exotic trade, the trade repository should have the capability to accept an electronic copy of the confirmation documentation itself (including pdf) that contains all the key economics of the trade, subject to a requirement that the counterparts to the exotic confirmation have bilaterally matched off already.

3. Would your institution engage an agent to report the trade events on behalf of your institution?

   - Market participants using prime broker or client clearing solutions may use an agent to report their trade data.
   - Large market participants would prefer to have the global trade repository submit the data to local trade repositories on their behalf.
   - Electronic trading venues and clearing houses should also be allowed to provide data directly if a local trade repository were to be mandated
   - The industry would like to understand better how an agent could be accepted in the reporting process.

4. Do you have any comments on the process of trade matching and handling of abnormal trade events? Please elaborate.

   The industry would like to ensure there is commonality across global trade repositories for handling of trade reporting errors and withdrawals. Given that most of these are nascent developments, it is too early to comment on specific handling practices.
   Trade repositories should not match trades that have already been matched on another electronic platform (e.g. eTrading, electronic confirmation or clearing house) as this increases the risk that the match may not be accurate. Instead, trades should be paired in the repository by comparing a unique trade identifier that is uniform and unique across all asset classes.

5. Would your institution engage a trade confirmation platform to report trades to TR on your behalf? Do you consider it beneficial for the TR to expand linkages to more confirmation platforms? See point 6 in this section.

   The use of a trade confirmation platform enables the data to feed to a trade repository in an efficient and consistent manner. However, use should be optional rather than a mandatory requirement.

6. Do you consider the access controls as described in the slide to suit your operational needs?

   The details provided are not currently sufficient to make a determination of the adequacy of the access controls and the Industry requests further clarity. As a general rule, best practices for access controls include:

- Appropriate segregation of duties
- Predefined roles and permissioning
- Restrictive access to sensitive functions
- Restrictive access to sensitive data
- Audit trails for monitoring user access
- Appropriate process and change controls

ISDA and its members look forward to continuing the dialogue with HKMA on this subject matter. If you have any questions on this letter, please do not hesitate to contact Jeffrey Kan (jkan@isda.org) at +852 2200 5907.

Yours sincerely,

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