

**Consultation Paper: Review of the technical standards on
reporting under Article 9 of EMIR (ESMA/2014/1352)**

A response from Clarus Financial Technology

12 February 2015

Introduction

1. Clarus Financial Technology welcomes the opportunity to respond to this consultation. We provide content, data and analytics for the post-regulatory reform world of global derivatives. Clarus' tools create a window into the data now available in trade repositories and trading venues to help clarify and unify the vast, diverse information produced from the post-crisis regulatory changes. This is done using the free publicly available trade information from multiple sources and creating a cohesive database for users to interrogate with our custom interface.

2. The new legislative landscape for financial markets is intended to provide a much more transparent environment for firms to access trade information vital to their trading and hedging requirements. The derivatives market was previously seen as opaque and trade pricing was obfuscated. We work with market participants to enable them to take advantage of the greater transparency of price and volume data for all derivative products to facilitate improved price discovery and risk mitigation.

Meeting the standards set by EMIR

3. The core principles underpinning regulation under EMIR and in other regulatory jurisdictions such as Dodd Frank in the US are the same: greater transparency, mitigation of systemic risk and protection against market abuse. The consultation paper acknowledges at 2.1.10 that these were often by necessity developed in parallel, without the opportunity to "build on lessons learnt". We believe that whilst this may have been inevitable in the early stages of implementation under EMIR, there is now the opportunity to consider and evaluate experience since implementation within Europe and from other jurisdictions, in order to arrive at the point where standards in Europe can reflect best practice from around the world. Financial markets and the companies operating within them are largely global, although regulatory controls must necessarily be defined in accordance with political and geographic borders. However, it should be possible to reflect its global reach by achieving consistent levels of transparency across boundaries. Clarus' response therefore addresses some of the specific questions raised, but also the principles they raise, such as data quality, in a broader context.

Q4: Do you think the adaptations illustrated in this section adequately reflect the derivatives market and will help improve the data quality of reports? Will the proposed changes cause significant new difficulties? Please elaborate.

4. Whilst we agree that the illustrated adaptations are a step towards improving data quality, we do not believe they address a fundamental weakness in the way that data is presented. The most obvious and most effective way to improve data quality is to *maximise the number of uses and users* of the data. The current requirements in the draft technical standards¹ specify that only aggregated data is publicly disseminated at least weekly. These provisions severely limit the pool of users able to make effective use of the public data: in fact, we believe that it renders the publicly available data meaningless and therefore unusable in terms of analysis. We consider this to be part of a much more significant underlying issue regarding the nature, extent and timing of data made publicly available.

5. One of the most striking differences between the outcome of regulation in Europe and elsewhere (in particular the US) is the requirements placed on public dissemination of data. For the objectives of risk mitigation and transparency to be achieved, it is important that market participants have access to the outcomes of the great volume of data reporting in order to inform future behaviour and decisions. Data available publicly in Europe is significantly less than in the US, leading to a serious shortfall in the benefits derived from it by market participants, especially in comparison to their counterparts in the US.

6. Currently it is impossible for market participants in Europe to see the full picture in terms of market activity, as there is insufficient data publicly available. This means that whilst they have a view of their own positions in the market, they cannot relate this to the wider context of the market as a whole. This means that the transparency benefits which could accrue in terms of pricing and risk management are lost.

7. When the draft Technical Standards under EMIR were considered in 2012 the main focus was on ensuring that those responsible for regulation at European and Member State level had access to centrally collected data, and that anonymity of counterparties to trades should be maintained. At that time, weekly disclosure “using a simple solution for all asset classes....rather than very complex or dynamic timelines per asset class or liquidity level” was determined as the appropriate mechanism to achieve this². Although ESMA made clear that it viewed these standards as a minimum frequency level, and that TRs would be free to offer more frequent disclosure, in practice this has

¹ ESMA/2012/600, page 63, 343-344

² ESMA/2012/379, para 315

not been the case, even though it would be very straightforward for TRs to do so, especially since most already provide this in the US.

8. Clarus believes that these technical standards should go much further in improving the data quality of reports. It is now time for ESMA to review this aspect of regulation in the light of experience in Europe and elsewhere, and the negative impact of the limited publicly available data on market participants and the regulatory objectives set out by EMIR³. We consider that the current scope and frequency of data available does not go far enough in achieving transparency, and that it is possible to improve this without jeopardising anonymity or imposing undue additional burdens on TRs. The most effective way to demonstrate this is to provide a comparison of the outcomes of public data dissemination in the US and Europe.

Publicly available data under EMIR

9. Below are the reports that are publically available from the major European Trade Repositories for the period. It is immediately evident that they provide only high-level aggregated totals that are not broken down into actionable data. In addition, there is no way to aggregate these numbers across the TRs without ensuring that double counting of the same trade or position has not occurred. Furthermore, the reports are not comparing like products with like products, as evidenced by the fact that they aggregate OTC and ETD trades.

DTCC

DTCC Derivatives Repository Limited Global Trade Repository

Table 1: A breakdown of the aggregate open positions per derivative class

Report Date (YYYY-MM-DD): 2015-01-30

Change Report Date (YYYY-MM-DD): 2015-01-30

Download Both Reports <input type="checkbox"/> Download OTC Report <input type="checkbox"/> Download ETD and Listed Derivatives <input type="checkbox"/>								
Asset Class	Over The Counter					Total	Single-sided non-EEA	5
	Single-sided non-EEA	Single-sided EEA	Single-sided - Unknown	Dual Sided				
Commodity	675,197,933,827	271,786,191,417	20,016,805,983	119,347,323,474	1,086,348,254,701	568,719,218,552	9	
Credit	9,912,281,580,555	3,724,310,914,056	785,705,378,502	2,608,278,414,884	17,030,576,287,997	7,137,350,440		
Equity	6,548,323,592,871	4,618,802,850,513	356,870,405,425	3,038,273,654,528	14,562,270,503,337	1,008,040,408,056	2,7	
Foreign Exchange	34,238,761,618,309	17,740,544,376,691	2,628,738,277,916	5,016,539,944,064	59,624,584,216,980	3,757,434		
Interest Rates	151,453,607,506,052	200,192,211,174,082	70,585,818,271,392	19,006,781,128,429	441,238,418,079,955	4,554,835,196,786	16,2	
							Number of trades	
Commodity	379,649	152,522	16,396	92,828	641,395	172,771		
Credit	963,225	255,394	65,128	307,661	1,591,408	468		
Equity	1,407,475	592,268	105,943	451,651	2,557,337	97,301		
Foreign Exchange	3,609,805	2,403,288	262,955	698,750	6,974,798	8		
Interest Rates	2,349,613	2,566,440	689,743	435,833	6,041,629	14,972		

³ See the Clarus Blog at <http://www.clarusft.com/emir-trade-reporting-and-public-data-what-is-the-point/>

UnaVista

Position Date	Asset Class	Number of Open Trades	Aggregate Outstanding Notional Value (Euro)
04 Feb 2015	Total	202,466,071	648,738,446,927,195.00
04 Feb 2015	Commodity	30,200,976	30,874,495,401,067.20
04 Feb 2015	Credit	53,466	107,909,300,381.25
04 Feb 2015	Currency	90,511,421	1,445,755,656,714.57
04 Feb 2015	Equity	43,777,308	10,312,193,872,345.10
04 Feb 2015	Interest Rate	26,348,366	604,004,125,028,252.00
04 Feb 2015	Other	585,921	217,385,043,837.38
04 Feb 2015	Unclassified	10,988,613	1,776,582,624,597.85

Regis-TR

30/01/2015

Single-sided | Single-sided | Dual Sided O Total OTC Single-sided | Single-sided | Dual Sided E Total ETD Single-sided | Single-sided | Dual Sided X Total XOFF

The aggregate notional value for all outstanding trades as of 30/01/2015:

Credit	547281.31	76509.54	8053.02	631843.87	1719.51	13393.57	0	15113.08	0	0	1.07	1.07
Commodities	17608202.6	4309997.07	4129590.79	26047790.5	85352.07	19789.13	28958	134099.2	2332.94	16.68	1429.21	3778.83
Equity	2995063.99	34861.11	645988.8	3675913.9	2944302.82	265411.08	211383.19	3421097.09	49429.01	2498.8	3080.39	55008.2
Foreign Exchange	5462931.46	1522503.07	2533808.34	9519242.87	39921.89	48639.97	10213.2	98775.06	27826.3	400.54	2958.96	31185.8
Interest Rates	18786711.9	2278020.67	2025340.59	23090073.2	4213641.76	39365.61	202223.74	4455231.11	660275.96	50251.53	35317.24	745844.73
Other	716819.55	15124.35	6065.38	738009.28	1769219.96	129727.96	100080954	101979902	11821.86	4.44	1924.12	13750.42

Data is expressed in millions of Euro rounded to 2 decimal places

Number of trades based on which the notional value is calculated:

Credit	18810	5066	758	24634	160	539	2	701	0	0	26	26
Commodities	169181	46310	90599	306090	144193	30575	12467	187235	4983	307	5874	11164
Equity	547834	145828	53991	747653	598838	128245	122059	849142	7711	3253	4063	15027
Foreign Exchange	562446	283045	468127	1313618	29317	76925	2854	109096	670	2714	2285	5669
Interest Rates	487520	42903	131667	662090	21744	2576	7068	31388	2958	29	1510	4497
Other	246645	4259	6824	257728	56284	29015	6846	92145	925	14	395	1334

Related issues

Price Dissemination

10. Pre-Trade Considerations: No price information regarding any trade activity is currently made available to the public. End-users of OTC derivatives are therefore left to source prices from self-interested parties.

11. Particularly in OTC derivatives, end-users are unable to source information regarding what price the last trade was transacted at. Given that a large percentage of OTC Derivatives are now standardised and cleared through a CCP, this concept of a previously traded, benchmark price should be a given. This information is a vital part of the pre-trade process, particularly in the absence of an execution mandate: without it, the price from a liquidity provider cannot be sufficiently verified.

12. Post-Trade considerations: In the absence of publicly available prices, market-abuse practices cannot be identified internally. With all the time and price data unavailable, the ability to ensure consistency and avoid bad behaviour is lost. With no consistent,


reliable prices to enable the proper identification of off-market activity, this represents a very real compliance risk. It is impossible to consistently identify whether the best price has been achieved without true public dissemination of traded prices for OTC derivatives. Whilst most OTC derivatives are now clearable and hence more standardised than at some points in history, they are still inherently customisable. To be able to extract the maximum degree of pricing information from the trade universe, a diverse range of trade-level detail is therefore required – and is currently reported and disseminated under the requirements in the US.

Publicly available data under Dodd Frank in the US

13. The data available for the same period is too detailed to repeat here, which in itself illustrates the absence and weakness of data quality available in Europe. What is relevant in any debate about market transparency, pricing and risk mitigation is the analysis that can be generated from it. The comparison between Europe and the US is striking. Using data published daily by SDRs for the US market, we can currently provide a host of price data for US and European-focused asset classes. These inform both pre-trade and post-trade processes.

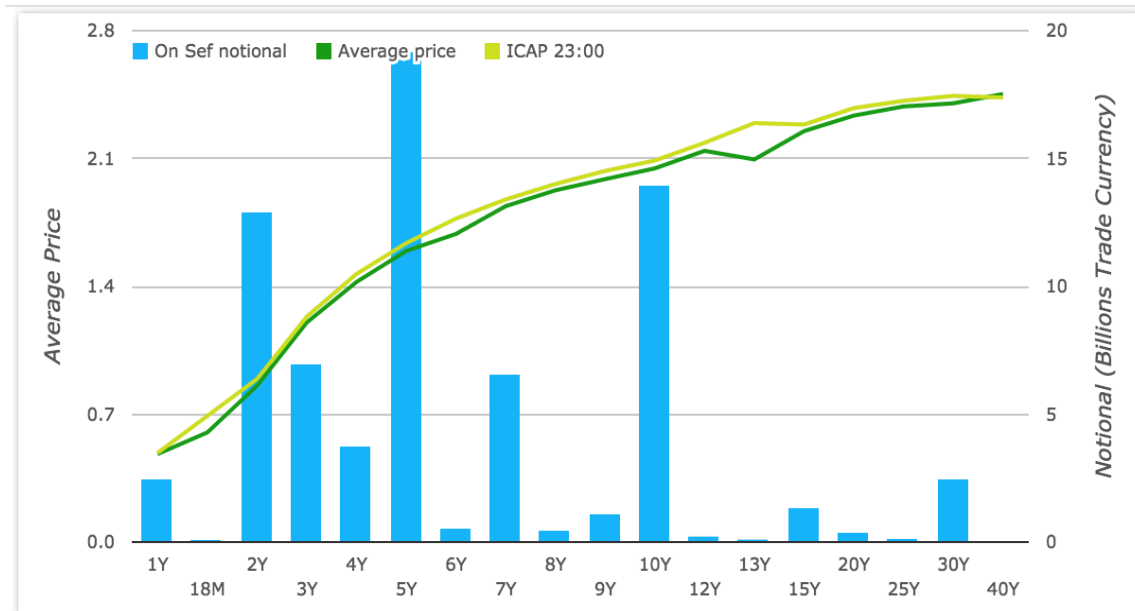
Interest Rate Swaps

14. Trades are publicly disseminated within a few minutes of execution, allowing their price and size to be observed. For example, the table below shows USD IR swaps:

IRS/USD		IRS/EUR	CRD/USD	CCS/EUR			
21:19:52	All	 2015 Jan 30	IRSwap:FixedFloat	USD			
Time	USD(M)	Rate	Tenor	Start date	End date	Act	Exclude
Jan 30 15:09:39	200	1.194	4Y	2015 Feb 3	2019 Feb 3		<input type="checkbox"/>
Jan 30 15:09:39	81	1.355	5Y	2015 Feb 3	2020 Feb 3		<input type="checkbox"/>
Jan 30 15:09:07	10	1.809	10Y	2015 Feb 3	2025 Feb 3		<input type="checkbox"/>
Jan 30 15:08:23	100	1.355	5Y	2015 Feb 3	2020 Feb 3		<input type="checkbox"/>
Jan 30 15:07:50	64	1.197	4Y	2015 Feb 3	2019 Feb 3		<input type="checkbox"/>
Jan 30 15:07:50	51	1.358	5Y	2015 Feb 3	2020 Feb 3		<input type="checkbox"/>
Jan 30 15:07:16	100	1.813	10Y	2015 Feb 3	2025 Feb 3		<input type="checkbox"/>
Jan 30 15:06:34	5	1.812	10Y	2015 Feb 3	2025 Feb 3		<input type="checkbox"/>
Jan 30 15:06:14	43	1.362	5Y	2015 Feb 3	2020 Feb 3		<input type="checkbox"/>

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These trade prices and sizes can be used to construct a chart showing price and volume by maturity:

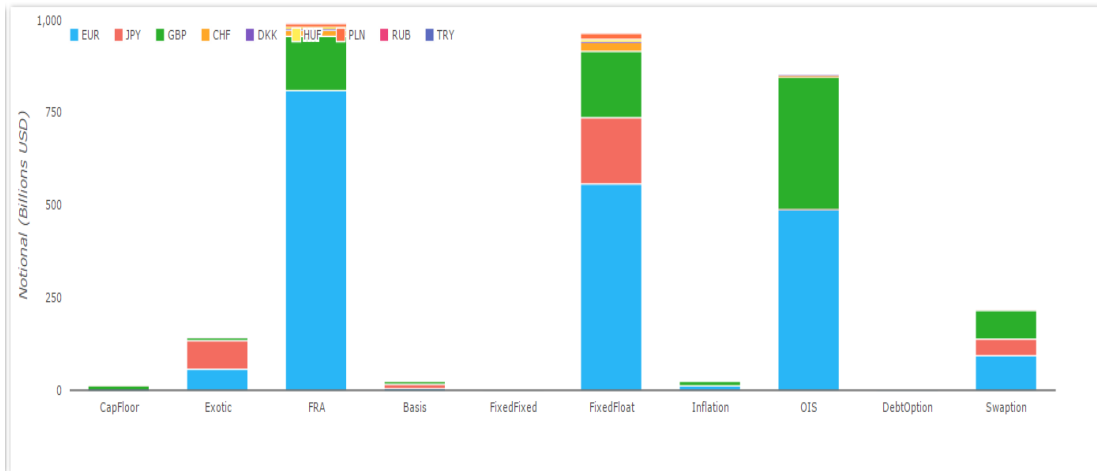


15. This data is used by traders, investors, business managers and analysts to inspect, understand and demystify formerly opaque OTC markets. It is used to check that liquidity providers are providing at-market quotations, and that valuations and collateral calls on existing OTC contracts are accurate and fair. An independent view of market liquidity is especially important for end users of derivatives to enable them to develop and efficiently execute effective hedging strategies.⁴ This is one of the benefits of transparency envisaged by regulatory reform, but currently not available to market participants in Europe because the data is not publicly available.

Volume Transparency

16. Price information about any trade is only half of the story. Whilst we can see weekly aggregated notional amounts under the current publicly available data in Europe, this conceals and can distort the true picture of liquidity in markets. Liquidity is constrained by boundaries between risk-classes, and hence varies considerably between products, venues and currencies. From the US public data we can see this clearly in a time-series of notional data that is split by currency and product type – even within Interest Rate Products. The below chart shows 2015 volumes per Interest Rate product for a number of major European currencies. Even such a simple analysis is not currently possible from European public data.

⁴ For further detail of this type of analysis, see the Clarus blog at <http://www.clarusft.com/liquidity-in-usd-swaps/>



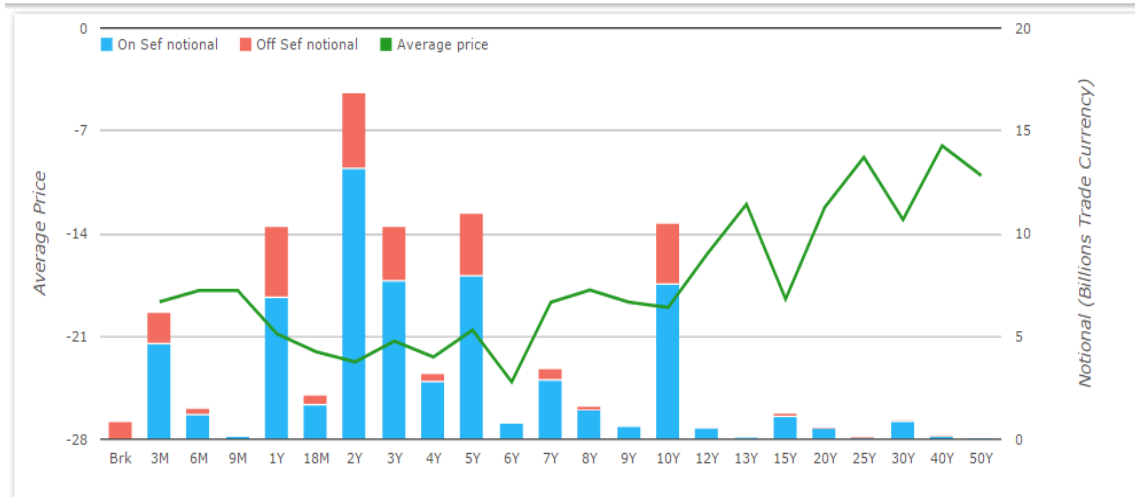
Post-Trade Considerations

17. Just as reliable price information is vital for internal controls, so is volume data. Accurate volume data can be used to identify dangerous risk limits at a highly granular level relative to the rest of the market. Volume data can be augmented with internal data to help monitor not just risk limits, but concentration limits relative to the broader market and help firms fully understand the risk they have. Identification of abnormal volumes relative to the market can serve as further first line of defence mechanisms for firms running market risk without the need of estimates. Further to this, it can aid trade settlement and query disputes and simplify lifetime operations with increased transparency across numerous OTC markets. These advantages are incurred whilst still retaining client anonymity and data privileges, with no need to report individual counterparty information to achieve increased levels of granularity. This is proven with the live SDRs in the US – despite some concerns prior to publication, it has proven impossible to pinpoint which trades belong to which counterparties.

Cross-Currency Swaps between EUR and USD

18. *Example Data and Use-Cases.* Currently, we can provide a host of volume data for European-focused asset classes that inform both pre-trade and post-trade processes. Cross-Currency Swaps form a large notional, infrequently traded market. They are widely used by end-users to manage funding exposures across different currencies. They form the bedrock of the global capital markets, allowing capital to move across borders, without taking unnecessary foreign exchange risk. Despite their importance, price and volume data has only been available through expensive data providers such as Bloomberg and Reuters. Now, the wide availability of SDR price and volume information in the US is helping to democratise this market place.

19. Nonetheless, the product is not currently clearable at any CCP, which inhibits price transparency even further, as CCPs provide greater daily valuation data. Users are therefore reliant on bi-lateral valuations only. The product is also inherently global in nature, and the lack of price and volume data from European counterparties makes the price discovery process far more difficult than for other products. For example, even a cursory glance at the 2015 data for this product shows that the quality of the data is far inferior to that of markets centred exclusively in the US, such as USD swaps:



20. There are clear inconsistencies in the data above, resulting in discontinuities in both price data and volume data. This is because current reporting does a poor job of capturing a meaningful cross-section of activity. Many trades from European counterparties occur that are not subject to the reporting requirements in the USA. Therefore, end-users would benefit hugely from the ability to combine this trade-level detail from both USA and European regulatory reporting regimes.

Q.10 Would it be valuable to allow for strategies to be reported directly as single reports? If so, how could this be achieved? For example, would additional values in the Option Type field achieve this, or would other changes also be needed? What sorts of strategies could and should be identified in this sort of way?

21. We agree that it would be valuable for strategies to be reported as single reports, and that additional values in the Option Field type would be welcome for Straddles, Strangles and Collars. However, other changes would also be needed. In Interest Rate Swaps it is common to trade Curve Swaps (two-swap trades) and Butterflies (three-swap trades). In Listed Futures, Calendar Spread (two trades in the same contract but different delivery months) and Butterflies (three trades in the same or different contracts) are also often traded. To address this, we suggest that a new field is added for a Strategy Type and a Strategy Identifier, acting to link two or more Trade IDs.

Conclusion

22. The process of regulation is an on-going and evolving challenge, in which markets and regulators must strive to achieve and maintain the highest standards of regulation and behaviour. We believe that one of the key drivers of reform was to build confidence in the system of regulation, both within and outside the financial markets. Transparency is central to this, and is best achieved by agreeing and adopting common standards of good practice. We believe that the evidence from the US shows that it is possible to achieve a greater level of public dissemination of data without compromising the anonymity of market participants or placing an unreasonable or disproportionate burden on Trade Repositories, and that this is central to improving the data quality in reports. The benefits of such an approach far outweigh any disadvantages, and are consistent with the underlying principles set out in EMIR. The current system in Europe leaves a fragmented picture for markets that undermines transparency and limits price discovery.

23. TRs operating in Europe already meet the standard of publication required in the US. In developing it, regulators at the CFTC paid particular attention to the same concerns that ESMA expressed in 2012, and the system has worked well. We believe that the experience of implementation in the US demonstrates that it is possible to achieve greater public dissemination of data and meet regulatory concerns over liquidity and anonymity. Applying the same approach in Europe would limit any additional burden to TRs, facilitate speedy implementation, greatly improve data quality and bring the same benefits to the European market as currently experienced

by those in the US. In considering its approach, the CFTC identified the following benefits⁵ to the system implemented:

- Improvements in market quality
- Enhanced price discovery
- Enhanced ability to manage risk through greater visibility into pricing
- Enhanced swap market price competition
- A check against market participants trading at non-competitive prices
- More robust risk monitoring and management capabilities
- Greater cost efficiencies in processing transactions
- Furthering development of internationally recognised standards for the financial services industry
- Promote greater confidence in the market
- Enhanced ability to detect anomalies in the market
- Reduction of data fragmentation
- Provide the ability for market participants and the public to observe the effects of transparency on the swaps markets

24. We believe these are benefits that could and should be applied in Europe. The value of all of the work done in this consultation to improve the quality of data will to a large extent be wasted if there is not a corresponding improvement in the quality of the data made public. We encourage ESMA to consider extending the current regulations governing public dissemination of data within this review with a view to revised standards being implemented, in line with those currently applying in the US.

⁵ Federal Register/Vol 77, No.5/9.01.2012, Col 1234-1239