

Corporate & Financial Weekly Digest

Posted at 12:24 PM on July 23, 2010 by [Edward Black](#)

CESR Publishes Consultation Paper on Transaction Reporting

On July 19, the Committee of European Securities Regulators (CESR) published consultation paper CESR/10-809 setting out proposals for transaction reporting for over-the-counter (OTC) derivatives and the extension of the scope of transaction reporting obligations.

CESR's OTC derivatives transaction reporting proposal is based on the assumption that all persons not exempted from European Market Infrastructure Legislation (EMIL) (including Markets in Financial Instruments Directive (MiFID) authorized firms) would have to report their OTC derivatives transactions to trade repositories (TRs) after these will have been established and registered under EMIL.

However, CESR proposes that investment firms would retain the possibility of complying with their transaction reporting obligations with respect to OTC derivatives under MiFID provisions.

Investment firms choosing to report their transactions to a TR, supporting MiFID standards, would be exempted from direct reporting as long as they communicate their decision to the competent authority. The MiFID regime would therefore apply to reporting obligations but these could be dealt with by TRs for the account of investment firms in order to avoid duplication. TRs would be recognized as a valid third-party reporting mechanism under Article 25(5) of MiFID.

Until EMIL has been finalized and implemented, OTC derivatives transactions would be reported under MiFID rules, where applicable.

CESR is also considering to propose to the European Commission to extend, through a change in Article 25 of MiFID, the scope of transaction reporting obligations to financial instruments that are admitted to trading only on MTFs and to OTC derivatives.

The comment period ends on August 16.

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