

Proposed Central Reporting Requirements for Over-the-Counter Derivatives

Trade Reporting Obligations Board Notice in terms of section 58 of the Financial Markets Act (Act 19 of 2012)

The Registrar of Securities Services hereby publishes the draft Trade Reporting Obligation Board Notice for a second round of public consultation. This notice has been drafted in terms of section 58, of the Financial Markets Act (FMA), 2012 (Act No.19 of 2012) and must be read with paragraph 3 of the third draft of the FMA regulations that was released for comment in July 2016.

In September 2009, the G20 made commitments to reform the Over-the-Counter (OTC) derivatives framework by introducing regulatory reforms which included among other objectives the introduction of central reporting of OTC derivatives transactions to Trade Repositories (TR)¹. The underlying objective of this requirement is to improve transparency, protect against market abuse and to monitor risks resulting from derivatives transactions that may pose systemic risk to the economy. Furthermore, there is strong emphasis that the reporting frameworks implemented by jurisdictions are harmonised and aligned so far as practically possible in order to minimise fragmentation and allow for reported data to be aggregated across TRs.

Subsequently, in January 2012, the Committee on Payment and Settlement Systems (CPSS) and the International Organisation of Securities Commission (IOSCO) released a final report on the OTC derivatives data reporting and aggregation requirements², setting out the minimum reporting requirements and standardised formats as well as mechanisms for data aggregation. In 2014, the Financial Stability Board (FSB) published recommendations for the global aggregation of TR data³, which explored three options for the aggregation of TR data. CPSS-IOSCO has released an additional series of consultative reports and technical guidance reports with recommendations provided to authorities on how to access TR data⁴, the harmonisation of unique trade identifiers (UTIs)⁵ and unique product identifiers (UPIs)⁶ outlining characteristics and usage of the UTIs and UPIs, and lastly, the first and second batch of reports on critical OTC derivatives data elements that are required in order to support the authorities' functional mandates⁷. The above recommendations form the basis on which various jurisdictions have based their trade reporting frameworks.

Establishing a harmonised reporting framework is an important aspect to transform the OTC derivatives space and will provide regulators with the basis to carry out their mandates by

¹ *Leaders' Statement*, Pittsburgh Summit of the G20 Leaders, 24–25 September 2009, page 9, available at http://www.fsb.org/wp-content/uploads/g20_leaders_declaration_pittsburgh_2009.pdf

² CPSS-IOSCO report on data reporting and aggregation requirements, January 2012, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD366.pdf>

³ FSB Feasibility Study on Aggregation of OTC derivatives Trade Repository data, September 2014, available at http://www.fsb.org/2014/09/pr_140919/

⁴ CPSS-IOSCO report on Authorities Access to Trade Repository Data, August 2013, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD417.pdf>

⁵ CPSS-IOSCO consultative report of Harmonisation of unique transaction identifiers, February 2017, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD557.pdf>

⁶ CPSS-IOSCO harmonisation of Unique Product Identifier, August 2016, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD541.pdf>

⁷ CPSS-IOSCO report on harmonisation of critical OTC derivatives data elements; first batch September 2015 available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD503.pdf> ; second batch October 2016 available at <http://www.bis.org/cpmi/publ/d153.pdf>

having a comprehensive view in order to monitor risks in the OTC derivatives markets. Accordingly, South African Regulators are committed to meeting these objectives and have in their approach incorporated the recommendations made by the CPSS-IOSCO working group and the FSB, and will be continuously updating the framework as outputs from various workstreams on TR reporting requirements are finalised.

Through the working group that includes representatives from the South African Reserve Bank, the Financial Services Board and the National Treasury, draft requirements have been proposed in order to implement the central reporting framework. The trade reporting obligations notice was first published for public consultation in July 2015 and comments were received but not published during the consultative process in July 2016. This second draft therefore seeks to achieve the following:

- Addresses comments received from the July 2015 consultation process.
- Appropriately aligns the South African framework with international standards as proposed by the CPSS-IOSCO and FSB in order to harmonise and reduce data reporting fragmentation.
- Provides reporting requirements to over-the-counter derivatives providers (ODPs) and central clearing counterparties in respect of cleared trades and it is expected that regulation 3 in the FMA Regulations will be amended to this effect.
- Specifies the reporting requirements to be completed at the end of business day following the transaction.
- Specifies and defines the reportable information and data fields, this includes the use of legal entity identifiers (LEI), unique trade identifiers (UTI), and unique product identifiers (UPI) that are essential to harmonise reporting requirements.
- Gives an indication on the transitional arrangements for the reporting framework and timelines for back loading transactions.

South Africa is already lagging behind most jurisdictions, and in order to fast track implementation of trade reporting obligations, this will be achieved as per timelines proposed in the explanatory memorandum published in July 2016⁸, which proposes the second half of 2017 for implementation. However, trade reporting obligations will not be phased in by asset class, but appropriate transitional arrangements will be provided taking account of other parallel processes that include the authorisation of ODPs and licensing of infrastructures such as TRs and an effective equivalence/recognition framework that is contemplated under the Financial Sector Regulation Bill and FMA consequential amendments. Ultimately it is the prerogative of the Registrar of Securities Services to determine the final effective date of the Board Notice requirements.

The latest Trade Reporting Obligations Board Notice and the accompanying comments matrix is available at www.fsb.co.za/Departments/capitalMarkets/

Comments on the above must be sent to Elmarie.Hamman@FSB.co.za by 19 May 2017.

⁸ Explanatory memorandum: Regulating OTC Derivative Markets in SA available at <http://www.treasury.gov.za/otc/>

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