

OTC Derivatives Regulators' Forum

Framework for information sharing and cooperation among OTC derivatives regulators

22 September, 2009

Background

The CDS CCP Regulators' Workshop has been a helpful and productive forum where regulators have come together to exchange views and share information on developments related to central counterparties (CCPs) for over-the-counter (OTC) credit derivatives (CDS). Based on the success of this cooperation to date, the scope of the forum is being expanded from CDS CCPs to OTC derivatives CCPs more broadly as well as trade repositories supporting the OTC derivatives market. With the continued heightened interest in developments in the OTC derivatives market and the associated regulatory frameworks across jurisdictions, continued coordination and cooperation among regulators on all OTC derivatives CCPs, not just on CDS CCP matters, would be important for this global market and mutually beneficial. Consequently, the CDS CCP Regulators' Workshop has been replaced with the OTC Derivatives Regulators' Forum, which has been established with the mandate to provide regulators a means to cooperate, exchange views and share information related to OTC derivatives CCPs and trade repositories on a regular basis.

Objectives

Without prejudice to each regulator's statutory mission and to national and otherwise applicable statutes and rules, the objectives of the Forum are to:

- Provide mutual assistance among the regulators in carrying out their respective authorities and responsibilities with respect to OTC derivatives CCPs and trade repositories, and with respect to the broader roles and implications of these infrastructures in the financial system;
- Promote consistent public policy objectives and oversight approaches for OTC derivatives CCPs and trade repositories, including the development of international cooperative oversight arrangements that may be applied to individual systems;
- Adopt, promote, and implement consistent standards, such as the CPSS-IOSCO Recommendations for Central Counterparties (RCCPs), in setting oversight and supervisory expectations;
- Coordinate the sharing of information routinely made available to regulators or to the public by OTC derivatives CCPs and trade repositories;
- Effectively deal with common issues collectively and consistently; and
- Encourage strong and open communication within the regulatory community and with the industry.

Participation in the Forum

The Forum is for financial regulators including central banks, banking supervisors, and market regulators, and other governmental authorities that have direct authority over OTC derivatives market infrastructure providers or major OTC derivatives market participants, or consider OTC derivative market matters more broadly. See appendix 1 for a list of regulators and authorities currently involved in the Forum; other regulators that have an interest in participating in the group are welcome.

Relation to Oversight and Supervision of Individual Systems

There are multiple existing or proposed CCPs and trade repositories for OTC derivatives. Each system has one or more financial regulators that have direct regulatory authority over the system. This framework does not prejudice the statutory authorities or responsibilities of such regulators, but relies on those regulators to share relevant information with the regulators in the Forum. The Forum would also support regulators and provide mutual assistance, particularly in this global market that continues to rapidly evolve. For example, as various policy and regulatory matters unique to OTC derivatives CCPs and trade repositories surface, regulators would benefit and be informed from discussions and the sharing of perspectives across regulators, and can seek to promote consistent approaches.

Furthermore, as OTC derivatives CCPs and trade repositories develop, come to market and become important global infrastructures, individual cooperative arrangements for specific systems will be needed among regulators that have direct authority over the system. Such arrangements would focus on the initial and on-going monitoring, assessment and inducing change, as needed, at the individual systems in a manner that is consistent with the objectives of the regulators directly involved. In addition, given the nature of the activities that would be conducted in these types of arrangements and the regulatory, supervisory and/or oversight information that would need to be discussed among the relevant regulators, these arrangements would likely include an information sharing protocol for the regulators involved. The Forum can broadly support the development of system specific arrangements by informing regulators as arrangements are established, and promoting consistency, as appropriate, across arrangements.

Information Needs

An important interest of the regulators involved in the OTC Derivatives Regulators' Forum is the ability to obtain detailed information on the OTC derivatives market to carry out their respective authorities and responsibilities with respect to OTC derivatives CCPs and trade repositories, and with respect to the broader roles and implications of these infrastructures in the financial system, particularly if the CCP or trade repository is not located within a regulator's jurisdiction. Such information needs vary depending on the responsibility of the regulator and include:

- Central banks and market authorities of countries where OTC derivatives are traded in significant value or such trading may have a significant impact on their markets for market integrity, financial stability, investor protection, etc.;
- For the CDS market, central banks and market authorities of countries where the underlying CDS reference entities are significant to the jurisdiction for market integrity and financial stability;
- Central banks of issue whose currencies may be settled in significant values in a CCP to monitor potential impact to their respective currencies, payment systems and monetary policy operations;
- Prudential supervisors of participants in OTC derivatives CCPs and trade repositories to understand and monitor participant exposures in OTC derivatives; and
- Authorities with statutory responsibility to facilitate resolution of business conducted by failed participants of CCPs and trade repositories.

Recognizing these informational needs of regulators and the potential burden on CCPs and trade repositories to fulfill multiple and varied requests for information, the regulators in the Forum work collectively to design and implement common reporting expectations from CCPs and trade repositories. Such reporting expectations include both qualitative and quantitative information for reporting to both the public and regulators. Furthermore, for each system, one regulator accepts primary responsibility to become the central regulatory contact for the system to review and coordinate, as appropriate, information requests from other regulators for that particular CCP or trade repository.

Through broader information sharing and discussion, the regulators in the Forum may also consider the overall functioning of market infrastructures and services providers for OTC derivatives markets as a whole, with a focus on potentially significant links and interdependencies across systems, and possible sources of systemic risk in the OTC derivatives market.

The intent of the regulators in the Forum is to achieve as much multilateral coordination as possible on various regulatory information needs, which would maximize efficiency and minimize burden on systems and their primary regulators. At the same time, participation in the Forum does not prejudice or constrain the authority or responsibility of individual regulators to seek whatever information they may need with respect to the application of domestic laws, regulations and policies, including by seeking such information directly from a particular market infrastructure.

As a general matter, information exchanged between regulators within the Forum should be treated as confidential and should not be shared further without explicit permission. Furthermore, depending on the nature and content of specific information needs or requests that may arise over time, the regulators may need to have in place or establish separate bilateral or multilateral arrangements that facilitate the sharing of confidential information. Such information exchanges will respect the relevant national legal and regulatory requirements.

Organization

To support all of the objectives of the Forum, regulators:

- Will meet periodically, perhaps in person twice a year, and by conference call, as needed.
- May invite to meetings or otherwise engage representatives from CCPs, trade repositories and other OTC derivatives market infrastructure providers to directly provide updates, information, and answer any questions.
- May also invite to meetings or otherwise engage other interested regulators and authorities.
- Will rotate periodically among the participating regulators the chair and secretariat responsibilities.