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M E M O R A N D U M

TO: CFRC Working Group
FROM: Simon Andrews
DATE: 2nd April 2007
RE: Notes of CFRC Working Group meeting of Weds 28th March, 12-3.30pm

Update on various regulatory meetings

Various working group members were present at a meeting with Nathalie De Basaldua, Jiri Kroll, and Sabino Fornies-Martinez from the Commission on 7th March. Nathalie stressed that the Commission had an open mind on the joint MiFID/CRD reviews. ESME are to be consulted on the findings of the calls for evidence. It was agreed that representatives from the CFRC WG should attempt to meet with the relevant people at the Commission to present the AA paper.

Emmanuelle Septon, Simon Andrews and Alistair Rapley met with Stephen Sie at the FSA to discuss the Alternative Approach paper. Stephen was "personally sympathetic" to the proposition, but felt that it might still meet opposition from others at the FSA. He recommended that the paper be amended to stress that firms would still hold some capital under the heading of financial resources, and to comment on the anticipated increased workload for regulators that would result from the proposal. Amendments made to the paper following this meeting were discussed by the group. It was agreed that reticence on the part of regulators stems in part from pressure applied by the banking lobby, and that firms should utilise their contacts with banks and regulators to promote the AA paper.

The second meeting of the CEBS Expert group took place on 12th March. It was apparent at the meeting that the CEBS paper was still in an early draft stage. The deadline for CEBS to report has now been extended until September 2007 to align with the CESR MiFID review so further drafts of the CEBS paper are anticipated. Both CEBS and the representatives from the banks are less prepared and less familiar with the issues than CFRC WG members on the Expert Group.

Emmanuelle Septon met with Ted Morris (Barclays) and representatives from other banks. The banking community is split between those who adhere to the original line, "same risk, same capital", and those who now recognise that an undifferentiated regime for specialist commodity firms is likely to impact the activities of those firms and reduce liquidity, thereby indirectly harming the banks. For this position of "enlightened self interest" some banks (Goldman, Barclays) are beginning to support the notion of a differentiated regime, although they are not yet in full favour of the AA.

Discussion on the draft response to questions 7 and 10 to 15 of the Call for Evidence

The working group agreed that it was reasonable for the Commission to look at the physical market in order to understand the links between physical and derivatives markets, but that a full review of the conduct of the physical market remained unnecessary. The key point to be made here is that the existence of a physical regulatory environment negates the need for financial regulators to consider issues stemming from the possibility of physical failure.

Position of the Associations on the Call for Evidence

There were concerns that a recent draft speech by Peter Styles of EFET indicated a potential split of direction among the Associations as no mention of the work of the CFRC/Joint Associations was made. It transpired that this was not the intention of the speech and that EFET continue to support the work of the CFRC WG.

All associations agreed to ensure that due reference to the work of the CFRC is made in future speeches.

Liaison with the press

The working group resolved to delay the official release of the AA paper until after the call for evidence was concluded and suggested that a press conference in May, organised by the associations and attended by representatives from firms would be the most appropriate official launch for the AA paper.

ACTION POINTS

Update on meetings

WG members to contact Simon Andrews with amendments to latest draft of the AA paper. The CFRC WG is to arrange a similar meeting with BaFin as that held with Stephen Sie at the FSA to discuss the AA paper.

Firms to approach national regulators (FSA, BaFin, AMF) on an individual basis in support of the AA. German firms to approach Deutsche Bank and stress the need for an appropriate regime to safeguard market liquidity.

Discussion on Call for Evidence

Firms to provide comments on draft response no later than COB Wednesday 4th April

Liaison with press

Firms to clear possible comments at press conference with internal PR functions. Comments for press release to be prepared and cleared internally.

C F R C
ISDA, One Bishops Square
Weds 28th March, 12.00 – 3.30pm
A=Attend, C=Calling in

Name	Company	Attend
Alistair Rapley	Amalgamated Metals Trading	A
Bernadette Willis	BP	A
Hamilton Hinds	BP	A
Lucy Davies	BP	A
Chris Bates	Clifford Chance	C
Adrian Young	ConocoPhillips	A
Martin Spanier	EFET - Syneco	A
Muriel Desplanque	Electrabel	A
Simon Andrews	FOA	A
Stanislas de Calonne	Gaselys	A
Emmanuelle Sebton	ISDA	A
Joerg Sperling	RWE Trading	A
Paul Bromley	Sempre Metals	A
Simon Smith	Shell	A
Bernhard Walter	VDEW - German Electricity Association	C