ISDA® Safe, Efficient Markets

FAO Svein Andresen,
Secretary General, Financial Stability Board

By email to fsb@bis.org

November 30, 2011

ISDA Response to the Financial Stability Board Progress Report on Implementation of OTC Derivatives Market Reforms

Dear Svein,

The International Swaps and Derivatives Association (ISDA) views the Financial Stability Board's latest progress report on G20 progress towards OTC Derivatives Market Reforms as a valuable contribution to the debate about the pace and nature of reform efforts around the globe and ISDA welcomes the opportunity to respond.

The process of crafting and implementing a globally consistent regulatory framework for clearing and, where appropriate, executing OTC derivatives is a significant undertaking and a properly sequenced implementation program is vital in order to ensure that the regulatory framework is sound.

In this submission we discuss two key areas of OTC derivatives reform. First, we describe what we believe is an implementation plan that will allow derivatives markets to transition in accordance with the G20 recommendations. Second, we offer an industry view of the issues covered in the report, including standardization, central clearing, exchange trading, trade repositories, and capital requirements.

Implementation Sequencing

Across the different reform areas, there is a question about the appropriate pace of reform. Indeed, the FSB's report concludes that "jurisdictions should aggressively push forward to meet the end-2012 deadline in as many reform areas as possible". While we agree that setting timeframes is important for achieving the overall goals of reform, we believe that appropriate sequencing and phasing-in of reform is far more important than the pace of implementation. The regulatory framework that is currently being put in place will have a significant impact on the way in which OTC derivatives markets operate, with consequences for the wide range of entities that rely on them for risk management and expressing investment views. Given the challenges involved in introducing a new regulatory regime, a workable sequence and timeline for implementation will ensure that new unknown risks are not built into the system.

We believe that an appropriate framework should have the following three-stage process where compliance with each stage would have suitable variations for both asset class and market participant:

(1) **Data Standardization and Trade Repositories**: Create standard entity and data identifiers and require swap dealers to report trade information to trade repositories in order to equip regulators with the tools and information necessary to make informed decisions regarding later phases. The ultimate goal should be a view of counterparty exposure *across* asset classes – what we refer to as a single, global "Counterparty Exposure Repository".

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(2) **Mandatory Clearing, Margin and Capital**: First implement mandatory clearing of OTC derivatives capital, before putting in place margin requirements for non-cleared OTC derivatives trades. This sequence will ensure that the cost of bilateral margining doesn't force participants to clear ahead of clearing becoming mandatory.

(3) **Mandatory Trading and Public Reporting**: Require mandatory trading of particular OTC derivatives trades, where appropriate, in order to reduce operational and counterparty risk. Public reporting requirements would then be calibrated over time.

In Annex 1 to this letter, we provide a more detailed description of each of the three phases of implementation and propose general compliance phasing for each stage.

We believe that getting reform right is more important than delivering to particular deadlines and we urge the FSB to focus on the proper sequencing of the reform package rather than merely advocating a strategy of aggressive rulemaking across the various reform areas. Proper sequencing will allow markets to make orderly transitions, ensure that reform measures achieve their stated aims and minimize the risk of unintended consequences.

The FSB's report also highlights the challenge posed by overlaps, gaps, or conflicts in the regulatory approach across different jurisdictions. We very much share the FSB's concern in this regard, and while not a panacea, we believe that focusing the FSB's effort on the sequence of reform will help mitigate some of these issues. In light of the FSB's central role, we would encourage it to take the lead globally in resolving potential conflicts and overlaps. We recognize that that the issue of regulatory conflict, gap or overlaps actually presents two issues. First, several jurisdictions have sought to implement rules that exceed the G20 commitments. Second, to the extent these differences are pervasive, mutual recognition is critical to ensuring that market participants have ex ante certainty as to the rules that apply in the context of cross-border business. Again, focusing on ensuring that regulators approach the sequencing implementation in a substantially similar manner will provide market participants with as much ex ante certainty as possible. We comment in further detail on this point in the section on central clearing.

Industry Actions in Response to G20 Recommendations

While we believe that a properly sequenced implementation program is critical to successful implementation of reform, the industry has already taken significant independent steps in anticipation of upcoming market and regulatory changes.

We emphasize the substantial progress made through voluntary industry commitments in coordination with the ODSG, under the auspices of the FSB, as set out in our detailed comments on 'standardization' in Annex 1 attached to this letter. This progress illustrates the value of practical industry initiatives in the reform context and their ability to reduce both the workload of regulators and the volume of legislation required.

In particular, we highlight the following actions taken, in line with the G20 recommendations:

- **Standardization:** On September 30, 2011, the G14 dealers submitted an updated standardization analysis across OTC credit, equity and rates derivatives, an earlier version of which had been submitted to supervisors in May 2010.

- **Collateral:** In November 2011, we published a proposed Standard Credit Support Annex (SCSA). The SCSA seeks to standardize market practices by removing embedded optionality in the existing CSA, promote the adoption of overnight index swap (OIS) discounting for derivatives, and align the

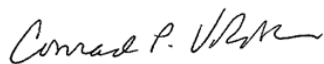
mechanics and economics of collateralization between the bilateral and cleared OTC derivative markets. In addition, the SCSA seeks to create a homogeneous valuation framework, reducing current barriers to novation and valuation disputes.

- **Data standards:** We strongly support work to standardize identifiers for data aggregation and reporting and are closely involved in this.

- **Industry infrastructure:** In June 2011, the ISDA Commodities Steering Committee selected DTCC/EFETnet to partner with them in building the Commodities Trade Repository. In July 2011, the Global FX Division of AFME, SIFMA and ASIFMA recommended a partnership with DTCC and Swift in order to develop a Foreign Exchange Trade Repository

As ever, ISDA stands ready to assist the Financial Stability Board as well as other national and international standard setters, in support of our overriding objective of fostering safe, efficient markets for the trading of OTC derivatives. We appreciate this opportunity to provide feedback and suggestions on the FSB's report.

Yours sincerely,



Conrad Voldstad
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Annex 1: Detailed commentary

I. Three-Stage Implementation Process

In order to achieve the most effective results for OTC derivatives reform, we recommend[1] a plan that sequences the reform requirements into three stages: first, establishing and implementing trade repositories and requiring regulatory reporting and related recordkeeping in order to equip regulators with market information needed to better regulate markets; second, implementing clearing and capital and margin requirements to reduce operational and systemic risk; and third, implementing mandatory execution of OTC derivatives on trading platforms, where appropriate, followed by associated public transparency requirements.

Within each of the stages, compliance would be phased-in by type of market participant and by asset class, with asset classes that are most prepared to satisfy the requirements becoming subject to the requirements on an earlier time table. As with phase-in by type of market participant, compliance would be permitted on a voluntary basis with respect to asset classes for which a requirement is not yet mandatory.

We also believe that before the implementation process can begin in earnest, it is critical that market participants understand the extraterritorial reach of the rules proposed in different jurisdictions so that they are able to fully analyze critical entity structure and other related issues.

Stage 1: Equipping regulators with data they need to further implement later stages through functioning trade repositories and effective regulatory reporting and related record keeping.

Once regulators begin to compile data across markets, entities and transactions, they will be well-positioned to determine which types or classes of transactions should be become subject to mandatory clearing and in what order. As indicated in the FSB's report, "authorities need better data on liquidity to facilitate the evaluation of suitability of products for central clearing."

Thus, we propose that Stage 1 is implemented in the following sequence: (1) establish standardized entity and data identifiers; (2) implement rules governing TRs; (3) require dealers and other significant market participants to report trades to TRs; and (4) require dealers and other significant market participants to keep certain core internal records. It would be more efficient and effective to finalize industry standards, including Legal Entity Identifiers ("LEIs") and Unique Product Identifiers ("UPIs"), before reporting begins (see discussion below regarding LEI and UPI development under the heading "Data Standards"). Otherwise, matching trades between counterparties will be more difficult, increasing the risk of duplicative data within a TR and making data aggregation across TRs impossible.

Reporting would also be phased-in by asset class, based on whether reporting infrastructure and data exist. In the case of credit derivatives, a great deal of information is already reported to the Depository Trust and Clearing Corporation's Trade Information Warehouse ("TIW"). By leveraging this existing facility and cache of information, regulators can provide time for trade repositories to develop for other asset classes, learning from the experiences of TIW. We comment in detail on industry progress to establish trade repositories later in this paper.

[1] http://www2.isda.org/attachment/MzcxNA==/FIA-ISDA-SIFMA%20Comments%20on%20Swap%20Transaction%20Compliance%20and%20Implementation%20Schedule%20Proposals%20(RIN%203038AD60%20%203038AC96%20%203038AC97).pdf

Stage 2: Reduce operational and counterparty risk through clearing and capital and margin requirements

The second stage in the transition to compliance with OTC derivatives reform would be sequenced as follows: (1) phasing-in of mandatory clearing and (2) compliance with margin and capital rules.

Data collected in Stage 1 will help regulators assess whether a particular swap or category of swaps should be required to be cleared. In addition, during Stage 1, clearinghouses will have had sufficient time to finalize their clearing offerings, clearing members will have had time to develop and test connectivity to clearinghouses and financial entities are more likely to have had sufficient time to negotiate necessary and appropriate documentation. Again, clearing would be phased-in by type of market participant and by product category, most likely beginning with interest rate and credit default swap products for which clearing options currently exist.

After mandatory clearing has been implemented, capital and margin for uncleared swaps can be phased-in. If these requirements, particularly uncleared swap margin, are implemented before clearing, compliance could become mandatory for certain market participants as a practical matter prior to becoming mandatory for them as a regulatory matter. Accordingly, regulations relating to uncleared swap margin should not apply to a market participant for swaps that are required to be cleared until that market participant is required to clear the particular swap. For example, consider a buy-side participant that wishes to enter into a specific interest rate swap that is required to be cleared if two dealers enter into a trade but is not yet required to be cleared by the buy-side participant. If the buy-side participant is subject to uncleared margin posting requirements for that interest rate swap, and uncleared margin requirements are higher than those a clearinghouse would require, the buy-side participant will be forced to either clear the swap, which it may not be prepared for, or to pay high margin amounts.

OTC derivatives reform that has been proposed in certain jurisdictions requires unprecedented new market infrastructure, technology, compliance, legal and operational changes. We believe that the necessary operational and technological changes alone may take more than 1 year to implement from the time existing rule proposals are finalized. Unless sufficient time is provided for each of these components to adequately develop, all market participants (and particularly end users) will face interruptions in their ability to enter into swaps to hedge their business risks or manage investments to meet client objectives. Even a prepared dealer will find it virtually impossible to satisfy clearing mandates until clearinghouses are up and running, buy-side firms enter into clearing and execution documentation arrangements, trade repositories begin accepting transaction reports and collateral and risk management systems are operational and have been adequately tested.

Stage 3: Increase public transparency through mandatory execution on trading platforms and public reporting

The third and final stage of transition would entail delivery of execution requirements, where appropriate. Public reporting requirements should be calibrated over time on the basis of trading data gathered after the execution requirement comes into effect. In particular, this would allow for gradual calibration of the appropriate threshold for block trades, with the threshold first being set at a low level to ensure that liquidity is not compromised.

II. Industry Efforts for Reform Implementation

While we believe developing a uniform implementation sequence is critical to the global OTC derivatives reform effort, we note that the industry and ISDA have already independently commenced a significant number of initiatives towards implementing global reform. The following is a brief summary of the industry's and our efforts based on each of the reform categories outlined in the FSB's report.

Standardization

On September 30, 2011, the G14 dealers submitted an updated standardization analysis across OTC credit, equity and rates derivatives, an earlier version of which had been submitted to supervisors in May 2010. As noted in FSB's report, the updated analysis represents an enhancement on the original submission, providing data on levels of standardization at a more granular product level. Whilst the document does not show absolute numbers as suggested in the progress report, it has replaced percentage ranges with a single weighted average percentage and we are looking at how to provide absolute numbers for future submissions. It has been agreed that the data will be refreshed on a 6-monthly basis. Furthermore, a draft Matrix for OTC Commodities was submitted on June 30 supported by a narrative and work continues to finalize the associated definitions and reporting explanations (the 'legend'). FX is likewise continuing to develop a standardization analysis, delivering a legend at the end of September with a narrative and a populated matrix targeted for December 31, 2011 and June 30, 2012 respectively.

We also continue our work to standardize collateral practices, with the publication in November of a proposed Standard Credit Support Annex (SCSA)[2]. The SCSA proposal addresses three primary objectives. The SCSA seeks to standardize market practices by removing embedded optionality in the existing CSA, promote the adoption of overnight index swap (OIS) discounting for derivatives, and align the mechanics and economics of collateralization between the bilateral and cleared OTC derivative markets. In addition, the SCSA seeks to create a homogeneous valuation framework, reducing current barriers to novation and valuation disputes.

The SCSA proposal contains the operational mechanics of the current CSA but amends the collateral calculation so that derivative exposures and offsetting collateral are grouped into like currencies, or "silos". The SCSA contemplates the sole use of cash as eligible collateral for Variation Margin (securities will still be permitted for Independent Amounts). Each currency silo is evaluated independently to generate a required movement of collateral in the relevant currency. This aligns bilateral collateral structures and economics to be more consistent with the London Clearing House (LCH) and other clearing houses that adopt consistent margin approaches.

The proposal also considers implementation issues, including the operational and technology impact of introducing the SCSA and the relationship between the new SCSA, existing CSAs and counterparty-level netting sets for termination and other purposes.

In terms of implementation, we will adopt a flexible approach that allows firms to move at the pace they deem appropriate. The first phase of implementation will permit volunteer firms to use the SCSA. This will be developed over Q4 2011 into Q1 2012, with market testing in Q2 2012. Once testing is complete, use of the SCSA will not be mandatory, rather market participants will be free to adopt on the basis of economic considerations.

Beyond the standardization efforts set out above, ISDA and its members continue to identify and deliver on other opportunities for standardization across the derivatives market place. Examples of recent deliveries include, but are not limited to, the following:

[2] http://www2.isda.org/attachment/MzcwNw==/Standard%20CSA%20Press%20Release%2011%203%202011.pdf and http://www2.isda.org/attachment/MzcwOA==/SCSA%20Media%20Slides%2011%203%202011.pdf

- Publication of a Credit Clearing Comparative Analysis in July 2011 to promote standardization in Clearing of Credit Derivatives products and to address operational issues of indirect access. The document sets out the comparative models and differences between operational processes for current and future CCP Credit offerings. This document and related materials are available on the isda.org website.

- The Credit Steering Committee ("CSC") has set out a proposal to standardize single name trading practices subsequent to the occurrence of a Failure to Pay or Bankruptcy Credit Event. The initiative has passed the feasibility phase and is now moving into implementation, with an anticipated launch in late Q4 2011 or early Q1 2012.

- An initiative is under way to further standardize reference obligations for the more liquid CDS trades. Under the proposal the ISDA Determinations Committee would publish a standard Reference Obligation for a Reference Entity and such obligation would be the Reference Obligation for all existing and new trades for counterparties who adhere to the Protocol. It is anticipated that this will facilitate clearing whilst reducing potential basis risk. We are working on draft proposals and working with industry service providers to identify an estimated go-live date.

- ISDA continues its work to build the first 2 matrices under the recently published 2011 Equity Derivative Definitions ("EDD"s). The initial 2 matrices (EU and US Index Variance Swaps) will replicate, as far as possible, the existing Master Confirmation Agreement ("MCA") form of the relevant products to aid firms understanding of how the new matrix structure differs from the old bilateral MCA approach. An additional form of these matrices that more fully leverages the enhanced language from the EDDs will be published in 2012.

- On September 30, 2011 ISDA submitted to the ODSG a roadmap for migration of Equity Swaps confirmations from DSMatch to Markitwire. This is a significant delivery as part of the long term improvement of post trade processing. The migration commenced with delivery of enhanced functionality on the Markitwire platform by September 30, 2011 and continues with the subsequent migration of trades onto the new platform over the following 6 months.

- We have published 2 new supplements to the 2006 ISDA Definitions. The first provides legal definitions for 2 new Floating Rate Options whilst the second provides standard legal definitions for two new Settlement Methods for Swaptions and Early Terminations which support market evolution.

We highlight the fact that the significant progress made towards standardization has been achieved without the need for legislation, and is making an important contribution to the soundness and efficiency of OTC derivatives markets.

Data Standards

In addition to our broader work on standardization, we are also pushing ahead with work to standardize Identifiers for data aggregation and reporting to trade repositories and continue to strongly advocate common industry standards to facilitate data aggregation and analysis by regulators for legal entities, products and for trade identifiers. To be useful for data aggregation, these standards should be unique and global in nature[3]. We therefore welcome the FSB's expression strong support for further work on the LEI

[3] For example, Unique Swap Identifiers as defined in 75 FR 76574 (Commodity Future Trading Commission proposed rulemaking that would establish unique identifier requirements) should be defined in line with and be reusable for a global Trade Identifier solution.

and the industry development of a standard product classification system in consultation with relevant regulatory bodies.

ISDA's work on identifiers spans a number of areas:

- **Legal Entity Identifier (LEI):** ISDA, as part of the global coalition[4] of trade associations working on LEI, is in full support of the continued dialogue with the regulators worldwide, to come to a global LEI solution, leveraging the LEI work done by the industry. A good example of this dialogue is the FSB-led workshop in September, subsequent to which industry participants, including ISDA, wrote[5] to international regulators to encourage the use of an LEI system in future policy making . A focus with regard to OTC derivatives is the phasing of LEI readiness for the Global Trade repositories in the different asset classes.

- **Product Classification:** The taxonomies or product classifications for credit derivatives and interest rate derivatives are nearing publication and work continues for the taxonomies in the other asset classes. ISDA will publish the final taxonomies together with a rules-of-operations document that outlines the process for future changes to the taxonomies. Work is ongoing as well to integrate the taxonomies as part of the FpML standard and include in the FpML reporting work that is under development. In addition we are looking at synergies with ISO in this area and provide input to ISO financial classification standards.

- **Unique Product Identifiers:** ISDA continues to work on product identification for uniform or standardized products as a next step following the classification work, with a goal to develop an overall UPI solution that in first instance supports the requirement for a granular dissemination of data by the trade repositories in application to the Dodd-Frank Act. Ultimately, however, these should be applied internationally. Besides a technical document on the generation of unique product identifiers, work is on-going to define the products details and boundaries for the different asset classes and the dissemination of the UPIs in the OTC infrastructure.

- **Trade Identifiers:** We currently have a technical working group active with representation from all sectors of the industry to define Unique Trade Identifiers. We stress also here the need for globally accepted solutions to make the use of common identifiers such as trade identifiers most useful for the regulatory community and the industry.

Central clearing

ISDA and its members continue to embrace the G20 objectives for expanding central clearing by employing safe and sound methods. In support of this goal, we are employing a phased-in approach to extend the scope of central clearing in several respects. First, we continue to make progress in centrally clearing more transactions that are currently eligible. Second, we are working with clearinghouses to bring greater transparency to methodologies to evaluate candidate products and plans for expanded central clearing offerings. Third, we are working with clearinghouses and Supervisors to identify and resolve the key impediments and challenges to developing central clearing arrangements that will feasibly extend access to all eligible market participants.

[4] The coalition brings together The British Bankers Association, Customer Data Management Group (CDMG), The Clearing House Association, Enterprise Data Management Council, The Financial Services Roundtable, the Futures Industry Association (FIA), the Global Financial Markets Association (representing the Association for Financial Markets in Europe (AFME), the Asia Securities Industry & Financial Markets Association (ASIFMA) and the Securities Industry and Financial Markets Association (SIFMA)), the Global Regulatory Identifier Steering Group (GRIS), the Investment Company Institute (ICI), and the International Swaps and Derivatives Association (ISDA).

[5] http://www.sifma.org/workarea/downloadasset.aspx?id=8589936567

The FSB report rightly highlights the importance of assessing whether potential divergences between jurisdictions in the scope of central clearing are problematic from a systemic risk standpoint, flagging the issue of intra-group transactions.

ISDA notes that intra-group transactions are an established part of derivatives business in Europe and internationally. This reflects the preference often expressed by clients and regulators in individual states for these clients to deal with locally based entities. Centralized portfolio management – achieved through intragroup derivatives transactions – then allows banks to manage risk in a consolidated way and allows regulators to scrutinize a consolidated risk position in the financial institutions that they supervise.

A clearing requirement for intragroup transactions would increase operational risk (because of the number of clearing transactions with the CCP that would ensue, for different entities) without enhancing counterparty risk management in material terms. We therefore support efforts to establish an appropriately defined exemption from central clearing for intra-group transactions.

More broadly, ISDA remains concerned that policymakers acting on a regional and national basis have yet to fully resolve questions about the treatment of cross-border entities, whether operating through branches or subsidiaries. It is important that national/regional legislation ensures an adequate level of flexibility as regards clearing and collateralization obligations for situations where firms deal with third country counterparties, to ensure that there is a level playing field across jurisdictions.

We also take this opportunity to highlight our recent analysis of counterparty credit risk management in the US OTC derivatives markets, examining the extent of counterparty credit losses and noting the efficacy of credit mitigation techniques in the US banking system, which we hope will be helpful in informing the debate about the most effective structures for central clearing, taking account both of the risk reduction and cost perspectives.[6] This was followed in November by an ISDA report[7] on the counterparty credit risk exposure of US bank holding companies and international banking companies to monoline insurers.

Exchange and electronic trading

In order to help inform discussion of the impact of electronic execution requirements on OTC derivatives markets, and the extent to which reforms are “appropriate” (as the term used in the associated G20 commitment), ISDA has published a paper entitled “Costs and Benefits of Mandatory Electronic Execution Requirements for Interest Rate Products”[8]. This was developed by ISDA staff and consultants in conjunction with NERA Economic Consulting, which assisted with research and analysis.

The paper explores and analyzes whether the market structure being developed by the Commodity Futures Trading Commission to implement these requirements will meet the CFTC’s key goals: increasing the efficiency of the market by reducing transaction costs; improving access to markets; and increasing transparency. The paper also assesses the costs and expenses that market participants and ultimately end-users are likely to bear as a result of the mandate’s implementation.

The paper finds that:

- Pricing in interest rate swaps is extremely competitive, compares favorably to similar futures products and, unlike futures execution, is available in large transactions.

[6] http://www2.isda.org/attachment/MzQzMQ==/CounterpartyCreditLossesAug2011.pdf
[7] http://www2.isda.org/attachment/MzcyMg==/Monoline%20Exposure%20Release%2011-8%201230.pdf and http://www2.isda.org/attachment/MzcyMw==/Counterparty%20Credit%20Risk%20II%20(Monolines).pdf
[8] http://www2.isda.org/attachment/MzczMw==/ISDA%20Mandatory%20Electronic%20Execution%20Discussion%20Paper.pdf

- The electronic execution mandate and the proposed new regulatory framework will limit choice for end-users and ultimately increase transaction costs.
- The possible benefits for small end-users will be no more than $1,000 for a $10 million interest rate swap before fees for execution and clearing. Any net benefit for small end-users will be dramatically outweighed by costs to the market as a whole.
- Estimated initial set-up costs to market participants from the new rules are more than $750 million while ongoing costs are more than $250 million per annum.
- The initial and ongoing costs identified in the paper amount to approximately $1,300 per transaction. These costs, of course, do not currently exist in the marketplace.
- Derivatives users believe restrictive provisions in the proposed rules such as the 15 second rule, the requirement for at least five participants to quote through a request for quote ("RFQ") platform, very high block trade thresholds and very short block trade reporting delays will negatively impact liquidity and push transaction costs up further.

The research and analysis indicates that the electronic execution mandate will result in higher bid-offer spreads and significant costs, most of which will be borne by end users in interest rate swaps markets. This heightens our concern that the approach being taken to deliver on the G20 commitment to exchange and electronic trading will take away users' choice, create inefficiencies and discourage innovation.

Trade Repositories

We welcome recognition by the FSB of the risk of fragmentation of information in multiple trade repositories. ISDA's view is that a single global trade repository per asset class would provide supervisors and market participants with a more comprehensive view of activity. In particular, there would be no redundancy of platforms, no need for additional levels of data aggregation and reduced risk of errors and greater transparency (because a single trade repository per asset class would avoid the risk of errors associated with transmitting, aggregating and analyzing multiple sources of potentially incompatible and duplicative trade data). A single global trade repository would also reduce the risk of reporting to multiple repositories in different jurisdictions.

To the extent that trade repositories are created in different jurisdictions, we encourage regulators to work together on standards to allow data aggregation. Specifically, we welcome the creation of an expert group led by the FSB to define the data required for assessment of systemic risk, market surveillance and for resolution purposes, which is a positive step in this regard. In our recent comments to the CPSS-IOSCO consultative report on over-the-counter derivatives data reporting and aggregation requirements, ISDA voiced support for the idea of a single "Counterparty Exposure Repository" to provide an aggregated risk view for regulators (of the net mark-to-market exposure for each counterparty portfolio, the corresponding collateral and the firms' calculation of net exposure after the application of collateral). We would encourage the FSB to pursue this idea further in conjunction with market participants and ISDA stands ready to assist with this. In the meantime, we would be happy to explain in further detail the process and criteria for selection of the existing repositories.

We remain concerned that local legal restrictions on the sharing of confidential trade information will delay progress on trade repositories. The FSB in its report states that "[j]urisdictions should ensure that any barriers to the full reporting of data to TRs are removed or addressed in relevant legislation". We urge the FSB to take a more active role in coordinating on this issue with national/regional regulators. We also believe there is a case for considering a regulatory framework governing the operation of trade repositories themselves in order to apply a consistent set on duties, ethics and conduct.

As a more general comment, we also highlight the importance of ensuring that trade repositories continue to act first and foremost as a tool for monitoring systemic risk, rather than simply becoming part of the transaction reporting infrastructure, important thought that is in itself.

Turning to developments by individual asset classes, in June 2011, the ISDA Commodities Steering Committee selected DTCC/EFETnet to partner with them in building the Commodities Trade Repository. The industry is pursuing its commitment to establish a central trade reporting repository which is on track to deliver a first phase by Q1 2012. The firms that have currently indicated they will be participating in the 2012 go-live are the G14 Commodities Major Dealers, BP and RWE. Working groups are now actively working closely with DTCC/EFET net in an effort to meet the phase I (OTC Financial Oil as agreed with the IOSCO Commodities Task Force), 2012, go-live.

The Credit Derivatives market continues to develop the 'DTCC Credit Global Trade Repository' in order to comply with new regulatory rules and in doing so the industry is looking to leverage current infrastructure where possible. The new credit repository will be released over several phases. Phase 1 deliverables include confirmation for all electronically confirmed products in the Trade Information Warehouse ("TIW"), which constitute 97% of the total credit volume, and will support all confirmation activity as well as all current TIW lifecycle event processes. Later phases of the credit GTR will encompass non-electronic transaction confirmations and lifecycle events and internal transactions as well as covering PET, Real Time and Valuation submissions for all transactions.

For equity derivatives, the industry is currently targeting adding additional position level data fields such as Underlying type and identifier, Trade Date, Option Type, Settlement Type and Currency to the reporting. From the underlying data the Equity Derivatives Reporting Repository ("EDRR") will also provide reporting on location, currency and sector as well as start reporting at an entity level. This is due to go live at the end of November 2011. Furthermore, the industry intends to increase reporting frequency from monthly to weekly by March 31, 2012 and start taking authoritative records from Markitwire into the EDRR for new Options and Variance swaps from April 30, 2012.

In response to the ODRF guidelines on trade repositories and emerging global financial reform, the industry decided that a full rebuild of the Interest Rate Trade Reporting Repository ("IR TRR") was required. Following a second public Request for Proposal ("RFP") process DTCC was chosen to partner with the Rates Steering Committee ("RSC") on the next stage of development of the IR TRR. Recent efforts have focussed on developing this new facility which is expected to go live Q4 of 2011. The new trade repository will provide enhanced post trade reporting for regulators, including daily T+1 reporting and trade pairing for the submitting participants population. Trade position reporting to the new IR TRR will leverage electronic confirmation data from key trade affirmation platforms for trades confirmed on that platform. Positions for the remaining population will continue to be reported directly by participants. It is also anticipated that pdf (or similar) copies of non-electronic confirmations will be provided to the IR TRR facility in order to meeting reporting requirements of emerging Financial Reform legislation.

Finally, in July 2011, the Global FX Division of AFME, SIFMA and ASIFMA recommended a partnership with DTCC and Swift in order to develop a Foreign Exchange Trade Repository.

Capital requirements

ISDA has been closely following the international work on prudential treatment of exposures to CCPs, and notes the revised draft rules released by the Basel Committee's Risk Management and Modeling Group (RMMG) on November 2, 2011. The proposals have been examined and debated extensively by the

industry since December 2010, with letters[9] setting out the industry's concerns and recommendations being sent on September 19, 2011. Responses to the November 2 revised proposals and consultative document were due by November 25. ISDA commends the RMMG for undertaking another round of consultation on these proposals, and notes the number of changes that have been made to the proposals since their introduction. Nevertheless, ISDA has made a number of comments, some of which reiterate concerns that we have already raised in our previous letters. Of particular concern is the proposed treatment of the default fund contribution and, in respect of client clearing, the proposed treatment of the client to Clearing Member ("CM") leg.

ISDA has previously carried out research which sets out why this measure does not accurately reflect the true risks and makes alternative proposals[10].

The November ISDA response includes another illustrative study to demonstrate the industry's concern with the employment of the Current Exposure Method ("CEM") in the hypothetical capital calculation which is used to measure the riskiness of banks' default fund exposures to CCPs.

As a separate matter, the RMMG is currently carrying out a second "Comparative Quantitative Impact Study" with the objective of comparing the capital requirements between bilateral and centrally cleared trades under their proposed capitalization framework for bank exposures to CCP and Basel III (bilateral) counterparty credit risk rules, which ISDA members are involved with.

In a separate but related work stream, a number of Central Counterparties have moved from using LIBOR to the Overnight Index Swap ("OIS") Market to derive prices and exposures of derivatives which are used to calculate counterparty risk. Following this initiative, many ISDA members are adapting their Front Office and related systems to use OIS methodology. This will take time to complete and ISDA carried out a survey in July 2011 to enable members to benchmark themselves against the market. LIBOR is an unsecured rate but which increasingly incorporated the market's view of the creditworthiness of LIBOR banks, whereas OIS is a secured rate which fully reflects the actual funding rates.

Further, ISDA looks forward to the publication by the RMMG of a Conceptual Paper on the fundamental review of the trading book, expected at the end of March 2012, and highlights its support for an "intent based" boundary for the trading book that focuses on the portfolio, rather than the trade level. ISDA's Fundamental Review Group (chaired by Victor Ng) is currently working on a submission to the RMMG, which we hope to submit before the end of November. One significant question that we have raised is how the protracted timeframe for the fundamental review fits with the much shorter timeline which the European Commission has set to agree CRD IV; we would welcome clarity in this regard.

Detailed proposals have been submitted both to the Basel Committee and the European Commission relating to the new charge for Credit Valuation Adjustment ("CVA"). ISDA believes that members should be able to use their own models to calculate CVA subject to the usual model approval process.

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[9] http://www2.isda.org/attachment/MzUyNg==/Letter%20to%20Basel%20Committee%20CCP%20pdf%20-%20Adobe%20Acrobat%20Pro%20(3).pdf and http://www2.isda.org/attachment/MzUyNw==/Letter%20to%20RMMG%20CCP%20pdf%20-%20Adobe%20Acrobat%20Pro.pdf

[10] http://www2.isda.org/attachment/MzIwMA==/CEM%20vs%20EPE%20Research%20Note%20final.pdf