

Danish Securities Dealers Association (DBMF) Annual Meeting

11 March 2010

The Global Perspective on Derivatives Reform

1. G20 conclusions
2. International Regulatory Cooperation
3. US legislation – key issues and state of play
4. The EU's policy blueprint
5. Industry Initiatives
6. ISDA's position
7. Next Steps

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1. G20 conclusions

- Exchange and electronic platform trading of standardized contracts where appropriate by end-2012;
 - Little clarity on what ‘standardized’ means;
 - No focus on what and where is ‘appropriate’.
- Standardized contracts to be cleared through CCPs by end-2012;
- Contracts to be reported to trade repositories;
- Higher capital charges for non-CCP cleared contracts;
- Wide scope of market participants captured;
- Excessive commodity price volatility to be addressed via regulation and transparency;

2. International regulatory cooperation

- Further G20 meetings (next planned in Toronto, June 2010).
- Fed-led group of international derivatives regulators interfacing with industry grouping (ISDA-SIFMA-MFA and member firms) – ref commitments letter of 1 March 2010;
- ORF (OTC Derivatives Regulators Forum) – data reporting, reg information needs, hedging definition;
- Basel Committee (capital, clearing incentivization)
- CPSS-IOSCO (clearing, transparency);
- Ongoing bilateral contacts between EU and US regulators
 - EU-US FMD;
 - Regular phone contact;
 - Visits

3. US legislation – key issues and state of play

- HoR bill adopted Dec 2010; Senate draft version expected very soon;
- Key issues:
 - Regulatory landscape
 - Swap Dealer and Major Swap Participant definition (capital, clearing)
 - Execution venue (voice broking allowed under House bill)
 - Clearing house governance (Lynch amendment)
 - Scope of end user exemptions
 - Position limits power for CFTC

CFTC Chairman Gensler is energetically arguing for stronger regulation regarding exchange-trading and end user exemptions, inter alia.

Some suggestion that Senate may not take a tougher line than the line taken in the House.

Vocal end user coalition. End user exemption language to be introduced at a later date.

4. EU Policy blueprint

4. EU Policy Blueprint: different context to the US

- *'Unregulated shadow banking system?'*

OTC derivatives are regulated in Europe e.g.

- MIFID regulates conduct of business, authorisation etc – appropriateness testing, transparency etc.
- Capital Requirements Directive – higher capital charge for non-centrally cleared OTC derivative transactions than for centrally cleared – applies to financial institutions;
- Market Abuse Directive – insider trading rules apply to derivatives referencing assets traded on regulated markets.

No Directive for Clearing and Settlement (of any asset class)

4. EU Policy Blueprint

<u>Instrument</u>	<u>Clearing</u>	<u>Transparency</u>	<u>Other</u>
Non-legislative			Work with industry on Ops processes
EMIL (New)	CCP safety; authorisation; use (mandated for eligible contracts)	Regulate trade repositories; mandate TR use	
Capital Requirement	1. Bilateral margin (IM / VM) 2. Incentivise CCP use		Review Op-risk capital charge
Market Abuse		Apply to all OTC derivatives	Position-limit powers
Market in Financial Instruments		1. Transaction and position reporting 2. Trade + price transparency	1. Organised markets 2. Enhanced public transparency 3. Review commodity-firm exemption 4. Investor classif.

Timetable key:

Red = ongoing

Gold = mid-2010

White = end-2010

4. EU Policy Blueprint: recent contextual developments

- New Commissioner for financial services
- Greece
 - Goldman Sachs trades
 - ‘Speculators’ and CDS
- Signs of strain in EU and US G20 entente
 - Volcker rule;
 - Bonuses;
 - International financial transaction tax?

5. Industry Initiatives and Achievements

- Developed and delivered effective cash settlement mechanism;
- Facilitated central clearing in Europe and US
 - Big bang (cash settlement mechanism, credit event determinations committee);
 - Small bang (managing restructuring credit events, couponing);
- Delivered central clearing in the EU and US;
 - Hard targets in interest rate and CDS world;
 - Buyside clearing roll-out;
- Further operational commitments
 - All OTC derivatives contracts to be recorded in trade repositories;
 - Work with international regulators on collateral
 - Strengthened counterparty risk management;
 - Daily portfolio reconciliation between major dealers
 - Development of collateral dispute resolution mechanism
 - Enhanced industry governance – fair balance of sell-/buy-side;
 - Other operational improvements
 - Goal of real time electronic trade confirmation;
 - Automation, matching

6. Industry position

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Communication dated 20 October 2009

- **Exchange and MTF trading**
 - Market participants don't want to be forced onto venues where risk tools cant meet risk needs sufficiently;
 - No examination done as to whether exchange-trading these contracts would work;
 - Reverses MIFID policy. MIFID review - What does 'standardization' mean? What/where is 'appropriate'?
- **Central clearing**
 - Support for central clearing of eligible contracts transacted between dealers;
 - Need for common global approach ensuring sound risk mgnt (concentration);
 - Limit number of CCPs;
 - Regional approaches counter-productive;
 - Limitations on dealer governance or ownership would increase, not decrease risk.

6. Industry position

- **Capital**
 - Incentivization exists; further charges should be risk-based;
 - Capital already increased (Basel 2, securitizations etc);
 - High capital = low lending to people and businesses = low growth.
- **Transparency**
 - Support regulatory transparency, possibly through trade repositories;
 - Want repositories to be cooperative with international regulators;
 - Urge caution re public transparency – liquidity impact – but must find something which meets regulatory objectives and maintains an efficient market.
- **End users**
 - Not systemically important, didn't cause crisis, should be able to hedge.

7. Next Steps

- **EU examination of CDS/sovereigns? ECOFIN on Tuesday**
- **European Parliament report**
 - Gensler speaks 16 March 2010
 - Hearing 27 April
 - Vote in Committee 5 May 2010
 - Vote by EP in plenary May 2010
- **EMIL regulation consultation end-April/May 2010**
- **CESR consultation MIFID/transparency April 2010**
- **Current CRD IV consultation (ends mid-April 2010)**