

**MEMO# 28378**

September 18, 2014

# **IOSCO Proposes Risk Mitigation Standards for Non-Centrally Cleared OTC Derivatives**

[28378]

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 59-14

ICI GLOBAL MEMBERS No. 34-14

INTERNATIONAL COMMITTEE No. 28-14 RE: IOSCO PROPOSES RISK MITIGATION STANDARDS FOR NON-CENTRALLY CLEARED OTC DERIVATIVES

On September 17, 2014, the Board of the International Organization of Securities Commissions (“IOSCO”) issued its initial policy proposals to establish risk mitigation standards for non-centrally cleared OTC derivatives. [\[1\]](#) IOSCO developed the proposals in consultation with the Basel Committee on Banking Supervision and the Committee on Payments and Market Infrastructures. According to IOSCO, risk mitigation techniques for non-centrally cleared OTC derivatives have three benefits: (1) promoting legal certainty and facilitating timely dispute resolution; (2) facilitating the management of counterparty credit risk and other risks; and (3) increasing overall financial stability.

The Consultation Paper includes nine standards for risk mitigation techniques including key considerations that describe how each standard should be implemented. The Consultation Paper also includes explanatory notes further elaborating on the standards and the key considerations and their rationale. The nine standards are as follows:

- Standard 1: Scope of Coverage – Financial entities and systemically important non-financial entities (“Covered Entities”) that engage in non-centrally cleared OTC derivatives should employ risk mitigation techniques consistent with the standards set out in the Consultation Paper.
- Standard 2: Trading Relationship Documentation – Covered Entities should establish and implement policies and procedures to execute written trading relationship documentation with their counterparties prior to or contemporaneously with executing a non-centrally cleared OTC derivatives transaction. Such documentation should include all material terms governing the trading relationship between the counterparties.

- Standard 3: Trade Confirmation – Covered Entities should establish and implement policies and procedures to ensure the material terms of all non-centrally cleared OTC derivatives transactions are confirmed as soon as practicable after execution of the transaction.
- Standard 4: Valuation with Counterparties – Covered Entities should agree on and clearly document the process and/or methodology for determining the value of each non-centrally cleared OTC derivatives transaction at any time from the execution of the transaction to the termination, maturity, or expiration thereof, for the purpose of exchanging margin.
- Standard 5: Reconciliation – Covered Entities should establish and implement policies and procedures to ensure that the material terms and valuations of all transactions in a non-centrally cleared OTC derivatives portfolio are reconciled with counterparties at regular intervals.
- Standard 6: Portfolio Compression – Covered Entities should establish and implement policies and procedures to regularly assess and, to the extent appropriate, engage in portfolio compression.
- Standard 7: Dispute Resolution – Covered Entities should agree on procedures for determining when discrepancies in material terms or valuations should be considered disputes as well as related processes for resolving such disputes as soon as practicable. The policies and procedures should provide for the prompt notification to authorities of such disputes that remain unresolved after a reasonable period of time if the applicable regulation requires such notification.
- Standard 8: Implementation – Authorities should implement the standards in the Consultation Paper as soon as practicable.
- Standard 9: Cross-Border Transactions – The different regulatory regimes should interact so as to minimize inconsistencies in risk mitigation requirements for non-centrally cleared OTC derivatives across jurisdictions.

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#### **endnotes**

[1] Risk Mitigation Standards for Non-centrally Cleared OTC Derivatives, IOSCO (Sept. 2014), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD450.pdf> (“Consultation Paper”). Comments on the Consultation Paper are due on October 17.