

MEMO# 28709

February 4, 2015

IOSCO Issues Final Report on Risk Mitigation Standards

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 6-15

ICI GLOBAL MEMBERS No. 5-15

ICI GLOBAL TRADING & MARKETS COMMITTEE No. 3-15 RE: IOSCO ISSUES FINAL REPORT ON RISK MITIGATION STANDARDS

On January 28, 2015, the International Organization of Securities Commissions (“IOSCO”) published the final report on risk mitigation standards for non-centrally cleared OTC derivatives. [\[1\]](#) The Final Report includes nine standards for risk mitigation techniques (“Standards”) including key considerations that describe how the Standards should be implemented. The Final Report is generally consistent with the original policy proposal that was issued in September 2014. [\[2\]](#)

The Final Report contains nine standards 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.
- 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 for determining the value of each non-centrally cleared OTC derivatives transaction at any time from the execution of the transaction to the termination, or expiration thereof, for the purpose of exchanging margins. [\[3\]](#)

- 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 the mechanism or process for determining when discrepancies in material terms of valuations should be considered disputes, as well as how such disputes should be resolved as soon as practicable. The mechanism or process 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 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.

With respect to cross-border transactions, ICI Global had recommended in its comment letter in response to the Consultation Paper that IOSCO provide more detailed guidance on how the rules of different jurisdictions on risk mitigation techniques would apply to cross-border transactions. The letter warned that, if there is not sufficient guidance provided to national regulators, regulators may take differing approaches to how they will regulate cross-border transactions and may impose duplicative and/or conflicting requirements. The Final Report, however, does not contain any more specifics on how regulators should apply their rules on risk mitigation techniques to cross-border transactions.

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Associate General Counsel

endnotes

[1] Risk Mitigation Standards for Non-centrally Cleared OTC Derivatives, IOSCO (Jan. 2015), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD469.pdf> (“Final Report”).

[2] 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”). See ICI Memorandum No. 28468 (Oct. 16, 2014), available at http://www.ici.org/my_ici/memorandum/memo28468 for a summary of ICI Global’s comment letter to IOSCO.

[3] In the Final Report, the term “methodology” was removed to address the concern expressed by some commenters regarding the disclosure of proprietary information about valuation methodology.

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