

November 19, 2008

President's Working Group Announces Initiatives to Strengthen OTC Derivatives Oversight and Infrastructure

The President's Working Group on Financial Markets (PWG) on November 14, 2008, announced a series of initiatives to strengthen the oversight and infrastructure of the over-the-counter (OTC) derivatives market.

The initiatives announced last week include the accelerated development of centralized credit default swap (CDS) counterparties, the signing of a Memorandum of Understanding among the Federal Reserve Board of Governors, the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) with respect to CDS central counterparties, and broad policy objectives to guide ongoing efforts to address the current challenges associated with OTC derivatives. The PWG also issued a progress summary to provide an overview of the results of ongoing efforts to strengthen the infrastructure of OTC derivatives markets. For the announcement, click [here](#).

Development of CDS Central Counterparties

The PWG has stated that the successful implementation of central counterparty services for credit default swaps is its primary OTC derivatives priority for the purpose of reducing the systemic risk associated with counterparty credit exposures.

Several potential central counterparties (e.g., a clearing house or exchange) have agreed to accelerate the development of their efforts. The relevant regulatory authorities are assessing these central counterparty proposals by conducting detailed on-site reviews of risk management and other key design elements. After completing the on-site reviews, regulators expect to expedite the process of regulatory approvals and/or exemptions and anticipate that one or more CDS central counterparties will commence operations before the end of 2008.

Memorandum of Understanding Among the CFTC, SEC and Federal Reserve

The Board of Governors of the Federal Reserve System, the Securities and Exchange Commission and the Commodity Futures Trading Commission have signed a Memorandum of Understanding in order to facilitate the regulatory approval process and to promote more consistent regulatory oversight. The Memorandum of Understanding establishes a framework for consultation and information sharing on issues related to the CDS central counterparties.

PWG's Policy Objectives for OTC Derivatives

The PWG announced a set of additional policy objectives to guide efforts to address the market challenges associated with OTC derivatives, consistent with the April 2008 recommendations of the Financial Stability Forum¹. These policy objectives are intended to be broader than the PWG's previous OTC derivatives recommendations in the March 13 PWG Policy Statement on Financial Market Developments.

© 2008 Sutherland. All Rights Reserved.

This communication is for general informational purposes only and is not intended to constitute legal advice or a recommended course of action in any given situation. This communication is not intended to be, and should not be, relied upon by the recipient in making decisions of a legal nature with respect to the issues discussed herein. The recipient is encouraged to consult independent counsel before making any decisions or taking any action concerning the matters in this communication. This communication does not create an attorney-client relationship between Sutherland and the recipient.

1

The PWG policy objectives are as follows:

- 1) Improve the transparency and integrity of the credit default swaps market;
- 2) Enhance risk management of OTC derivatives;
- 3) Further strengthen the OTC derivatives market infrastructure; and
- 4) Strengthen cooperation among regulatory authorities.

The PWG stated that the agencies represented by the PWC will work with other regulators and market participants to achieve the stated goals over the next several months and, where necessary, will support legislative change.

President's Working Group

The PWG was created by Executive Order 12631, signed on March 18, 1988, by U.S. President Ronald Reagan. The Group was established explicitly in response to events in the financial markets surrounding October 19, 1987 (Black Monday), to give recommendations for legislative and private sector solutions for "enhancing the integrity, efficiency, orderliness, and competitiveness of [U.S.] financial markets and maintaining investor confidence."

The PWG consists of the Secretary of the Treasury, or his designee (as Chairman of the Working Group); the Chairman of the Board of Governors of the Federal Reserve System, or his designee; the Chairman of the Securities and Exchange Commission, or his designee; and the Chairman of the Commodity Futures Trading Commission, or his designee. The PWG, working with the Office of the Comptroller of the Currency and the Federal Reserve Bank of New York, has been actively overseeing improvements underway in OTC derivatives markets.



If you have any questions regarding this alert, or the services we provide, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

James M. Cain	202.383.0180	james.cain@sutherland.com
Paul B. Turner	713.470.6105	paul.turner@sutherland.com
Warren N. Davis	202.383.0133	warren.davis@sutherland.com
William H. Hope II	404.853.8103	william.hope@sutherland.com
Robin J. Powers	212.389.5067	robin.powers@sutherland.com
Doyle Campbell	212.389.5073	doyle.campbell@sutherland.com
Richard E. Grant	202.383.0909	richard.grant@sutherland.com
Meltem F. Kodaman	202.383.0674	meltem.kodaman@sutherland.com
Mark D. Sherrill	202.383.0360	mark.sherrill@sutherland.com

¹The Financial Stability Forum (FSF) comprises of senior representatives of national financial authorities (e.g. central banks, supervisory authorities and treasury departments), international financial institutions, international regulatory and supervisory groupings, committees of central bank experts and the European Central Bank. The FSF was convened in April 1999 to promote international financial stability through information exchange and international cooperation in financial supervision and surveillance. For the full report, please click [here](#).