Please note that the comments expressed herein are solely my personal views

William C Dudley
Committee on Payment and Settlement Systems
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland
cpss@bis.org

Chris Barnard
Munich
Germany

Masamichi Kono
International Organization of Securities Commissions
Calle Oquendo 12
28006 Madrid
Spain
OTC-Data-Report@iosco.org

15 September 2011

- **Public comment on Consultative Report on**
  Report on OTC derivatives data reporting and aggregation requirements

Dear Mr. Dudley and Mr. Kono.

Thank you for giving us the opportunity to comment on your Consultative Report on "Report on OTC derivatives data reporting and aggregation requirements". I welcome and support your commentary and main recommendations. I would like to comment on some general issues concerning trade repositories.

I generally support the conclusions of the report. For example I support that establishing trade repositories (TRs) will definitely enhance transparency and promote standardization in the OTC derivatives market. I am less convinced that TRs themselves will reduce systemic risk, but rather they should provide the meaningful input for aggregate reports or other data sets that could be used by prudential regulators in monitoring risk and the build up of systemic risk in the OTC derivatives market. Such reports and data sets must be standardized and use a common terminology in order to optimise this role. Although out of scope of the report, this should also tie in with the purpose of such monitoring. What will prudential regulators do with this information? How much risk is considered excessive? What is an acceptable level of systemic risk? What are the trigger levels, and what are the potential regulatory levers that could mitigate excessive risk and reduce systemic risk? Without such an integrated framework we are creating data systems and monitoring mechanisms for the sake of doing so. I would

therefore hope to see some positive development here in the future, as accurate and relevant data capture and monitoring is but a first step on the road towards a globally integrated risk management framework.

Information required to be reported

I agree with the minimum data reporting requirements recommended in paragraph 5.1. These should be complete enough in order to enhance transparency and provide an accurate data set for regulatory oversight purposes. For the life cycle approach it should be clear that all post-execution events that affect the price or pricing attributes of an OTC derivative should be reported during the life of the derivative. This definition is sufficient and complete in order to enhance price discovery in the OTC derivatives market.

Recordkeeping requirements

I would strongly recommend that you should also propose the recordkeeping requirements for trade repositories. I would suggest that all OTC derivatives data records should be required to be retained indefinitely. Relevant original documents should be scanned. There is certainly no practical or technological reason for limiting the retention period, and it would be useful to retain this information for future analytical and investigative purposes.

Access and fees

It is important that TRs and identifier providers should promote fair, open and equal access. Such entity should be required to levy charges in an equitable and non-discriminatory manner. The only reason for charging different charge / fee structures would relate to differing costs of providing access or service to particular categories. Anything else would be discrimination[1] by definition. I also suggest that any preferential pricing such as volume discounts or reductions should not be generally viewed as equitable. Such volume discounts and reductions tend to discriminate in favour of large players, and a small number of large players dominate the OTC derivatives market anyway.

I would additionally recommend that full disclosure should be required here, including all explicit and implicit charges and fees. This would formalise the market practice and ensure that informed decisions were being made.

Legal entity and other identifiers

Given the fragmentation in OTC derivatives markets and offerings, the close relationship between derivatives markets and the underlying cash and other reference markets, and the need to aggregate positions, unique identifiers are necessary in order to determine the activity and positions of traders across markets, monitor activity over the life of OTC derivatives

[1] E.g. hidden and unfair cross-subsidy or other anticompetitive measure.

transactions and determine aggregates and activity in particular product classes or risk types. Therefore unique legal entity, trade and product identifiers will be important tools for regulators to measure and monitor systemic risk, monitor position limits, exercise resolution authority, conduct market and trade practice surveillance, prevent fraud and market manipulation and thus promote market integrity.

Regarding product classification, paragraph 4.6.3 states that "....creation of a product classification system for regulatory purposes would require prior development of a uniform, robust system of OTC derivatives classification analogous to a dictionary of terms used to describe various OTC derivatives". The problem here is that OTC derivatives products are not generic, but rather a bundle of financial elements, which consist of differing fixed or contingent cashflows. The design of a "product" requires bundling the different financial elements in order to match off or mitigate risks, and the classification of the resulting as a "product" is rather arbitrary. I therefore support that the more granular, effective and efficient approach to product classification would be to unbundle or disaggregate the resulting product into the underlying individual financial elements, and base the classification on these more easily identifiable and understandable elements. From a regulatory point of view, I would be concerned if a complex OTC derivative could not be unbundled or disaggregated accordingly, as this could imply that the trading entity has not completely understood the risks underlying the product.

Yours sincerely

C.R. Barnard

Chris Barnard