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Commissioner Charlie McCreevy
Commissioner for Internal Market and Services
The European Commission
200 Rue de la Loi
Brussels 1049
Belgium

11 March 2009

Dear Commissioner McCreevy,

Clearing of CDS in a European clearing house

Attached please find a letter from a number of the world's leading dealing firms in credit default swaps in which they commit to clearing of credit default swaps in a European clearing house (or clearing houses). These firms are committing to delivering on this commitment by 31 July 2009.

ISDA appreciated the opportunity to work with the European Commission to facilitate this commitment.

ISDA looks forward to continuing to work with the European Commission on this and other important developments relating to privately negotiated derivatives contracts.

Yours sincerely,

George Handjinicolaou
Deputy CEO and Regional Director, Europe, Middle East and Africa (EMEA)
ISDA

17 February 2009

To: Commissioner Charlie McCreevy

Re.: Industry commitment to the European Commission regarding Central Counterparty Clearing of Credit Default Swaps in Europe

Following your request on 22 October 2008 to AIMA, CEA, EBF, ISDA, LIBA, SIFMA, WMBA and representatives from Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan Chase, Morgan Stanley, Nordea and UBS, and in relation to the meeting on 10 December 2008 of the Working Group on Derivatives, the signatories to this letter wish to confirm their engagement to use one or more central counterparties (CCPs) in the European Union once they are established to (i) clear CCP-eligible Credit Default Swaps (CDS) on European reference entities and indices based on these entities, and (ii) back-load outstanding eligible contracts. Please see Annex A hereto for additional details in relation thereto. The establishment of the CCPs (as systems under the Settlement Finality Directive 98/26/EC) should be completed as soon as possible before July 31, 2009.

We will work to resolve, in the first quarter of 2009 outstanding technical, regulatory, legal and practical issues in relation to this goal through working with regulators and prospective infrastructure providers, to ensure that this move can be made. Such issues include the contractual specifications concerning the restructuring credit event, the auction process for cash settlement and a dispute resolution mechanism. Please see Annex B hereto for additional details in relation thereto.

In order to facilitate the July 31, 2009 goal for shifting from bilateral to multilateral clearing (on one or more CCPs) of the eligible contracts, we will hold regular meetings with prospective infrastructure providers in a non discriminatory way to facilitate access to the technical requirements necessary for establishing CCP clearing services for CDS.

Finally, we agree to actively participate in the regular meetings called by the European Commission every 3 or 4 weeks from early March 2009 in order to examine and report on the outstanding technical and regulatory issues. These meetings will also permit us to report on the progress to facilitate CCP clearing of the above-mentioned contracts, by providing objective measures to assess the progresses and the clearing volumes of contracts.

Signed by:

Barclays Capital

Citigroup Global Markets

Credit Suisse

Deutsche Bank

Goldman Sachs

HSBC

JP Morgan Chase

Morgan Stanley

UBS

Annex A

We confirm that we are committed to:

- Central clearing in the index and single name products on European reference entities in a CCP established, regulated and supervised in the European Union by July 31, 2009.
- The utilisation of one or more platforms in the European Union to clear, where practicable, CCP-eligible products.
- The preparation of the clearing infrastructure to meet collateral, dispute resolution and operational requirements.
- Ensuring that any central clearing process in which we participate will comply with the report entitled “Recommendations for Central Counterparties” issued by the Bank for International Settlements Committee on Payments and Settlement System and the Technical Committee of IOSCO in November 2004 (the “BIS Recommendations”).
- Working to resolve by the end of the first quarter of 2009 the technical, regulatory, legal and practical issues referred to in Annex B which would otherwise be an impediment to the establishment of a viable and eligible CCP based in Europe and subject to European regulation.
- Working together with relevant regulators towards achieving these goals and this includes encouraging and assisting regulators to co-operate with each other in order to establish a common regulatory framework for efficient oversight of central clearing for the global CDS market.

Annex B

The outstanding technical, regulatory, legal and practical issues include:

- Agreement of the regulatory framework that allows clearing and appropriate regulatory oversight of cleared global CDS contracts.
- The restructuring credit event, the auction process for cash settlement, and an appropriate dispute resolution mechanism.
- The determination of parameters for transactions to qualify as CCP-eligible.
- The determination of factors for not clearing certain CCP-eligible trades through a CCP.
- The identification of potential providers of CCP clearing services for CDS in Europe which meet the BIS Requirements and local regulatory requirements and which are capable of delivering a system which is viable for all users of CDS (including the buy-side firms).
- The clearing of business and risk approvals for use of the CCP including membership criteria, margining methodology, guarantee fund contributions and establishing appropriate liability limitation levels of the members.
- Allowing in a non discriminatory way CCPs to leverage the existing industry infrastructure (including the Trade Information Warehouse) and connectivity mechanisms to provide appropriate access and straight through processing links with minimal disruption.

The above issues, if left unresolved, could lead to an increase, rather than a reduction, of systemic risk.