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International Organization of Securities Commissions
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IOSCO issues final regulatory recommendations on securitisation and CDS market

The International Organization of Securities Commissions' (IOSCO) Technical Committee has published [*Unregulated Financial Markets and Products – Final Report*](#) (Final Report) prepared by its Task Force on Unregulated Financial Markets and Products (Task Force).

The Final Report recommends regulatory actions to assist financial market regulators in introducing greater transparency and oversight with respect to securitisation and credit default swaps (CDS) markets, and improving investor confidence, and the quality of these markets.

The Task Force was formed in November 2008 in response to G-20 calls for a review of the scope of financial markets and in particular unregulated financial market segments and products.

Kathleen Casey, Chairman of IOSCO's Technical Committee, said:

“IOSCO acknowledges that financial innovation will always be a hallmark of a vibrant financial system, however such innovation need not, and should not occur at the cost of investor protection and market confidence.

“The recommendations contained in this Final Report are aimed at restoring investor confidence and at improving the functioning, integrity and oversight of unregulated financial market segments and products, such as securitisation and credit default swaps, and international financial markets generally.

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“The overall objective of the Task Force was to recommend ways to redefine the perimeter of regulation in certain OTC markets. As our recommendations go beyond the traditional remit of regulators, further work is required and is being undertaken by IOSCO to identify the appropriate criteria to be used in redefining the border between what has traditionally been considered regulated and unregulated markets. Meanwhile, each jurisdiction should assess the scope of their existing regulatory regimes and decide how the recommendations should be applied to their own specific circumstances.

“Finally, I would like to pay tribute to the work of my colleagues, Jean-Pierre Jouyet and Xavier Tessier of the AMF and Tony D’Aloisio and Greg Medcraft of ASIC, in tackling this extremely difficult issue and producing a set of practical solutions to guide securities market regulators in their response to the crisis.”

Jean-Pierre Jouyet, Chairman of the AMF said: “The TFUMP report is a major step in IOSCO’s response to one of the major recommendations of the G20 to expand the field of regulation in order to better supervise financial markets while also proposing recommendations to address the main weaknesses of the debt market highlighted by the crisis.”

Final Recommendations

The final recommendations contained in the Final Report address issues of concern with respect to:

- securitised products, including asset-backed securities (ABS), asset-backed commercial paper (ABCP) and structured credit products such as collateralised debt obligations (CDOs), synthetic CDOs, and collateralised loan obligations (CLOs); and
- CDS.

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Securitisation

Final Recommendation 1 – Wrong Incentives

IOSCO acknowledges industry responses in the securitisation market and recommends the following regulatory responses

1. Consider requiring originators and/or sponsors to retain a long-term economic exposure to the securitisation in order to appropriately align interests in the securitisation value chain;
2. Require enhanced transparency through disclosure by issuers to investors of all verification and risk assurance practices that have been performed or undertaken by the underwriter, sponsor, and/or originator;
3. Require independence of service providers engaged by, or on behalf of, an issuer, where an opinion or service provided by a service provider may influence an investor's decision to acquire a securitised product; and
4. Require service providers to issuers to maintain the currency of reports, where appropriate, over the life of the securitised product.

Final Recommendation 2 – Inadequate risk management practices

IOSCO acknowledges industry responses in the securitisation market and recommends the following regulatory responses:

1. Provide regulatory support for improvements in disclosure by issuers to investors including initial and ongoing information about underlying asset pool performance. Disclosure should also include details of the creditworthiness of the person(s) with direct or indirect liability to the issuer;
2. Review investor suitability requirements as well as the definition of sophisticated investor in the relevant market and strengthen these requirements, as appropriate, in the context of the relevant market; and
3. Encourage the development of tools by investors to assist in understanding complex financial products.

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Final Recommendation 3 – Regulatory structure and oversight issues

IOSCO recommends that jurisdictions should assess the scope of their regulatory reach and consider which enhancements are needed to regulatory powers to support TC recommendation #1 and #2 in a manner promoting international coordination of regulation.

Credit Default Swaps

Final Recommendation 4 – Counterparty Risk and Lack of Transparency

IOSCO encourages industry responses in the CDS market and recommends the following regulatory responses:

1. Provide sufficient regulatory structure, where relevant, for the establishment of CCPs to clear standardised CDS, including requirements to ensure:
 - a) appropriate financial resources and risk management practices to minimise risk of CCP failure;
 - b) CCPs make available transaction and market information that would inform the market and regulators; and
 - c) cooperation with regulators;
2. Encourage financial institutions and market participants to work on standardising CDS contracts to facilitate CCP clearing;
3. The CPSS-IOSCO Recommendations for Central Counterparties should be updated and take into account issues arising from the central clearing of CDS;
4. Facilitate appropriate and timely disclosure of CDS data relating to price, volume and open-interest by market participants, electronic trading platforms, data providers and data warehouses;
5. Support efforts to facilitate information sharing and regulatory cooperation between IOSCO members and other supervisory bodies in relation to CDS market information and regulation; and
6. Encourage market participants' engagement in industry initiatives for operational efficiencies.

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Final Recommendation 5 – Regulatory structure and oversight issues

IOSCO recommends that jurisdictions should assess the scope of their regulatory reach and consider which enhancements to regulatory powers are needed to support TC recommendation #4 in a manner promoting international coordination of regulation.

IOSCO believes that the recommendations relating to CDS might be used, or tailored, to inform general recommendations for other unregulated financial markets and products, in particular, standardised and non-standardised OTC derivative products where such products may pose systemic risks to international finance markets or could contribute to restoring investor confidence. Further work in this area, taking account of industry initiatives, may be necessary.

The Task Force was co-chaired by the Australian Securities and Investments Commission (ASIC) and the Autorité des Marchés Financiers (AMF) of France.

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NOTES FOR EDITORS

1. [Unregulated Financial Markets and Products – Final Report](#) is published on the IOSCO [website](#).
2. IOSCO is recognized as the leading international policy forum for securities regulators. The organization's membership regulates more than 95% of the world's securities markets in over 100 jurisdictions and its membership is steadily growing.
3. The [Technical Committee](#), a specialised working group established by IOSCO's Executive Committee, is made up of 18 agencies that regulate some of the world's larger, more developed and internationalized markets. Its objective is to review major regulatory issues related to international securities and futures transactions and to coordinate practical responses to these concerns. Ms. Kathleen Casey, Commissioner of the United States Securities and Exchange Commission is the Chairman of the Technical Committee. The members of the Technical Committee are the securities regulatory authorities of Australia, Brazil, China, France, Germany, Hong Kong, India, Italy, Japan, Mexico, the Netherlands, Ontario, Quebec, Spain, Switzerland, United Kingdom and the United States.
4. IOSCO aims through its permanent structures:
 - to cooperate together to promote high standards of regulation in order to maintain just, efficient and sound markets;
 - to exchange information on their respective experiences in order to promote the development of domestic markets;
 - to unite their efforts to establish standards and an effective surveillance of international securities transactions;
 - to provide mutual assistance to promote the integrity of the markets by a rigorous application of the standards and by effective enforcement against offenses.

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