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CESR

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Your reference, Your message of	Our reference, contact person	Extension	Date
	BSBV 64/2009 Dr.Rudorfer/We	3137	5th of February 2009

Subject: **CESR Consultation Paper of 19 December 2008, "Transparency of corporate bond, structured finance product and credit derivatives markets", Ref. CESR/08-1014**

Dear Madam/Sir,

the Division Bank and Insurance of the Federal Economic Chamber appreciates to comment on CESR´s Consultation and would like to submit the following position:

General remarks:

Transparency is a key feature of efficient capital markets. Nonetheless, we doubt some of the additional value of the "Recommendations for improving key market practices":

1.
"Increase and enhance **pool information and ongoing information**".

Up to now, this information has been firstly covered by the issuer report and presentation. Investors have usually had chances to request additional information directly from the issuer if needed. In addition, analysis of the underlying pool has been provided by the rating agencies. Moreover, reports have been used from third parties about the current status of an asset class in order to get a deeper understanding and to be regularly updated. From our point of view there has been enough information to make a qualitative analysis of the underlying asset pool for the most asset classes of structured products. It is responsibility of each investor to ask for additional information before investing (if he/she feels not adequately informed for making an investment decision), alternatively not to invest at all in a certain product.
We also believe that it would be difficult to establish core industry-wide standards of due diligence disclosure for different structured products, because products are

changing permanently and there are always new issues arising which have to be analysed. We think it is much more important to understand that investors can not rely on the third-party analysis only and must have a deep understanding of a product before engaging in the asset class; this should be the case for all investing but especially for institutional investors – who have been the target group for investments in structured products.

2.
The more critical aspect is the **model** used for the rating of underlying assets.

One has to keep in mind that the model can only be as good as the input data used in the model. Because of the lack of historical data and the fact of changing underlyings (e.g. subprime market raised only in 2001), the inputs in the models have been wrong and so have been the results. Keeping in mind that the rating has a substantial importance in capital markets (Basel II – underlying capital) the fundamental process of rating agencies has to be rethought.

Answers to specific questions:

Part I

Q1:
Yes, the longevity and the extent of such an unprecedented period of turbulence is definitely a sign that a market failure has taken place. Illiquidity is highly correlated with market conditions in crisis times and illiquidity rises as volatility does. However, inconsistencies appearing between the cash bond market and CDS market reflect the dissimilarity of such instruments and thus the resulting variance, due to their different nature and trading methods, as well as their different reaction time in new market conditions.

Q2:
Yes, asymmetry of information is experienced for retail, private investors and well as small sized firms that do not have access to pricing information or cannot afford the costs of getting such an access. However, this is not the case for institutional investors who also present the biggest part of the market. Additionally, information asymmetry in the CDS market may arise due to the OTC trading method of such products. There is not necessarily full transparency regarding the volumes traded, the trade frequency and the pricing levels.

Q3:
Market insecurity, lack of confidence and value uncertainty (need to reprice the risks) and/or redefine the market.

Q4:
Transparency can build up trust and thus boost the willingness to trade.

Q5:
Unwillingness to trade and insecurity about the actual situation of the companies under consideration.

Q6:
Not necessarily. It could possibly support confidence and motivate the trading in the bond market, on the other hand in such an interconnected crisis situation information might be misinterpreted or not timely, correctly assessed. Risk averse investors contribute also to illiquidity. Moreover, thinly traded bonds might be more vulnerable to different information circulating in the markets.

Q7.
No

Q8.
Broker/dealer quotes. Yes it can be a reliable indicator since it also reflects the market situation and prices the risks of the bond under discussion. The situation got worse after the Lehman collapse in Sept 2008.

Q9.
Yes, it makes it more difficult for fair and accurate pricing.

Q10.
Once the market conditions stabilize the cash bond and CDS market will return to what has been observed historically, however new disclosures and directives might redefine the CDS market.

Q11.
The limited number of executable prices, the dispersion of indicative prices and of bid/offer spreads.

Q12.
Yes, it may help.

Q13.
Yes

Q14.
Not aware of.

Q15.
No experience.

Q16.
No.

Q17.
No information available.

Q18.
No experience.

Q20.
It may help the market operate in a more fair way throughout all investor types and boost the number and quality of transactions; however in a crisis time there are many other additional reasons that a market lacks liquidity.

Q21.
In the European corporate bond market there is even less information accessible to the several investors type than in USA. Post trade transparency will definitely support the trading.

Q22.
The differences are in the trading volumes as well as in the trading/investment strategy. Corporate bond markets might be characterized both as wholesale and retail depending on the investors interest they attract and their investment strategies.

Q23.
Enhanced transparency and information availability can only support the markets by offering fair opportunities to everybody and by establishing quality standards. However, trying to make the market very transparent might hurt the speed of the market and might not protect investors that do not wish that their strategies become public.

Q24.
Not necessarily. Other factors realizing in a crisis environment are responsible for reduced liability in the CDS and generally in the market.

Q25.
Definitely.

Q27.
Volumes, price information and transaction day.

Q28.
All volumes should be reported, however the data can be anonymised for higher volumes.

Q29.
Yes, the market and the concept can be tested.

Part II

Q30.
Yes, it does.

Q31.
No, there are no other sources.

Q32.
Transparency in ABS instrument types will support understanding better the structure and the risks of the products as well as have a better insight of the potentials and the dangers that may realize. The accessibility to information of the underlying pools of such products could also reinforce valuation practices and pricing methodologies as well as support the investors developing their own risk management methodologies to monitor, price, assess the risks and stress the instruments. Generally, more information is better than less information.
Possible downside: Fair value accounting could force investors to mark down their positions in case of fire sales of other participants. Accounting issues need to be solved first. If accounting issues are not solved post-trade transparency could make things worse!

Q33.
Should be desirable for all types of ABS.

Q34.
No. Who would judge if something is "liquid"? Transparency will give to the investors the opportunity and possibility to value themselves which products might be of high or low liquidity. In other words, transparency will make the market redefine itself.

Q35.
Portfolio composition and information about trigger actions in the structure. Information regarding the assumptions that were used to price the transaction, i.e. WAL, CDR, CPR, etc

Q36.
After a trade has been completed, otherwise there is again the risk of asymmetry of information and information gaps.

Q37.
Yes, in order to have a syntonized, better organized action with least possible discrepancies and inconsistencies between each other.
On the other hand, information relating to the quality of information of the underlying assets is the most important thing, and should be addressed immediately. Post-trade transparency: only after accounting issues are solved.

Q38.
No.

Q39.
c) buying ABS.

Q40.
Transparency in CDO instrument types will support understanding better the structure and the risks of the products as well as have a better insight of the potentials and the dangers that may realize. The accessibility to information of the underlying pools of such products could also reinforce valuation practices and pricing methodologies as well

as support the investors developing their own risk management methodologies to monitor, price, assess the risks and stress the instruments. Generally, more information is better than less information.
Possible downside: Fair value accounting could force investors to mark down their positions in case of fire sales of other participants. Accounting issues need to be solved first! If accounting issues are not solved post-trade transparency could make things worse!

Q41.
Yes, for all types, although fro some types like synthetic CDOs, or CDOs of ABS it is more difficult to achieve.

Q42.
The segmentation will probably happen due to the different characteristics and needs of each type of instrument. Reporting and information share might be different for each type and of different difficulty and this will probably reinforce anyway the segmentation.

Q43.
By enhancing liquidity and trust in the market bid and ask spread may converge.

Q44.
Portfolio composition and information about trigger actions in the structure.

Q45.
After a trade has been completed, otherwise there is again the risk of asymmetry of information and information gaps.

Q46.
In inactive markets a post-trade information regime is actually not applicable. Alternatively, post-trade information can be restricted to information regarding the portfolio quality, the structure performance and any actions being taken within these structures, or generally any relevant information for the structures that help to assess their health and their actual performance.
The mandate of the deal arranging bank should also include a market making obligation. Therefore at least one bank has to quote executable prices.

Q47.
Observable prices help to test and benchmark models in the meaning that they are executable and thus fair and reflective of the current market situation.
The difference between model price and observable price could serve as a indication of the illiquidity premium.

Q48.
Yes, in order to have a syntonized, better organized action with least possible discrepancies and inconsistencies between each other.
On the other hand, information relating to the quality of information of the underlying assets is the most important thing, and should be addressed immediately. Post-trade transparency: only after accounting issues are solved.

Q49.
No.

Q50.
c) buying CDOs.

Q51-Q55.
We are not involved in any kind of ABCP business.

Q56.
It will provide information about the scale and credit transfers, and develop its role as a benchmarking.

Q57.
Trading transparency is difficult to be achieved in OTC markets. The introduction of houses/platforms for trading CDS as well as the establishment of specified number of brokers trading such instruments might support and ease the transparency.

Q58.
Yes, transaction date and additionally counterparty information may be significant.

Q59.
After a trade has been completed, otherwise there is again the risk of asymmetry of information and information gaps.

Q60.
Yes, in order to have a syntonized, better organized action with least possible discrepancies and inconsistencies between each other.

Q61.
No.

Best regards

Dr. Herbert Pichler
Managing Director
Division Bank and Insurance
Austrian Federal Economic Chamber