



1999 Survey of Regulation of Over-the-Counter Derivatives Transactions

QUESTIONNAIRE

1. Please list the types of over-the-counter ("OTC") derivatives transactions (swaps; options, including caps, collars and floors; hybrids) that are permitted in your jurisdiction for each of the following types of underlying reference values or interests: an equity, government debt or interest rates, forex, a commodity, an intangible, or an event (*i.e.*, a credit-based derivative, which pays a return if a party defaults), explicitly specifying any transaction types that are prohibited. Please indicate whether you view any type of transaction as a "hybrid" and, if so, provide a definition of this term.¹
2. For each type of transaction, under what circumstances (*e.g.*, entering individually negotiated transactions for proprietary purposes, making an interdealer market, engaging in agency trades or trades on behalf of a customer), if any, are counterparties required to be licensed or authorized to engage in OTC derivatives transactions? If so required, which authority is responsible for such licensing?
3. For each type of transaction, under what circumstances, if any, are particular persons or entities (retail, unsophisticated, other) prohibited from being counterparties or otherwise engaging in such transactions? If such transactions are prohibited to a class of persons or entities or limited to eligible entities, please explain.
4. For each type of transaction, specify which authority (including any self-regulatory authority or commercial association), if any, is responsible for, and/or which rules (banking, securities, other) apply to:
 - supervision of financial capacity (prudential supervision);
 - supervision of conduct of business;
 - supervision of legality of transactions (propriety of trading over-the-counter, authority of the counterparty to enter the transaction); and
 - supervision of making a two-way market, of administering collateral arrangements and netting cash flows, and of clearing.

¹ Hybrid instrument means an equity or debt security or depository instrument with one or more commodity-dependent components that have payment features similar to commodity futures or commodity option contracts or combinations thereof.

5. In your jurisdiction, are there any OTC transactions occurring over multi-lateral electronic execution facilities? If so, please specify.
6. In your jurisdiction, are there any clearing facilities for such OTC transactions? If so, please specify.
7. For each product, specify whether there are requirements relative to:
 - design of the transaction;
 - custodianship of collateral;
 - use or hypothecation of collateral;
 - means of valuation of the transaction;
 - disclosure of valuation methodology;
 - other disclosure;
 - conduct of business generally (pricing, conflicts of interest, advice or sales tactics);
 - capital;
 - internal controls of counterparties generally or internal controls of counterparties that are otherwise subject to financial services regulation (please explain any differences);
 - documentation;
 - recordkeeping;
 - financial reporting; and
 - insolvency.

In each case, specify any differences between these requirements and those that would apply to other financial products. Please provide a couple of explanatory sentences for each of the above categories.

8. For each such product, does the law of your jurisdiction honor an agreement as to choice of law where the transaction is effected by counterparties in different jurisdictions?
9. Please identify any recent studies, literature, or exposure drafts or concept pieces on the appropriate regulation of OTC derivatives developed by governmental or other sources in your jurisdiction.