MANAGED FUNDS ASSOCIATION
The Voice of the Global Alternative Investment Industry
WASHINGTON, DC | NEW YORK

June 15, 2009

Via Electronic Mail: UMP@iosco.org

Greg Tanzer
Secretary General
International Organization of Securities Commissions
C / Oquendo 12
28006 Madrid
Spain

Re: Managed Funds Association's Public Comments on the Consultation Report on Unregulated Financial Markets and Products

Dear Mr. Tanzer:

Managed Funds Association ("MFA")[1] appreciates the opportunity to provide comments to the Technical Committee of the International Organization of Securities Commissions ("IOSCO") in response to its Unregulated Financial Markets and Products Consultation Report dated May 2009 (the "Consultation Report"). We also appreciate having had the opportunity for John G. Gaine, MFA President Emeritus and Special Counsel - International Affairs, to share MFA's perspective on the interim recommendations proposed in the Consultation Report at IOSCO's May 29, 2009 meeting in Madrid, Spain.

MFA is pleased that IOSCO is providing leadership in addressing issues associated with the current financial crisis and, in particular, has decided, through its Task Force on Unregulated Financial Markets and Products ("Task Force"), to examine and provide interim recommendations on the securitization and credit default swap ("CDS") markets. These issues are of significant importance to MFA and its members because hedge funds actively participate in both the securitization and CDS markets. MFA believes that these markets are essential to the availability of credit and the restoration of capital flows within the global economy. We support the underlying principle in the Consultation Report that the restoration of investor confidence to international financial markets can be best achieved through coordinated regulation that promotes transparency and market integrity and that supports existing industry initiatives. We look forward to reviewing and providing comments on any final recommendations put forth by the Task Force on securitization, CDS or any other unregulated financial markets or products.

While we acknowledge the importance of well-functioning securitization markets and the level of emphasis placed in the Consultation Report on the risks surrounding securitization, MFA's comments in this letter are primarily directed at the Task Force's interim

[1] MFA is the voice of the global alternative investment industry. Its members are professionals in hedge funds, funds of funds and managed futures funds, as well as industry service providers. Established in 1991, MFA is the primary source of information for policy makers and the media and the leading advocate for sound business practices and industry growth. MFA members include the vast majority of the largest hedge fund groups in the world who manage a substantial portion of the approximately $1.5 trillion invested in absolute return strategies. MFA is headquartered in Washington, D.C., with an office in New York.

recommendations on the CDS market. We have chosen to provide more robust commentary on the Task Force's interim recommendations with respect to CDS because: (i) of its primacy to the regulatory reform agenda; (ii) hedge funds are active buyers and sellers of CDS for risk mitigation purposes; and (iii) the Task Force's interim recommendations with respect to the securitization market mostly relate to issuers of those products, not MFA's membership. Accordingly, the economic exposure and attendant risks related to CDS trading are generally more acute to the hedge fund industry. We note, however, that our membership continues to actively participate in the market for securitized products. As is discussed in the penultimate section of our comment letter, we are wholly supportive of the development of robust risk management practices in connection with the issuance and sale of securitized products and look forward to assisting IOSCO and the Task Force in the development of final recommendations.

In the background section of our comment letter, we address the importance of the CDS market, and its related risks, to market participants and the overall economy. In the next section of our letter, we provide our specific comments to the interim recommendations on CDS, as well as identify important, additional risks associated with current collateral management practices that are not addressed in the Consultation Paper, which we believe the Task Force should carefully consider when developing future recommendations related to CDS and other over-the-counter ("OTC") derivatives. In the penultimate section of our letter, we provide general commentary with respect to the interim recommendations on securitization.

MFA and its members have a shared interest with policy makers, regulators and other market participants in ensuring an effective and efficient regulatory structure and a sound financial system. Each of the comments in our letter is provided in the spirit of working with the Task Force and IOSCO as they consider developing final recommendations for unregulated financial markets and products. We look forward to continuing the dialogue on these important issues.

BACKGROUND

MARKET BENEFITS OF CDS

The CDS market provides significant benefits to direct market participants, to the broader credit markets, and to the economy as a whole. Market participants use CDS contracts to help them perform two important functions.

First, CDS contracts serve an important risk management function. Market participants use CDS contracts to hedge against market risks (*i.e.*, credit events such as bankruptcy) and counterparty risks (*i.e.*, default exposure to a trading counterparty). CDS contracts perform this function better than other risk management tools because they are liquid, with low transaction costs, substantial depth of market, and accessible as compared with other credit products, including the corporate bond market. During the current credit crisis and prior market crises, CDS contracts were able to trade with more liquidty, as evidenced by robust trading volumes and narrow bid-ask spreads. Over the last nine months, the CDS market was essential for managing risk in connection with more than 40 global corporate defaults, including Washington Mutual, Tribune Corporation and Lehman Brothers.[2]

[2] *See* Operations Management Group, Letter to William Dudley, President of the Federal Reserve Bank of New York, June 2, 2009, Appendix. A copy of the letter is available at: http://www.newyorkfed.org/newsevents/news/markets/2009/ma090602.html

Second, CDS contracts serve a price discovery function. Market participants use the CDS market as a real-time price discovery tool or metric for evaluating a company's credit risk and financial health. In fact, market participants use CDS spreads (*i.e.*, the annual amount charged to CDS purchasers based on market information about the creditworthiness of the underlying reference entity) as an alternative to relying on credit rating agency scores, which are often viewed as inherently flawed because of the lag time associated with credit rating agency actions and reporting.

With respect to the broader credit markets and economy as a whole, the CDS market has created significant benefits for all businesses and consumers by allowing a much larger segment of the market to quickly assess the creditworthiness of corporations with which they do business, and, if appropriate, participate in the CDS market as a means of mitigating this credit risk. In particular, CDS trading provides a mechanism through which banks and other lenders have been able to transfer credit risks to other market participants that are willing to accept that risk. Through this dispersion, banks and other lenders have the ability to engage in increased lending and corporate finance activities. Ultimately, increased lending and credit flows have: (i) lowered the cost of borrowing for many big and small businesses all around the world; and (ii) provided consumers with greater access to credit to purchase additional goods and services.

The importance of the CDS market is further demonstrated by the various types of financial institutions, non-financial institutions and other market participants, which trade them. For example, the International Swaps and Derivatives Association ("ISDA") has recently published data showing that OTC derivatives are used by a vast number of the world's largest companies to manage various risks that arise in connection with their businesses.[3] ISDA's survey demonstrates that these companies have found CDS and other OTC derivatives to be essential to their day-to-day operations by helping insulate them from various market and counterparty risks.

For all of the above reasons, MFA believes that the CDS market is instrumental in allowing the market to hedge credit risks assumed during the ordinary course of business and to provide much needed information and insight into the overall health of the companies, markets and countries that comprise the global economy.

RISKS IDENTIFIED IN THE CONSULTATION REPORT

The Consultation Report notes that the interim recommendations are intended to address the following three limitations of the current CDS market: (1) counterparty risk/financial market stability; (2) lack of transparency; and (3) operational risk. Our comments to these limitations are set forth immediately below. MFA believes that these limitations are a direct consequence of the remarkable growth of the CDS market outpacing the existing OTC derivative trading infrastructure. We agree with the Task Force that any regulatory response enacted to address these limitations should be carefully designed in a manner that does not materially impact the liquidity of the CDS market and ability of market participants to freely transfer credit risks. MFA supports regulatory measures that will compliment existing collaborative efforts between industry regulators and market participants, which to date have helped significantly mitigate these limitations and improve market practices related to the trading of CDS and other OTC derivatives.

[3] ISDA published results of a survey it conducted on derivatives usage by the world's 500 largest companies (April 23, 2009). A press statement regarding the survey is available at: www.isda.org.

1. Counterparty Risk/Financial Market Stability

The Consultation Report cites the size of the CDS market, counterparty exposures and the interconnectedness of market participants as contributing factors presenting significant risks to financial market stability. We analyze each of these factors below.

Size of the Market. Although it is widely reported that the CDS market has grown to alarming levels, the reported numbers vastly overstate the true amount at risk in the CDS market. In mid-2007, the size of the CDS market grew to U.S. $62.2 trillion, which was the market's highest recorded notional amount.[4] This notional number, however, vastly overstates the potential impact of a credit event because it fails to distinguish between buyers and sellers of CDS. For example, a party could have bought U.S. $10 million of CDS protection on Company XYZ from Party A, then later sold U.S. $10 million of CDS protection to Party B. If Company XYZ goes bankrupt, that party will not make any net payments; it will simply pass the payment from Party A through to Party B. Yet, in notional terms, the system will reflect U.S. $20 million of CDS in the market.

One highly visible example of this phenomenon occurred when Lehman Brothers Holdings, Inc. ("LBHI") filed for bankruptcy in 2008. LBHI had approximately U.S. $72 billion of CDS written on it at the time of its filing. On October 21, 2008, the Depository Trust & Clearing Corporation ("DTCC") completed, without incident, the automated credit event processing of LBHI. DTCC established and bilaterally netted all amounts due on CDS written on LBHI. This netting process resulted in approximately U.S. $5.2 billion owed from net sellers of protection on LBHI to net buyers of protection. In this case, the notional amount exceeded the net amount at risk by thirteen times.

Additionally, the market has undergone significant contraction in the last two years as a result of industry initiatives. By the end of 2008, the notional amount outstanding of CDS reduced to U.S. $38.6 trillion, which reflects a decrease of 38 percent from its highest recorded notional amount of U.S. $62.2 trillion.[5] This decrease is a direct result of industry initiatives such as multilateral netting—which reduces the number of trades outstanding between market participants without affecting each participant's risk profile—to reduce the potential systemic risks associated with the CDS market. We believe that it will continue to undergo netting adjustments through continued collaboration between regulators and market participants in industry initiatives, which will, in turn, contribute to greater financial market efficiency and stability.

Counterparty Exposures and Interconnectedness of Market Participants. MFA agrees with the Task Force that counterparty exposures in the CDS market and the interconnectedness of market participants also raise broader systemic risk issues. In a letter to several U.S. regulators dated December 23, 2008, MFA highlighted how these concerns currently arise in the context of OTC derivatives trading between the major OTC derivatives dealers (the "Major Dealers") and their non-dealer counterparties, which include hedge funds.[6] In particular, MFA's letter focused

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[4] ISDA, Year End Market Survey Results (2008), available at: www.isda.org.
[5] *See* Id.
[6] *See* letter from Richard H. Baker, President and C.E.O., Managed Funds Association, dated Dec. 23, 2008 to: Timothy F. Geithner (President) the Federal Reserve Bank of New York; The Honorable Christopher

on the Major Dealers' current mechanisms for managing counterparty collateral in connection with OTC derivatives trading and how those mechanisms present significant risks to the broader economy.

As is described more fully in MFA's letter, when entering into an OTC derivatives contract with non-dealers, the Major Dealers require their counterparties to post upfront collateral (also known as "initial margin") to cushion against default risk. The Major Dealers do not typically segregate initial margin posted by their counterparties from other unsecured assets. When a Major Dealer becomes insolvent, initial margin posted by a counterparty is treated in bankruptcy as a general unsecured claim of that counterparty. As a result, counterparties to the Major Dealers stand to incur significant losses, regardless of the current value of their OTC derivatives contracts. When the creditworthiness of a Major Dealer appears to be diminishing, its counterparties are obligated pursuant to their fiduciary duties to hedge their economic exposure by purchasing CDS protection, shorting equity, and, if the Major Dealer is their prime broker, by transferring assets held at that Major Dealer to another prime broker. Each of these factors may contribute to market instability and uncertainty at the point when the markets are most volatile. Additionally, if the Major Dealer ultimately files for bankruptcy, its counterparties must cover their losses arising from the loss of initial margin held at the Major Dealer. These counterparties may be forced to sell unrelated assets, which ultimately may further contribute to market instability.

As is noted in the Consultation Report, a good example of these concerns and their affects on the global economy was seen in the LBHI's bankruptcy. As a Major Dealer, LBHI's failure triggered the unwinding of a significant percentage of its CDS and other OTC derivatives contracts. The majority of LBHI's client assets were not segregated. Once LBHI was placed into bankruptcy, its clients became general unsecured creditors, freezing up several billions of dollars of its clients' investment capital. Since LBHI and the Major Dealers were highly interconnected to each other through their exposures to one another, LBHI's failure resulted in market concerns about the viability of other Major Dealers. These concerns ultimately caused significant volatility in global capital markets when many market participants simultaneously begun selling assets to cover their losses. In MFA's letter, we requested regulatory intervention to improve collateral management practices across all OTC derivatives in order to promote broader market stability and to mitigate risks related counterparty exposures and the interconnectedness of market participants.

2. Lack of Transparency

MFA agrees with the Task Force that increased market transparency will improve fairness, efficiency and competitiveness in the CDS market, as well as help identify cases of market manipulation and insider trading. The Consultation Report acknowledges that there are several market initiatives in progress that seek to provide more transparency within the CDS market with respect to pricing, trading volumes and aggregate open interests.

Through collaboration with global regulators, the industry has taken several steps to improve transparency to industry regulators and the general public. Pricing, trading volumes and aggregate open interests are currently available on most CDS contracts through data repositories operated by privately-owned service providers. For example, Markit®, an industry pricing

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Cox (Chairman) U.S. Securities and Exchange Commission; and The Honorable Walter Lukken (Acting Chairman) U.S. Commodity Futures Trading Commission. A copy of this letter is attached.

service, currently provides end-of-day pricing on over 3,000 issuers through daily polling of approximately 100 contributing parties.[7]

In addition, information on most CDS transactions (approximately 90% of market) is now stored and confirmed electronically in a trade information warehouse operated by DTCC.[8] DTCC's trade information warehouse provides market participants and regulators with important data regarding CDS trades, including gross and net volumes of CDS outstanding on each issuer. On a weekly basis, DTCC also publishes aggregate data on CDS trades on its public Web site.

In a recent letter addressed to global regulators, the Major Dealers, several asset management firms and industry trade associations (including MFA) proposed a series of industry-wide best practices (hereinafter referred to as the "Recent Industry Letter") to address key concerns raised by global regulators and legislators (notably the G20, European Commission and the U.S. Department of Treasury) regarding the risk profile and trading infrastructure of CDS and other OTC derivatives.[9] With respect to transparency concerns, the Recent Industry Letter provides that all market participants are strongly encouraged to report all CDS trades (both standardized and non-standardized CDS trades) by August 14, 2009 and other OTC derivatives trades based on an aggressive timeline. The purpose of this best practice, as reported in the Recent Industry Letter, is to assist global supervisors with oversight and surveillance activities related to the OTC derivatives market.

While the Consultation Report acknowledges the importance of industry initiatives such as the Recent Industry Letter, the Consultation Report notes that market participants only voluntarily comply with these initiatives. The Consultation Report intimates that voluntary compliance by itself will not increase transparency of, and reduce risks related to, the CDS market; instead, it suggests broad regulation may be necessary. To this point, MFA believes that any regulatory action(s) with respect to CDS and other OTC derivatives should support or otherwise build off of existing initiatives rather than supplant them. As is discussed below, existing industry initiatives for CDS and other OTC derivatives have resulted in substantial improvements to the trading infrastructure and reduction of systemic risks associated with the trading of these products.

3. Operational Risks

Global regulators have been working with market participants since 2005 to address operational risks in connection with the trading and settling of CDS contracts. The Consultation Report notes that the CDS market has had long-standing operational concerns in terms of unconfirmed trade backlogs, but that recent improvements had eliminated or mitigated these concerns. In addition, the Consultation Report discusses the potential risk significant market disruptions (*i.e.*, credit events) could have on financial market stability because of the large shortfall of deliverable obligations for physical settlement of CDS contracts.

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[7] More information on Markit's pricing data is available at: http://www.markit.com/en/products/data/cds-pricing/cds-pricing.page.

[8] More information on DTCC's trade information warehouse, including aggregated data on CDS volumes, is available at: www.dtcc.com.

[9] *See* Operations Management Group, Letter to William Dudley, President of the Federal Reserve Bank of New York, June 2, 2009, under the heading "Reporting of Trades in Central Repositories." A copy of the Recent Industry Letter is available at:
http://www.newyorkfed.org/newsevents/news/markets/2009/ma090602.html

Despite these concerns and potential risks, the CDS market infrastructure has undergone significant technological developments, standardization of contracts and the process to settle CDS contracts after credit events, as well as progress in terms of the reduction of trade backlogs through electronic confirmation and settlement platforms (*e.g.*, DTCC Deriv/SERV, T-Zero). We cite several of these recent developments and infrastructure improvements in the next section. MFA believes that continued regulatory support of these initiatives (through consultation with market participants and/or official regulatory action) will help eliminate or substantially mitigate operational risks within the CDS market.

RECENT INDUSTRY INITIATIVES

MFA and its members have consistently supported and participated in several of the industry initiatives referenced above (including the Recent Industry Letter) to reduce risks and improve market efficiency and the operational infrastructure in the CDS market and other OTC derivatives markets. In addition, MFA and its members have played an important role in improving market practices through collaboration with global regulators (including the U.S. Securities and Exchange Commission, U.S. Commodity Futures Trading Commission, Federal Reserve Bank of New York, U.K. Financial Services Authority, Bank of England, Federal Financial Supervisory Authority (BaFin), Bank of Japan, European Central Bank, *et al.*), the Major Dealers, asset managers and other market participants. Specifically, MFA and its members currently engage in a myriad of initiatives, hold educational events and also participate in a number of projects that focus on standardizing transaction documentation and industry practices/conventions related to OTC derivatives trading.

As referenced in the section above, some of the more recent market improvements and risk mitigating measures in which MFA and its members have participated include:

- The reduction by 80% of backlogs of outstanding CDS confirmations since 2005;
- The establishment of electronic processes to approve and confirm CDS novations;
- The establishment of a trade information repository to document and record confirmed CDS trades;
- The establishment of an auction hardwiring completed April 8, 2009, to allow for auction-based settlement of CDS;
- More than 40 credit events have been processed globally since October 2008;
- The reduction of 74% of backlogs of outstanding equity derivative confirmations since 2006 and 53% of backlogs in interest rate derivative confirmations since 2006;
- The first central counterparty ("CCP") for central clearing of CDS trades went live for U.S. index CDS as of March 2009 and, to date, has cleared U.S. $600 billion notional amount of CDS contracts;
- The roll out of a restructuring credit event protocol (also known as the "small bang" protocol) to further standardize CDS contracts for centralized clearing; and
- Major Dealer clearing will expand to European CDS by July 31, 2009.

The success of coordinated, industry initiatives with regulatory involvement is also evidenced by the relative speed in which the CDS market has grown. Although the CDS market emerged approximately ten years ago (which is relatively young as compared with other OTC

derivatives and financial products), the majority of contracts have quickly achieved a level of standardization and trading efficiency that has made them amenable to centralized clearing. MFA and its members are generally supportive of clearing of standardized CDS contracts, provided that the CCPs are appropriately structured as discussed below. Recently, MFA and its members have been very involved in industry working groups that have been tasked to analyze ways in which asset managers and other customers of the Major Dealers can access one or more CCPs to centrally clear their standardized CDS contracts.

MFA'S COMMENTS TO INTERIM RECOMMENDATIONS ON CDS MARKETS (#4 AND 5)

As stated above, MFA believes that any regulatory measures that seek to affect the functioning of the CDS market and other OTC derivatives markets must be balanced against the significant benefits that these products bring to global capital markets and to the market participants who trade them. We believe that the optimal framework to strike this balance is through industry initiatives, which are organized in coordination and cooperation with global policy makers. In that way, we generally agree with the various types of regulatory measures set out in the Task Force and IOSCO's interim recommendations #4 and 5. Our comments to interim recommendation #4 with respect to conduct, oversight and disclosure measures are organized immediately below. In the next section, we provide our comments to interim recommendations #4 and 5 with respect to international coordination measures.

INTERIM RECOMMENDATION #4 – CONDUCT, OVERSIGHT AND DISCLOSURE MEASURES

We generally agree with the various conduct, oversight and disclosure regulatory measures set out in the Task Force and IOSCO's interim recommendation #4 with respect to: (1) centralized clearing; (2) standardization; and (3) reporting and disclosure.

1. Centralized Clearing

MFA strongly supports interim recommendation #4 of IOSCO's recent Consultation Paper, which recommends that, among other things, regulators establish a robust regulatory framework for the use of CCPs to clear standardized CDS. Specifically, the Task Force and IOSCO recommends that regulation of the CDS market provide sufficient regulatory structure for the establishment of CCPs to clear standardized CDS, including requirements to ensure: (i) appropriate financial resources and risk management practices to minimize risk of CCP failure; (ii) CCPs make available transaction and market information that would inform the market and regulators; and (iii) cooperation with regulators. We applaud the specific recommendations that CCPs include appropriate financial resources and risk management practices to minimize risk of CCP failure.

In addition, since the CDS transactions of non-dealers (*e.g.*, hedge funds, traditional asset managers, etc.) represent approximately one-third of the total CDS trading volume, we strongly believe that CCPs should provide:

(i) Direct and indirect mechanisms through which non-dealers can clear their CDS trades;

(ii) In the case of indirect mechanisms, insolvency protection under the law for initial margin posted by non-dealers to the CCP in the event of a clearing member default.

We caution that the existing regulatory framework for CCPs may not adequately address significant counterparty risks related to the protection of initial margin and position portability of non-dealers who are required to post initial margin.[10] Therefore, CCP solutions should aim to minimize counterparty and systemic risks through the incorporation of robust margining practices imposed uniformly across the board and the use of insolvency-protected accounts (*e.g.*, tri-party custodial arrangements, commodities/futures-like protections under the U.S. Commodity Exchange Act) to segregate or custody initial margin posted by non-dealers.[11]

In addition, MFA believes that the legal and regulatory framework for CCPs should enable the CCPs to move non-dealer or customer transactions upon the insolvency of a clearing member to a non-defaulting clearing member(s). We further believe that inclusion of this feature in the legal and regulatory framework should help mitigate broader financial stability concerns that could arise in the event of a failure of a Major Dealer or other large financial institutions.

For those reasons, MFA encourages IOSCO in its upcoming paper on CCPs to develop recommendations with respect to initial margin segregation and portability of non-dealer positions in the event of the insolvency of a Major Dealer CCP member.[12]

2. Standardization

The Task Force and IOSCO recommend that regulation of the CDS market encourage financial institutions and market participants to work on standardizing CDS contracts to facilitate CCP clearing. MFA strongly supports the standardization of CDS (and other OTC derivatives) to better facilitate clearing to the extent practicable and appropriate. We acknowledge that CCPs require standard terms in order to price and properly margin for CDS contracts. We believe, however, that not all CDS contracts must be standardized or cleared through a CCP. While a significant percentage of the CDS market can be effectively cleared eventually, there will always be a need for customized or bespoke CDS contracts that are not able to be cleared.

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[10] In section 1 of this letter, under the heading "Counterparty Exposures and Interconnectedness of Market Participants", we identify risks generally faced by non-dealers in terms of the protections they receive when posting initial margin in all OTC derivatives trading, regardless of whether those trades are centrally cleared on a CCP. Our comments to IOSCO's interim recommendation #4 are focused specifically on these risks within a CCP regulatory framework.

[11] As referenced above, in MFA's December 23, 2008 letter to U.S regulators, MFA sought regulatory intervention that would require the Major Dealers to segregate all initial margin in bankruptcy-protected accounts, regardless of whether such margin is posted in the context of central clearing or as between parties in bilateral contractual dealings.

[12] It is important to note that the Recent Industry Letter includes a commitment to achieve non-dealer access to CCPs for centralized clearing of CDS no later than December 15, 2009. The Recent Industry Letter further provides that such access will be able to be cleared with initial margin segregation and position portability, through either direct CCP membership or agency relationships. MFA and its members actively participated in the development of this commitment and believe that it is an important first step in reducing risks for all market participants. MFA and its members look forward to continuing its collaborative efforts with global regulators, the Major Dealers and other market participants to develop additional industry commitments in this regard.

Customized or non-standardized CDS contracts have significant utility to market participants in that they provide tailored risk management benefits that are not achievable through the use of standardized CDS. If the bulk of the CDS market becomes cleared, there will be dramatic reductions in risk and the portion of non-cleared CDS contract should not be a source of material systemic risk. We believe that regulation should support and work in tandem with industry initiatives to standardize CDS and other OTC derivatives products to the extent practicable and appropriate.

To provide better transparency with respect to non-standardized CDS contracts, MFA would support the requirement proffered in the U.S. Treasury Department's proposal to regulate the OTC derivatives market that all market participants record their non-cleared, non-standardized CDS trades in a regulated centralized trade repository.[13] We believe that recording of non-standardized OTC trades in this manner will provide regulators with greater transparency and information over the entire OTC derivatives market.

3. Reporting and Disclosure

The Task Force and IOSCO also recommend that regulation 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. MFA is generally supportive of this recommendation, but believes that all proprietary information shared with regulators be kept confidential and not accessible to the public. In addition, we believe that market information shared with the public should be aggregated and published in such a way that protects the proprietary trading strategies of market participants.

INTERIM RECOMMENDATIONS #4 AND 5 – INTERNATIONAL COORDINATION MEASURES

MFA strongly supports international coordination of regulation and oversight of the CDS and other OTC derivatives markets. Interim recommendation #4 provides that regulation should establish an appropriate framework to facilitate information sharing and regulatory cooperation between IOSCO members and other supervisory bodies in relation to CDS market information and regulation. Interim recommendation #5 provides that jurisdictions should assess the scope of their regulatory reach and consider which enhancements to regulatory powers are necessary to support interim recommendation #4 in a manner promoting international coordination of regulation.

MFA believes that coordinated regulation among IOSCO member countries will permit greater market efficiencies and prevent market segmentation, which may unnecessarily chill market activity in some jurisdictions. For that reason, MFA applauds the work of the Task Force and IOSCO in putting forth interim recommendations for the coordination of CDS regulation. IOSCO has an important role in ensuring that consistent development in international regulation is achieved.

[13] On May 13, 2009, Treasury Secretary Timothy Geithner sent a letter to U.S. Congressional leaders detailing the outline of Treasury's proposal, which requires all standardized OTC derivatives contracts to be cleared through regulated CCP, and requires all other OTC derivatives contracts to be reported to central repositories. A copy of the letter is available at: http://www.ustreas.gov/press/releases/tg129.htm.

MFA'S COMMENTS TO INTERIM RECOMMENDATIONS ON SECURITIZATION MARKETS (#1, 2 AND 3)

As noted above, MFA members actively participate in the securitization markets. For that reason, MFA is supportive of IOSCO and the Task Force's interim recommendations #1, 2 and 3, including requiring more robust risk management practices, greater disclosure and transparency, tighter alignment of interests, and clear and more standardized rules and conduct standards for issuers. Overall, these measures would achieve IOSCO's goals of improved confidence, fairness and efficiency in the securitization market.

In addition, we think it is important to highlight the importance and success of government-sponsored programs in the securitization market, such as the Term Asst Loan Facility ("TALF") Program, which was created by the U.S. Federal Reserve in helping to restore capital flows in consumer asset-backed securities (*e.g.*, credit cards, car loans, student loans, etc.).[14] Investor confidence and market receptivity to the securitization market has improved as result of these programs as is evidenced by the increase in the number of issuances, improved liquidity in certain credit markets and credit spreads began to normalize to pre-crisis percentages.

Finally, MFA believes that international coordination of securitization regulation is integral to global financial market stability. Uncoordinated regulatory efforts may prove ineffectual in increasing issuances, or lead to inconsistency in terms of origination, rating, pricing, purchase or other activities, which could adversely affect long-term restoration of the securitization market. Ultimately, coordinated regulatory action across jurisdictions will benefit the market and all market participants.

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[14] More information on the TALF Program is available at:
http://www.federalreserve.gov/newsevents/press/monetary/20081125a.htm

CONCLUSION

MFA appreciates the opportunity to provide comments on the interim recommendations in the Consultation Report. We hope that our comments are useful to the Task Force and IOSCO as they consider these important issues. We look forward to working with the Task Force and IOSCO in the future as they develop and propose final recommendations for regulation of CDS, OTC derivatives and other unregulated financial markets and products, as well as recommendations for the regulation of CCPs. As stated previously, MFA and its members have a shared interest with regulators in ensuring a sound financial system and we are committed to working with regulators to develop appropriate and effective regulation to achieve that goal.

Respectfully submitted,

/s/ Richard H. Baker

Richard H. Baker,
President and C.E.O.

/s/ John G. Gaine

John G. Gaine,
President Emeritus and Special Counsel,
International Affairs

Attachment