



Mr Charlie McCreevy
Commissioner for Internal Market and Services
European Commission
200 Rue de la Loi
1049 Bruxelles

14 September 2009

Dear Commissioner,

We are writing regarding the Commission's consultation to enhance the resilience of so-called 'over-the-counter' derivatives markets.

As you know, BUSINESSEUROPE is in favour of appropriate regulation for financial services in response to the regulatory failures that led to the financial crisis of the last two years and to address the risk of similar events occurring in the future. In this context, in principle we support moves towards central clearing and increased standardisation in order to increase the quality of risk management for 'over-the-counter' derivatives. However, we believe that total standardisation and central clearing could have unintended consequences for the corporate end-user community. We also do not believe that increased standardisation should go as far as standardisation of all terms of a contract.

The advantage of 'over-the-counter' derivatives is that they are bilaterally negotiated contracts and that the terms of these contracts can vary considerably according to the needs of each party. The principal benefit of these contracts is that they can be customised to match particular risk exposures and provide specific risk mitigation. Standardisation of all the terms of 'over-the-counter' contracts rather than the process would reduce the opportunity for end users to obtain the risk management protection which they seek. This would reduce the ability of corporate to manage and hedge some of their financial risks and ultimately reduce the effectiveness of their risk management procedures.

For corporate users in the 'over-the-counter' markets, many are currently not required to post collateral in their trades due to strong credit quality and financial strength. Whilst the move to centralised clearing counterparties may reduce the collateral burden on financial firms, burdens on companies would increase if high quality corporate counterparties are now required to post collateral for trades subject to central clearing. Providing cash or securities as collateral would increase costs which could slow down the recovery of the EU economy and companies will have to deal with the administrative burden of managing their collateral positions. Uncertain movements in



mark-to-market values of assets would lead to possible increases in the collateral to be posted that would be difficult to manage.

We also highlight that any unilateral approach and any perception of protectionism needs to be avoided. The G20 meeting in London in April 2009, as part of the discussion on reforming financial systems for the future, called for greater international co-operation and consistency. At the moment, the US and the EU are pursuing parallel approaches to reforming the regulatory framework for derivatives and BUSINESSEUROPE supports enhanced international co-operation and co-ordination. As the Commission acknowledges, the derivatives market is a global market and the EU should strive for international co-operation.

Lastly, the fixed costs of infrastructure and administration to address the proposed regulatory and operational changes will fall disproportionately on those organisations – whether corporate or financial market participants – that do not do high levels of business. This should not provide a barrier to entry to this very important market.

We remain at your disposal should you wish to discuss this subject further.

Yours sincerely,

Best regards,

Philippe de Buck