Credit Default Swaps

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Credit Default Swaps ("CDS") are financial derivatives designed to transfer credit risk (i.e., the risk of default) on a debt obligation. CDS are purchased and sold in "over-the-counter" transactions. The buyer of the CDS makes periodic payments to the CDS seller, and, if the referenced debt obligation experiences a "credit event," the buyer of the CDS receives contractually pre-determined amount from the CDS seller.

In early 2013, the European Commission ("EC") launched an investigation into thirteen of the world's largest investment banks (the predominant sellers of CDS), a data-collector, and a trade-body for their actions in the European CDS market between 2006 and 2009. The EC announced that it was investigating these entities for allegedly colluding to prevent Deutsche Börse and the Chicago Mercantile Exchange from introducing exchange-trading platforms for CDS. According to the EC's preliminary findings, the investment banks controlling the data-collector and trade-body instructed them to only permit Deutsche Börse and the Chicago Mercantile Exchange to introduce over-the-counter platforms for CDS.

An April 2008 study by Deutsche Börse found that exchange-traded financial derivatives are roughly eight times less expensive than over-the-counter financial derivatives. Thus, exchange-traded CDS would have been less expensive than over-the-counter CDS, and by preventing Deutsche Börse and the Chicago Mercantile Exchange from introducing CDS exchanges, the investment banks were allegedly able to maintain artificially high profit margins on over-the-counter traded CDS.

For more information on this active case investigation, please contact Reena Gambhir or Anthony Maton.

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