

# ISDA

International Swaps and Derivatives Association, Inc.

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November 21, 2003

Barbara Angus, International Tax Counsel  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Ms. Angus:

Thank you for agreeing to meet with us to discuss our request for guidance that a credit default swap is a financial instrument and that payments made thereunder are not subject either to withholding taxes under Sections 1441 and 1442 of the Internal Revenue Code or to insurance excise taxes. When we last met we promised to forward to you several documents that came up in our discussion. Accordingly, we have attached such documents. In addition, for your convenience, we have attached copies of our prior correspondence. The attached documents are:

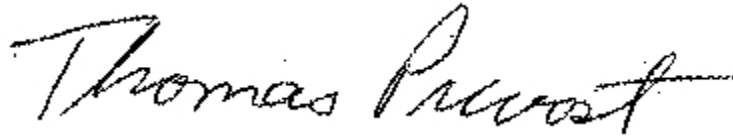
- Letter from State of New York Insurance Department to Bertil Lundqvist (June 16, 2000) (answering the issue whether a credit default swap transaction, wherein the counterparty (“seller”) will make payment to the buyer upon the happening of a negative credit event and such payment is not dependent upon the buyer having suffered a loss, constitutes a contract of insurance under the insurance law).
- A Queen’s Counsel opinion indicating that credit default swaps are not insurance in the United Kingdom.
- A document entitled, “Description Of Credit Default Swaps,” setting out a suggested description of a credit default swap transaction for use in any guidance to be issued.
- Letter from ISDA to the IRS (Oct. 24, 2002) (“Re: Withholding Taxes on Credit Default Swaps”).

- Letter from ISDA to IRS (May 2, 2003) (“Re: Notice 2003-26: Comments on Recommendations for the 2003-2004 Guidance Priority List”).
- Letter from Capitol Tax Partners to Department of Treasury (July 2, 2002).

In addition, we will be sending under separate cover, information from U.K. counsel confirming that credit default swaps are not subject to U.K. withholding taxes.

Please call me at (212) 325-7486 if you have any questions or if you have trouble accessing any of the documents. We look forward to meeting with you soon.

Sincerely,

A handwritten signature in black ink that reads "Thomas Prevost". The signature is written in a cursive style with a long, sweeping underline.

Thomas Prevost  
ISDA, North American Tax Committee Chair