

EXPLANATORY NOTE FOR NEW US TAX REPRESENTATIONS

This note explains use of new payee tax representations that ISDA has provided, in sample form, for inclusion in the Schedule to the ISDA Master Agreement. The new representations are set out in paragraphs (A) through (D) of the attachment to this note. Payers that are US persons or otherwise subject to US information reporting and backup withholding rules should consider obtaining one of the new representations. Which of these representations should be provided depends on the payee's US tax status, as explained below.

PARTIES SHOULD CONSULT WITH THEIR TAX ADVISORS TO DETERMINE WHAT, IF ANY, REPRESENTATION IS APPROPRIATE IN THEIR CIRCUMSTANCES.

Payee Is A US Person

If the payee is a US person, it should provide the representation in paragraph (A). If the payee provides the representation in paragraph (A), the payer will not be required to report payments on IRS Form 1042-S. The payer nevertheless may be required to report on IRS Form 1099 unless the payee is a corporation (or other "exempt recipient"). If reporting is required, backup withholding also will be required if the payee fails to provide a valid IRS taxpayer identification number to the payer.

Payee Is Not a US Person

1. Payee may not act through a US office

If the payee cannot provide the representation in paragraph (A), it may be able to provide the representation in paragraph (B). If the payee provides this representation, the payer generally will not be required to report payments on either Form 1042-S or Form 1099.

2. Payee is a multibranch party that may act through a US office

If the payee can give neither the representation in paragraph (A) nor that in paragraph (B), it may be able to provide the representation in paragraph (C). If the payee provides this representation, the payer will not be required to report payments on IRS Form 1099. The payer will not be required to report on IRS Form 1042-S payments to an address outside the United States or to a bank account outside the United States, because the payee will have represented that it is a non-US branch of a foreign person with respect to such payments. IRS Form 1042-S reporting may be required for other payments. A non-US party that enters into swaps through both US and non-US branches under a single Schedule, but directs that payments under all swaps be made to an address outside the United States, could not give this representation.

3. *Other non-US payees*

If the payee cannot give any of the foregoing representations, it may be able to provide the representation in paragraph (D). If the payee provides this representation, the payer will not be required to report any payments on IRS Form 1099. Reporting on IRS Form 1042-S may be required.

Summary Chart

<i>If payee is...</i>	<i>then request representation in . . .</i>
a US person	paragraph (A)
a non-US person with no US office	paragraph (B)
a non-US person with US office	paragraph (C)
none of the above	paragraph (D)

Important Note for Swaps Involving Foreign Partnerships or Trusts

Application of US tax reporting and withholding rules to payments to a foreign (non-US) partnership or trust depends on the tax status of the partnership or trust (including whether it qualifies as a withholding foreign partnership or withholding foreign trust) and on the status of its partners or beneficiaries. Parties to a transaction involving payments to a foreign partnership or trust are urged to consult with tax counsel regarding reliance on the representations in paragraphs (B), (C) and (D).

Different Rules May Apply to Payments Treated as Interest for US Tax Purposes

Transactions providing for up-front yield adjustment or other non-periodic payments by a non-US counterparty to a US person may be treated as involving loans to the US person if those payments are “significant” within the meaning of IRS regulations. In that case, payments by the US person would be treated as including interest, which is potentially subject to a 30-percent withholding tax. Representations and forms not discussed here will be needed to avoid or minimize withholding on such payments. Thus, tax counsel should be consulted if a swap includes an up-front payment yield-adjustment fee or other nonperiodic payment.

Attachment

**Sample Representations for Inclusion in Part 2(b) of the Schedule to the
ISDA Master Agreement (Multicurrency-Cross Border)**

Insert in Part 2(b)(iv):

(A) The following representation will/will not* apply to Party A and will/will not* apply to Party B:

It is a US person for US federal income tax purposes.

OR

(B) The following representation will/will not* apply to Party A and will/will not* apply to Party B:

It is a non-US branch of a foreign person for US federal income tax purposes.

OR

(C) The following representation will/will not* apply to Party A and will/will not* apply to Party B:

With respect to payments made to an address outside the United States or made by a transfer of funds to an account outside the United States, it is a non-US branch of a foreign person for US federal income tax purposes.

OR

(D) The following representation will/will not* apply to Party A and will/will not* apply to Party B:

It is a foreign person for US federal income tax purposes.

NOTE: ***Please consult with tax counsel regarding the use of the representations in paragraphs (B), (C) and (D) by a non-US partnership or trust.***