



July 12, 2013

Mr. Richard Shilts  
Director  
Division of Market Oversight  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**Re: Request for Division of Market Oversight Staff No-Action Letter Pursuant to CFTC Regulation 140.99: Reporting Requirements for Other Commodity Swaps**

Dear Mr. Shilts:

The International Swaps and Derivatives Association, Inc. (“ISDA”), The Futures Industry Association (“FIA”) and their members recognize the importance of the Part 43 regulations (the “Reporting Rules”) of the Commodity Futures Trading Commission (the “Commission” or “CFTC”) and strongly support initiatives to increase regulatory transparency. We also appreciate the efforts of Commission staff over the past several months to provide direction and clarification where possible as our members continue preparations for complying with the Reporting Rules. However, challenges remain, and therefore, ISDA and FIA, on behalf of their members that are “reporting parties” under Part 43<sup>1</sup> (collectively, “Reporting Parties”), hereby request relief from certain requirements under the Reporting Rules, as explained below.

ISDA’s mission is to foster safe and efficient derivatives markets to facilitate effective risk management for all users of derivative products. ISDA has more than 800 members from 58 countries on six continents. These members include a broad range of OTC derivatives market participants: global, international and regional banks, asset managers, energy and commodities firms, government and supranational entities, insurers and diversified financial institutions, corporations, law firms, exchanges, clearinghouses and other service providers.

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<sup>1</sup> 17 CFR Part 43 Real-Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 (Jan. 9, 2012). CFTC regulation 43.2 defines the term “reporting party” to mean “the party to a swap with the duty to report a publicly reportable swap transaction in accordance with this [Part 43] and section 2(a)(13)(F) of the [CEA].”

Based in Washington, D.C., FIA is the primary industry association for centrally cleared futures and swaps. Its membership includes the world's largest derivatives clearing firms as well as exchanges and clearinghouses from more than 20 countries. FIA seeks to promote best practices and standardisation in the cleared derivatives markets, provide policymakers with an informed perspective on the derivatives markets, and advocate for the interests of its members, its markets and its customers. FIA strives to protect open and competitive markets, protect the public interest through adherence to high standards of professional conduct and financial integrity, and promote public trust and confidence in the cleared markets.

On May 31, 2013, the Commission published 17 CFR Part 43, Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades; Final Rule (the "Final Rule"). Certain requirements in the Final Rule have the effect of expanding the scope of Other Commodity Swaps which are subject to Real Time reporting. This includes swaps that are (i) economically related to thirteen additional contracts added to Appendix B pursuant to 43.6(b)(5)(i) ("Appendix B swaps"), (ii) twelve enumerated futures-related swaps pursuant to 43.6(b)(5)(ii) ("futures-related swaps") and (iii) contracts which are neither Appendix B swaps nor futures-related swaps for which the relevant product grouping is referenced in Appendix D to the Reporting Rules ("all other commodity contracts").

Reporting Parties are working diligently to implement the changes necessary to comply with the reporting requirements for Appendix B swaps, futures-related swaps and all other commodity contracts. However these requirements require time and budget as firms are forced to reprioritize other reporting related developments. Much of the effort is manual, thus will involve significant time and effort, as further described below.

With respect to Appendix B and futures-related swaps, firms need time to build out and test the additional Real Time messages. A significant piece of this work is mapping their commodity reference prices to each of these enumerated products consistent with the definition of "economically related" instruments and specifying the underlying asset (i.e. ISDA Instrument ID) to ensure each swap is accurately reported. This is manual and time consuming to execute accurately, and as such cannot be completed in full by July 30, 2013 (the "Effective Date") as prescribed in the Final Rule. To further demonstrate why an extended implementation period is required, an estimate of the time-line to build this functionality is provided in Annex A.

ISDA and FIA respectfully request that the staff of the CFTC's Division of Market Oversight ("DMO") provide no-action relief to Reporting Counterparties from their obligations to submit Real Time reporting for Appendix B and futures-related swaps under the Reporting Rules until October 28, 2013.

With respect to implementing Real Time messaging for all other commodity contracts, the grouping and masking efforts to meet the requirements of Appendix D to Part 43--Other Commodity Swap Categories (the "swap category") and Appendix E to Part 43-- Other Commodity Geographic Identification for Public Dissemination Pursuant to 43.4(d)(4)(iii) (the "region") are significant. Reporting Parties need to analyze and translate all products to the relevant swap category and review and map all pricing and delivery points to a region in

accordance with the United Nations geoscheme.<sup>2</sup> In many cases, firms have thousands of underlying instruments in their commodity booking systems, each of which needs to be manually mapped to one of the sixty-two swap categories in Appendix D and one of the seventy-six geographical locations in Appendix E. The preceding efforts cannot be completed by Reporting Counterparties by the Effective Date. To further demonstrate why an extended implementation period is required, an estimate of the time-line to build this functionality is provided in Annex A.

Based on the complexities highlighted above, ISDA and FIA respectfully request that DMO provide no-action relief to Reporting Counterparties from their obligations to submit Real Time reporting for all other commodity contracts under the Reporting Rules until December 2, 2013.

Thank you for your consideration of these concerns. Please contact either of us or our staff if you have any questions or concerns.

Sincerely,



Robert Pickel  
International Swaps and Derivatives Association Inc.



Walt Lukken  
The Futures Industry Association  
President & Chief Executive Officer

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<sup>2</sup> <http://millenniumindicators.un.org/unsd/methods/m49/m49regin.htm>

## Annex A

### Estimated time-line to build additional Part 43 reporting for Other Commodity Swaps

For (a) expanded scope of Appendix B and economically equivalent products:

- It will take 1 person week to determine economically equivalent contracts to those 13.
- It will take 1 person week to configure block size and determine block criteria for eligible contracts
- It will take 2 person weeks to update product eligibility to incorporate those 13 and economically equivalent contracts – this includes development and user testing.

For (b) masked products which include all other commodity swaps:

- It will take 5 person weeks to map all existing pricing points/delivery points across all markets and determine a reference data strategy for ongoing maintenance of the data.
- It will take 2 person weeks to determine economically equivalency to contracts with initial block size but not part of the existing 29 or the 13 additional ones in (a)
- It will take 3 person weeks to decide and implement an internal work flows/controls for creation of new markets, pricing/delivery points with respect to Appendix D & E.
- It will take 4 person weeks to capture masking details (products & regions in Appendix D & E) across all traded instruments and reflect in FpML message.
- It will take 3 person weeks to clarify requirements for index reporting (single commodity index and bespoke index) and implement such requirements.
- It will take 6 person weeks to develop regression testing coverage and also test all the aforementioned changes.

**Certification Pursuant to Commission Regulation 140.99(c)(3)**

As required by Commission Regulation 140.99(c)(3), I hereby (i) certify that the material facts set forth in the attached letter dated July 12, 2013 are true and complete to the best of my knowledge; and (ii) undertake to advise the Commission, prior to the issuance of a response thereto, if any material representation contained therein ceases to be true and complete.

Sincerely,

Handwritten signature of Robert C. Pickel in cursive script.

Robert Pickel  
International Swaps and Derivatives Association Inc.

Handwritten signature of Walt Lukken in cursive script.

Walt Lukken  
The Futures Industry Association  
President & Chief Executive Officer