

September 30, 2013

Mr. Sergey Shvetsov
First Deputy Governor of the Bank of Russia
9 Leninskiy Prospekt, Moscow, GSP-1, 119991 Russia

Re: Trade reporting in Russia

Dear Mr. Shvetsov:

The International Swaps and Derivatives Association, Inc. (“**ISDA**”) and the National Association of Securities Markets Participants (“**NAUFOR**”, together “The Associations”) on behalf of their members with reporting obligations under the Russian securities legislation and rules of the Federal Financial Markets Service, and other similarly situated persons, are writing to you with a proposal (i) to delay the start of certain reporting requirements; and (ii) phase in the implementation taking into account the time needed to solve current outstanding questions (including technical issues), as further specified in this letter. We hope that our proposal will be favorably considered by you.

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.

NAUFOR is the Russian securities and collective investments self-regulatory organization with over 260 broker-dealers, banks and asset managers in the membership. We set rules and standards for our members covering virtually every aspect of business in financial markets. Our mission is to improve securities regulation and promote fair and efficient market that benefits investors and intermediaries alike. We protect investors and supervise member firms through headquarters in Moscow and 12 regional offices across the country.

Under a license from ISDA, NAUFOR develops and administers Russian-law OTC Derivatives Master Agreement and an extensive range of asset class specific documentation.

The Associations recognize the importance of the **Russian Reporting Legislation and Rules** and strongly support initiatives to increase regulatory transparency globally. At the same time we

want to highlight the impact of the reporting regulation on netting and stress that an enforceable netting regime is essential for an orderly functioning of derivatives and repo markets.

To support our members, who also are participants in Russian derivatives markets, in their preparations for complying with the Russian reporting requirements, ISDA formed two working groups: a Russian Regulatory Reporting working group and a more technical oriented Russian FpML reporting working group. The groups are meeting on a weekly basis and diligently analyzing the reporting requirements and evaluating how these requirements can be met. In the process the group evaluates where they can leverage existing industry infrastructure or if the requirements are such that new infrastructure needs to be developed. The latter would be more complex and costly and require a longer implementation timeline.

Despite this work, member firms and other market participants have encountered a set of roadblocks where further guidance from the regulator would be beneficial and essential. We are writing to you to detail the category of questions outstanding on which we hope to engage in a dialogue with the regulator. In addition we provide a suggested, amended, timeline for implementation of the reporting obligations in the Russian Federation. Given the outstanding items and the additional uncertainty related to the development of new legislation for trade repositories and reporting we are of the opinion that a start date for reporting of November 5, 2013 is not feasible to meet, although all our efforts were and are directed towards that deadline. This is also because some of the open items, once resolved, would require substantial time to build in terms of infrastructure for reporting, to test and to implement. An implementation without resolving the outstanding questions, on the other hand, has high risks of adversely impacting the quality of the data reported and limiting the value of the data considerably because of various gaps or possible overlap in data. A clean up of the data after the start date will be costly and time intensive. Lastly, the impact of new legislation on the current specifications will need to be analyzed and the impact can not be fully assessed until the law is published.

In view of the above we propose to delay the start of reporting on November 5th and as an industry to commit to a revised timeline, as detailed below. We understand that our proposal will likely delay netting enforceability, but in the current circumstances only additional time will allow for the outstanding questions to be discussed and worked out in collaboration with the regulator. We believe that the additional time will also increase the quality of the reporting.

In case existing legislation is not changed or the new trade reporting legislation is adopted on or before December 31, 2013, we propose the following:

- **March 30, 2014:** start of trade reporting (FX swap and repo) without the reporting of collateral information or status of obligations (Compliance Date 1 - CD1)
- **June 30, 2014:** start reporting of all additional products required to be reported under the legislation and rules, together with the reporting of status of obligations for all products required to be reported but without the reporting of collateral information (Compliance Date 2 - CD2)
- **September 30, 2014:** start reporting of collateral information for all product (Compliance Date 3 - CD3)

If the new trade reporting legislation is adopted after December 31, 2013, given the impact the legislation might have on the reporting requirements, we propose to link the start date of reporting for the different compliance dates in the following way:

- Start of trade reporting for FX swap and repo without the reporting of collateral information or status of obligations (CD1): 90 days following the publication date of the new legislation.
- Start reporting of all additional products required to be reported under the legislation and rules, together with the reporting of status of obligations for all products required to be reported but without the reporting of collateral information (CD2): 180 days following the publication date of the new legislation.
- Start reporting of collateral information for all products (CD3): 270 days following the publication date of the new legislation.

The following issues directly impact an orderly reporting start of November 5th, 2013 and make that date not feasible for the start of reporting:

1) Trade Formats

Trades can often be represented in different formats. Of particular concern for a November 5 start date is the representation and reporting of an FX swap. One party might represent and confirm a transaction as a swap, another party might represent and look to report the same transaction as a spot and a forward, with a link_id and confirm as a spot and a forward trade. Given the current November 5 scope, parties representing and confirming these as spot and forward trades will not consider these transactions to be part of the scope and not start reporting on November 5. This will in turn lead to one sided reporting by the party that does report an FX swap, without a match with a submission from the other party. FX swap transactions internationally are often confirmed using Swift messages, where they are represented and confirmed as separate spot and forward transactions. In the Russian market the representation as an FX swap is more common. A common approach should be agreed to ensure proper reporting for these transactions.

2) Quarterly versus Daily Reporting

For FX swaps with duration of less than four days reporting parties have the choice whether they report daily or on a quarterly basis. If one party to a trade provides daily reporting and the other quarterly, it creates one sided submissions to the repository and it may be difficult if not impossible to match the trade. In addition a timely settlement status can not be provided if a party reports quarterly and the trade stays unmatched. The issue can be compounded if parties use different trade formats. Different market participants choosing different ways of reporting the short dated transactions will be difficult to manage and lead to incomplete data that will pose challenges to the regulator when analyzing the data. For these reasons we suggest for the regulator to review this reporting option with market participants.

We do note that the absence of a matched trade has an important impact beyond reporting in that the trade will not be subject to the protections in the netting legislation.

3) Life Cycle Events

There is no current agreement on or prescription of the precise life cycle events that need to be reported and the associated work flows. The Russian Reporting Regulation requires submission to a trade repository (“TR”) of information about execution, alteration, performance and termination of trades and codes of status of obligations under trades. However, the regulation does not provide guidance as to how the above terms (especially, alteration, performance and termination) should be construed in the context of the reporting obligation. In particular, it is unclear whether actual physical payments/deliveries (or a failure to make a payment/delivery, in full or in part) during the life of a trade need to be reported and how information about performance and termination of a trade differs from that on codes of status of obligations under a trade. In addition, there is a degree of uncertainty as to whether information about novation, assignment and netting is reportable.

Absent this agreement it is very difficult to build and implement life cycle event reporting in a consistent way across the whole reporting infrastructure. In addition, there may be a case that the reporting of certain types of information is specific for the Russian market and not something the industry can leverage from infrastructure built for other jurisdictions.

4) Backloading

The Russian Reporting Regulation requires the parties to a trade entered into under a master agreement to submit information about the execution, alteration, performance and termination of that trade as well as about the codes of status of obligations under that trade. At the same time, the Russian Reporting Regulation provides for a nine month period (calculating from the date when the information about a TR commencing repository operations with respect to the relevant types of transactions first appears on the regulator's web-site) for reporting of trades entered into after August 11, 2011 but prior to execution of a TR services agreement with the TR.

We would like to confirm with the regulator that the Russian Reporting Regulation establishes that unless a trade captured by the nine month grace period is reported to the TR, the registration of the master agreement does not trigger the requirement to report to a TR about the alteration, performance and termination of that trade as well as about the codes of status of obligations under that trade. The ability to register the master agreement without triggering that requirement would allow proper planning and start of reporting on an agreed date. It will additionally allow firms to backload trades over a certain period of time, before the start of reporting of new trades. A period that allows for registration of the master agreement and back loading of trades of two months before the actual start date of reporting would greatly facilitate an orderly start of reporting. It would also reduce the burden for TRs as otherwise all market participants would look to register master agreements and backload trades at the same time. We also note that the TR specifications for backloading are not fully available to date.

At this point in time, we are of the opinion that the above issues cannot be solved and implemented for a November 5 start date. A change of the reporting implementation dates in line with the timeline proposed above would provide us with sufficient time to discuss with the regulator and the trade repositories and agree on solutions while allowing sufficient time for implementation and testing of those solutions.

In addition we would like to bring to your attention a set of issues that, although not directly impacting the initial start date of reporting, are issues where we would very much welcome the guidance from the regulator on how to proceed.

1) Counterparty Scope

The exact scope of counterparties that are required to report transactions needs further clarification. In particular, we would like to confirm with the regulator that trades documented under a master agreement between a non-Russian entity and the following types of counterparties are not subject to the reporting obligation under Russian law:

- Russian citizens domiciled and entering into a trade outside of Russia;
- Russian citizens who are also citizens of another state;
- non-Russian citizens domiciled in Russia;
- Foreign branches of Russian legal entities; and
- Russian branches of non-Russian legal entities.

2) Collateral Reporting

Although we understand that collateral reporting is not required on November 5, one of the current collateral related reporting requirements is to report collateral on a trade by trade basis, while collateral is calculated typically on a portfolio basis. We strongly recommend allowing for reporting of collateral on a portfolio basis in all cases, and have the reporting of collateral start after reporting for all products has commenced. The changes required to allocate collateral on a trade basis are considerable, while not reflecting the actual collateral calculations and process. The costs to implement trade level collateral reporting are very high, while the benefit to regulator of this information will be limited compared to the portfolio level information which reflects the actual collateral process. We support the reporting of collateral information as part of increasing regulatory transparency, we note that discussions on collateral reporting are ongoing in other jurisdictions and would like to harmonize the solutions and be able to leverage the required industry infrastructure and build.

3) Block Allocation

An Investment Manager who manages multiple funds often executes a so called block transaction which is typically large in size to benefit from better pricing. After execution of the block transaction, the block trade will be allocated in smaller trades to the different funds. The legal counterparties to the trade are the funds and the confirmation will happen on the allocated/fund level.

Clarification is sought whether, in the case where a block trade is executed with an Investment Manager Fund which is subsequently allocated to fund counterparties, both the block trade and the allocated trade should be reported, or should participants only report the allocated trade. In case both are required to be reported, further guidance is needed on the treatment of the block trade component once the allocations are reported.

4) One Sided Submission

We would like to confirm that in cases where participants are submitting reports that do not match, or if one counterparty does not submit their trade, resulting in the trade not being

registered at the TR, the party submitting the trade has met its regulatory obligation by providing their side to the TR.

Thank you for your consideration of these concerns. We very much look forward to hearing from you and stand ready to discuss.

Sincerely,

Robert Pickel
Chief Executive Officer
ISDA

Alexey Timofeev
Chairman
NAUFOR