

Request for No-action Letter - Commission Regulations Part 45

April 9, 2013

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

Re: Request for No-action Relief Regarding Reporting on Confirmation Data

Dear Mr. Shilts:

The International Swaps and Derivatives Association, Inc. (“**ISDA**”), on behalf of its members with reporting obligations under Part 45¹ of the Regulations of the Commodity Futures Trading Commission (the “**Commission**”) and other similarly situated persons, is requesting that the compliance date for reporting of confirmation data in electronic format be extended for six months, from April 10, 2013 to October 10, 2013.

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.

ISDA recognizes the importance of the Part 45 rules and strongly supports 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 Part 45.

¹ See, 17 CFR § 45.

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Despite this work, as Commission staff is aware, ISDA member firms and other market participants have encountered certain technical impediments to full compliance with Part 45. We sincerely appreciate the recommendations of your staff to provide no-action relief in a number of these instances.

Part 45.3 of the Commission's rules states that during the first 180 calendar days following the compliance date, if reporting of confirmation data in normalized data fields is not yet technologically practicable, the reporting party may report image files of such documents. The industry understands that the period during which such image file reporting of confirmation data is permissible with respect to swap transactions in the rates and credit asset classes may expire on April 10, 2013. For certain transaction types, however, it will remain technologically impracticable to report confirmation data in normalized data fields after that date. Despite the development efforts by the industry over the past months, certain transaction types cannot currently be represented either in FpML format or as searchable documents. On behalf of its members, ISDA requests that the Division of Market Oversight not recommend that the Commission take enforcement action against a reporting counterparty for a failure to comply with the requirements of Sections 45.3(b)(3), 45.3(c)(1)(iii), 45.3(c)(2)(iii) and 45.3(d)(3) that confirmation data be reported to a swap data repository electronically until the earlier of (i) the date on which all confirmation data elements for a relevant swap transaction can be represented electronically in FpML format, (ii) the date on which all confirmation data can be represented in a searchable document and (iii) October 10, 2013.

Market participants have been aiming to systematically report the confirmations of the trades which are not electronically confirmed between parties as searchable documents. This requires workflow changes with counterparties in order to discontinue practices such as faxing of confirmations and manual annotations of trade confirmations. Flows with end-user counterparties are most impacted by these practices.

ISDA believes that the requested no-action relief is necessary to, among other things; allow market participants additional time to further redesign processes to enable reporting of confirmations in FpML format and, alternatively, as searchable documents. While ISDA understands that the April 10, 2013 compliance date may only apply to swap transactions in the rates and credit asset classes, the issues described above are not unique to those asset classes. ISDA respectfully requests that any granted no-action relief apply equally to all swap transactions required to be reported pursuant to the provisions of Part 45. During the term of any granted relief, firms will continue to provide such data in image files.

For these reasons, ISDA requests that the Division of Market Oversight recommend no-action relief regarding the reporting of certain confirmation data for all asset classes from April 10, 2013 to October 10, 2013.

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Thank you for your consideration of these concerns. Please contact me or ISDA staff if you have any questions or concerns.

Sincerely,



Robert Pickel
Chief Executive Officer

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 April 9, 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.