



*International Swaps and Derivatives Association, Inc.*

**REGULATORY MARGIN SELF-DISCLOSURE LETTER – AUSTRALIA SUPPLEMENT**

***published on December 23, 2016***

***by the International Swaps and Derivatives Association, Inc.***

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*Various jurisdictions are implementing regulatory margin requirements for uncleared derivatives transactions based on the framework published by the Basel Committee on Banking Supervision and the International Organization of Securities Commissions.<sup>1</sup> Regulatory margin requirements based on the BCBS-IOSCO Framework have been proposed or adopted in, relevantly, (i) Canada, (ii) the European Union, (iii) Japan, (iv) Switzerland, (v) the United States, (vi) Australia, (vii) Singapore and (viii) Hong Kong and it is expected that other jurisdictions will propose and adopt similar requirements. The ISDA Regulatory Margin Self-Disclosure Letter, published on June 30, 2016, (“Original Self-Disclosure Letter”) is intended to assist market participants with the exchange of the information necessary to determine if, and when, their trading relationship will become subject to regulatory margin requirements for uncleared swaps in one or more of the following jurisdictions: (i) Canada, (ii) the European Union, (iii) Japan, (iv) Switzerland, and (v) the United States. The Original Self-Disclosure Letter is available at <http://www2.isda.org/functional-areas/wgmr-implementation/isda-regulatory-margin-self-disclosure-letter/>. This Self-Disclosure Letter is intended to provide market participants with a standard form for providing counterparties with information necessary to determine if and when compliance with the Australian regulatory margin regime will be required. The information provided in this Letter is being provided solely for making such determinations. This Self-Disclosure Letter is a stand-alone document. Counterparties may exchange information using this Letter without exchanging the Original Self-Disclosure Letter. Market participants who wish to provide information necessary to determine if and when the Australian regulatory margin regime and one or more of the regulatory margin regimes covered by the Original Self-Disclosure Letter apply should exchange both this Letter and the Original Self-Disclosure Letter.*

**Capitalized terms used in this Letter are defined in Appendices I-II.**

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<sup>1</sup> See *Margin requirements for non-centrally cleared derivatives* (Mar. 2015) (“**BCBS-IOSCO Framework**”), available at <https://www.bis.org/bcbs/publ/d317.htm>.

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### **Instructions:**

**Section 1 of this Self-Disclosure Letter (the “Letter”) requests general information about the market participant on whose behalf this Letter will be delivered (referred to herein as “Principal”). Section 2 of this Letter requests Australia-specific information.**

**This Letter should be completed and delivered on behalf of Principal to another market participant (referred to herein as “Recipient”) if Principal or Recipient may be subject to the Australian regulatory margin regime, including if Australia is a jurisdiction that they have been informed or otherwise have reason to conclude is a jurisdiction in which Recipient is generally regulated for purposes of uncleared derivatives margin. In addition, market participants that are subject to direct regulation under the uncleared derivatives margin rules of Australia should complete this Letter. This Letter does not need to be completed if Australia-specific information is not required for the particular relationship between Principal and Recipient.**

**For example, if this Letter is being delivered to a Recipient that is an “APRA covered entity” (as defined in paragraph 3 of Australian Prudential Standard CPS 226 *Margining and risk***

*mitigation for non-centrally cleared derivatives*), such Recipient will likely need the information requested in this Letter to determine whether and how the Australia APRA Margin Requirements apply to the particular relationship between Principal and Recipient. At the same time, if Principal is itself an APRA covered entity, Recipient will likely need this information for its own purposes, including (if it is regulated in a different jurisdiction) potential application of substituted compliance and other rules.

Thus, when preparing to fill out this Letter for particular Recipients, market participants should consider obtaining instructions from the Recipient ahead of time if it is not clear whether the Recipient needs this Letter completed.

If you are unsure of whether the Australian regulatory margin regime will apply to Principal's relationship with a Recipient, you should contact the applicable Recipient. Market participants may exchange contact information for this purpose by using Section 1(c).

**1. General Biographical Information**

*Please complete this Section 1 with the biographical information of Principal. Definitions of certain terms used in this Section 1 are set forth in Appendix I to this Letter.*

**(a) Principal Information**

Legal Name: \_\_\_\_\_  
Entity Identifier: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Country: \_\_\_\_\_  
State/Province: \_\_\_\_\_  
Zip/Postal Code: \_\_\_\_\_

**(b) Multibranch Entity Information<sup>2</sup>**

Is Principal a Multibranch Entity?

Yes  
 No

**(c) Contact Information**

*This space may be used to provide contact information to a Recipient who may have questions about information provided by Principal in its Letter or about what information to provide in its corresponding Letter to Principal. This contact information is not required and is solely for purposes of providing an address for Recipient to direct questions regarding this Letter or Principal.*

Name: \_\_\_\_\_  
E-Mail: \_\_\_\_\_  
Phone: \_\_\_\_\_

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<sup>2</sup> It may be necessary to track branches for purposes of establishing when a pair of counterparties is within the scope of margin rules. See, e.g., paragraph 5 of CPS-226.

## 2. Australia Information

*If the Australia APRA Margin Requirements may apply to the relationship between Principal and Recipient (i.e., if either Principal or Recipient is an entity subject to Australia APRA Margin Requirements), please complete each relevant subsection of this Section 2. Definitions of certain terms used in this Section 2 are set forth in Appendix II to this Letter.*

### (a) ***Australia APRA Margin Requirements Entity Status***

*Please check one box for each of the questions below. By checking a box, Principal is indicating that its entity status for purposes of Australia APRA Margin Requirements is the status specified next to the box checked.*

#### (i) APRA Covered Entity

Is Principal an APRA Covered Entity?

- Yes  
 No

#### (ii) APRA Level 2 Group Member

If Principal is not an APRA Covered Entity, is Principal an APRA Level 2 Group Member?<sup>3</sup>

- Yes  
 No

#### (iii) APRA Covered Counterparty

Is Principal an APRA Covered Counterparty?

- Yes  
 No

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<sup>3</sup> Paragraph 4 of CPS-226 provides that “A requirement imposed on an APRA covered entity that is also the Head of a Level 2 group is to be read as requiring that APRA covered entity to ensure that each member of the Level 2 group that is a covered counterparty complies with the requirements of this Prudential Standard as if it were itself an APRA covered entity.” The footnote to this paragraph provides that “For the avoidance of doubt, a reference to an ‘APRA covered entity’ in this Prudential Standard is to be read, for the purposes of paragraph 4 of this Prudential Standard, as a reference to the entity and also all members of an APRA covered entity’s Level 2 group that are covered counterparties”.

(b) ***Australia Cross-Border Status***<sup>4</sup>

*If Principal is an APRA Covered Entity which is an entity incorporated in a country other than Australia and has indicated that it is a Multibranch Entity in Section 1(b), please complete the questions below, as applicable.*

(i) Eligible Foreign Covered Entity

Is Principal an Eligible Foreign Covered Entity?

- Yes  
 No

(ii) Transactions booked to an Australian branch

*If Principal is an Eligible Foreign Covered Entity, please indicate whether Principal will transact in CPS-226 NCC Derivatives with Recipient which are booked in the accounts of an Australian branch. If Principal checks the box next to “No Australian Branch Transactions”, it is indicating that it will not enter into CPS-226 NCC Derivatives with Recipient which are booked in the accounts of one or more of its branches in Australia. If Principal checks the box next to “Australian Branch Transactions”, it is indicating that it may enter into CPS-226 NCC Derivatives with Recipient which are booked in the accounts of one or more of its branches in Australia.*

- No Australian Branch Transactions  
 Australian Branch Transactions

(c) ***Australia AANA Information***

*If Principal has been identified as an APRA Covered Entity in Section 2.(a)(i), as being an APRA Level 2 Group Member in Section 2.(a)(ii) or has been identified as an APRA Covered Counterparty in Section 2.(a)(iii), please complete each of the questions below, as applicable.*

(i) Australia AANA Group Information

(1) Is Principal a member of an Australia AANA Group?

- Yes  
 No

(2) If Principal is a member of an Australia AANA Group, please provide the following information for the ultimate parent entity of such Australia AANA Group:

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<sup>4</sup> This section follows the new wording in paragraph 5 of CPS-226. This section applies to a Principal which is an APRA Covered Entity.

Legal Name: \_\_\_\_\_

Entity Identifier: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Country: \_\_\_\_\_ City: \_\_\_\_\_

Province/State: \_\_\_\_\_

Postal Code/Zip Code: \_\_\_\_\_

(ii) 2016 Australia AANA Threshold<sup>5</sup>

*Please check one of the boxes below*

- *Checking the first box below indicates that Principal's Australia AANA for 2016 is not above AUD 3 billion.*
- *Checking the second box below indicates that Principal's Australia AANA for 2016 is above AUD 3 billion but not more than AUD 4.5 trillion.*
- *Checking the third box below indicates that Principal's Australia AANA for 2016 is above AUD 4.5 trillion.*
- *Checking the fourth box below indicates that Principal's Australia AANA information will be separately reported by its Australia Ultimate Parent.*
- *By checking the fifth box below, Principal is indicating that its Australia AANA information will be separately reported by a third party other than its Australia Ultimate Parent; if the fifth box is checked, Principal should also provide appropriate contact information regarding who that third party is.*

- Not above AUD 3 billion Australia AANA
- Above AUD 3 billion but not more than AUD 4.5 trillion Australia AANA
- Above AUD 4.5 trillion Australia AANA
- Australia AANA information will be separately reported by Principal's Australia Ultimate Parent
- Australia AANA information will be separately reported by the following person:

Legal Name: \_\_\_\_\_

Entity Identifier: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Country: \_\_\_\_\_ City: \_\_\_\_\_

Province/State: \_\_\_\_\_

Postal Code/Zip Code: \_\_\_\_\_

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<sup>5</sup> Please note that counterparties may have to exchange AANA information on an annual basis, for which ISDA may publish a separate form, and ISDA Amend will be built to facilitate, subsequent exchanges of AANA information.



(iii) Australia AANA Threshold Estimate for Variation Margin

*If Principal's Australia AANA is not above AUD 3 billion in 2016, please indicate the estimated year (if any) in which Principal expects to cross the threshold of an Australia AANA above AUD 3 billion for the relevant year listed below by checking the appropriate box below. A person completing this form may also select "Decline to answer" in this section.*

*This information is not mandatory, is not a representation that Principal will, in fact, cross the threshold in the indicated year, and is provided solely to enable Recipient to plan for future documentation or other changes that may be necessary to comply with regulatory variation margin requirements.*

- 2017
- 2018
- 2019
- 2020
- None of the above
- Decline to answer

(iv) Australia AANA Threshold Estimate for Initial Margin

*If Principal's Australia AANA is not above AUD 4.5 trillion in 2016, please indicate the estimated year (if any) in which Principal expects to cross the relevant Australia AANA threshold by checking the appropriate box below. A person completing this form may also select "Decline to answer" in this section.*

*This information is not mandatory, is not a representation that Principal will, in fact, cross the relevant threshold in the indicated year, and is provided solely to enable Recipient to plan for future documentation or other changes that may be necessary to comply with regulatory initial margin requirements.*

- 2017 (AUD 3.375 trillion Australia AANA)
- 2018 (AUD 2.25 trillion Australia AANA)
- 2019 (AUD 1.125 trillion Australia AANA)
- 2020 (AUD 12 billion Australia AANA)
- None of the above
- Decline to answer

The information provided in this Letter is, to the best of Principal’s knowledge and belief accurate as of the date of completion of this Regulatory Margin Self-Disclosure Letter – Australia Supplement. As to information other than answers provided in Sections 2(c)(iii) and 2(c)(iv), Principal agrees to promptly provide updates if any such information changes in any material respect.

[Name of Principal]<sup>7</sup>

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date of Completion:

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<sup>7</sup> If this Letter is being delivered by an agent on behalf of one or more Principals, the agent should insert “as agent for [name of Principal][the Principals named on the attached sheet].” If the agent is acting on behalf of more than one Principal, (i) it may list the names of such Principals on a separate sheet and (ii) this Letter should be treated as if it were a separate Letter with respect to each Principal listed on such sheet. Similarly, if this Letter is being delivered by a trustee on behalf of one or more trusts or trust funds, the trustee should insert “as trustee for [name of trust or trust fund][the [trusts][trust funds] named on the attached sheet].”

## **Appendix I: Definitions – General Biographical Information**

“*Entity Identifier*” means an [LEI/GEI/other acceptable identifier].

“*Letter*” or “*Self-Disclosure Letter*” means this Regulatory Margin Self-Disclosure Letter – Australia Supplement, as published by the International Swaps and Derivatives Association, Inc. on December 23, 2016.

“*Multibranch Entity*” means a bank or other entity that has local branches, offices or agencies in multiple jurisdictions for purposes of the Australia APRA Margin Requirements.

“*Principal*” means the market participant whose information is disclosed in this Letter, as identified in Section 1(a).

“*Recipient*” means the derivatives counterparty of Principal to whom this Letter is or will be delivered.

## **Appendix II: Definitions – Australia Information**

“**APRA**” means the Australian Prudential Regulation Authority.

“**APRA Covered Counterparty**” means an entity which is a CPS-226 FI. Notwithstanding the foregoing, APRA Covered Counterparty does not include any entity that is an Excluded Covered Counterparty.

“**APRA Covered Entity**” means any of the following: (i) an authorised deposit-taking institution (ADI) (including a foreign ADI), and a non-operating holding company authorised under the Banking Act (authorised banking NOHC); (ii) a general insurer (including a Category C insurer), a non-operating holding company authorised under the Insurance Act (authorised insurance NOHC) and a parent entity of a Level 2 insurance group; (iii) a life company (including a friendly society and an eligible foreign life insurance company), and a non-operating holding company registered under the Life Insurance Act (registered life NOHC); and (iv) a registrable superannuation entity (RSE) under the SIS Act. Each of these terms has the meaning which it has for the purpose of the Australia APRA Margin Requirements.

“**APRA Level 2 Group Member**” means a member of a Level 2 Group in respect of which an APRA Covered Entity is the Head of Level 2 Group other than an Excluded Special Purpose Vehicle.

“**Australia AANA**” means an amount in AUD equal to the simple average of the total notional amount of outstanding CPS-226 NCC Derivatives at the end of March, April and May of a given year. The total notional amount for this purpose is the aggregate of all outstanding CPS-226 NCC Derivatives across all entities within an Australia AANA Group, excluding transactions between two counterparties in the same Australia AANA Group (unless otherwise required by APRA) but, for the avoidance of doubt, including physically settled foreign exchange forward transactions and physically settled foreign exchange swaps.

“**Australia AANA Group**” means a group, comprising one or more entities within the meaning of: (i) Australian Accounting Standard AASB 10 as in force from time to time; or (ii) if Principal is an APRA Covered Entity which has elected to apply equivalent foreign accounting standards, the equivalent foreign accounting standards that apply to the APRA Covered Entity’s consolidated financial statements.

“**Australia APRA Margin Requirements**” means CPS-226.

“**Australia Ultimate Parent**” means the person identified in Section 2.(c)(i)(2) of this Letter.

“**CPS-226**” means APRA Prudential Standard CPS 226 *Margining and risk mitigation for non-centrally cleared derivatives* published by APRA on 17 October 2016.

“**CPS-226 Derivative**” is any of the following: (i) a derivative (within the meaning of Chapter 7 of the *Corporations Act 2001* (Australia)) or (ii) an arrangement that is a forward, swap or option, or any combination of those things, in relation to one or more commodities; but does not include any arrangement that is of a kind mentioned in subregulation 6(2) of the *Payment Systems and Netting Regulations 2001* (Australia).

“**CPS-226 FI**” means a financial institution and includes, but is not limited to, any institution engaged substantively in one or more of the following activities (domestically or overseas) – banking; leasing; issuing credit cards; portfolio management (including asset management and funds management); management of securitisation schemes; equity and/or debt securities, futures and commodity trading and broking; custodial and safekeeping services; insurance and similar activities that are ancillary to the conduct of these activities. An authorised NOHC, a registered life NOHC, or any overseas equivalent is considered a financial institution. For the avoidance of doubt, hedge funds, trading firms, and foreign deposit-taking institutions are considered to be financial institutions. Each of these terms has the meaning which it has for the purpose of the Australia APRA Margin Requirements.

“**CPS-226 NCC Derivative**” means a CPS-226 Derivative that is not cleared through a central counterparty. This does not include exchange traded derivatives (being a derivative that is transacted directly through an organised, licensed and regulated exchange), securities financing transactions (these are transactions such as repurchase agreements, reverse repurchase agreements and securities lending and borrowing transactions where the value of the transactions depends on the market valuation of securities and the transactions are typically subject to margin agreements) and indirectly cleared derivatives that are intermediated through a clearing member on behalf of a non-member client where the client is subject to the margin requirements of the central counterparty, or where the client provides margin consistent with the central counterparty’s margin requirements.

“**Eligible Foreign Covered Entity**” means a foreign ADI, Category C insurer or EFLIC, each as defined for the purpose of the Australia APRA Margin Requirements.

“**Excluded Covered Counterparty**” means sovereigns, central banks, multilateral development banks, public sector entities and the Bank for International Settlements and Excluded Special Purpose Vehicles.

“**Excluded Special Purpose Vehicle**” means (i) a covered bond special purpose vehicle (as defined in the *Banking Act 1959* (Australia)) that enters into derivative transactions for the sole purpose of hedging; or (ii) a securitisation special purpose vehicle (being a special purpose vehicle that purchases and holds, or otherwise holds directly in its name, the pool for the purpose of a securitisation. The special purpose vehicle's acquisition of exposures held in the pool is typically funded by debt issued by the SPV, including through the issue of securities or units by the special purpose vehicle) in a traditional securitisation (being a securitization where the pool is transferred (or assigned) to, and held by, or otherwise held directly in its name by, a special purpose vehicle) that enters into derivative transactions for the sole purpose of hedging; or (iii) a special purpose vehicle or collective investment vehicle established for the sole purpose of acquiring and holding or investing in real estate or infrastructure assets, that enters into derivative transactions for the sole purpose of hedging.

“**Head of Level 2 Group**” means each of the following: (i) where an ADI that is a member of a Level 2 Group is not a subsidiary of an authorised banking NOHC or another ADI, that ADI; (ii) where an ADI that is a member of a Level 2 Group is a subsidiary of an authorised banking NOHC, that authorised banking NOHC; (iii) the parent entity of a ‘Level 2 insurance group’ as defined in APRA Prudential Standard GPS 001 *Definitions*.

**“Level 2 Group”** means the entities that comprise: (i) ‘Level 2’ as defined in APRA Prudential Standard APS 001 *Definitions*; or (ii) a “Level 2 insurance group” as defined in APRA Prudential Standard GPS 001 *Definitions*.