

October 10, 2014

Mr. Vincent McGonagle
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: SDR Reporting Requirements for Cross-Border Swaps

Dear Mr. McGonagle:

The International Swaps and Derivatives Association, Inc.¹ (“ISDA”) and its members recognize the importance of the Part 45 and Part 46 regulations (the “Reporting Rules”) of the Commodity Futures Trading Commission (the “Commission” or “CFTC”) and strongly support initiatives to increase regulatory transparency. ISDA, on behalf of its members that are “reporting counterparties” under Part 45² and Part 46³ (collectively, “Reporting Parties”), is writing to request an extension of certain no-action relief issued pursuant to CFTC Letter No. 13-75⁴ (“NAL 13-75”), as explained below.

ISDA is extremely grateful to the CFTC’s Division of Market Oversight (“DMO”) for NAL 13-75, which provides no action relief from the requirements of the Reporting Rules to non-U.S. SDs and non-U.S. MSPs established in Australia, Canada, the European Union, Japan and Switzerland (the “Enumerated Jurisdictions”), that are not part of an affiliated group in which the ultimate parent entity is a U.S. SD, U.S. MSP, U.S. bank, U.S. financial holding company, or U.S. bank holding company, while review of the requests for comparability determinations with respect to such jurisdictions continues. The relief under section II(i) of NAL 13-75 expires at the latest on December 1, 2014.

¹ Since 1985, ISDA has worked to make the global over-the-counter (OTC) derivatives markets safer and more efficient. Today, ISDA has over 800 member institutions from 64 countries. These members include a broad range of OTC derivatives market participants including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure including exchanges, clearinghouses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's web site: www.isda.org.

² 17 CFR Part 45 Swap Data Recordkeeping and Reporting Requirements, 77 Fed. Reg. 2136 (Jan 13, 2012). CFTC regulation 45.1 defines the term “reporting counterparty” to mean “the counterparty required to report swap data pursuant to this [Part 45], selected as provided in §45.8.”

³ 17 CFR Part 46 Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 Fed. Reg. 35200 (June 12, 2012). CFTC regulation 46.1 defines the term “reporting counterparty” to mean “the counterparty required to report swap data pursuant to this [Part 46], selected as provided in §46.5.”

⁴ <http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/13-75.pdf>

Request for Extension of No-Action Relief for SDR Reporting for Cross-Border Swaps

As the Commission has not yet issued its comparability determinations with respect to the Enumerated Jurisdictions, ISDA respectfully requests that DMO extend the relief issued under section II(i) of NAL 13-75 until the earlier of (i) December 1, 2015 and (ii) 30 days following the issuance of any positive comparability determination by the Commission with respect to the Reporting Rules for the jurisdiction in which the non-U.S. SD or non-U.S. MSP is established, and thereby recommend that the Commission does not take enforcement action against a non-U.S. SD or a non-U.S. MSP established in an Enumerated Jurisdiction, that is not part of an affiliated group in which the ultimate parent entity is a U.S. SD, U.S. MSP, U.S. bank, U.S. financial holding company, or U.S. bank holding company, for failure to comply with the Reporting Rules with respect to its swaps with non-U.S. counterparties that are not guaranteed affiliates, or conduit affiliates, of a U.S. person.

We further note that in the event the Commission determines that reporting in accordance with the regulations of one of the Enumerated Jurisdictions is not comparable, and thus substituted compliance may not be applied, Reporting Parties will need considerable time to alter their reporting infrastructures and gather the necessary representations and static data for their counterparties in order to comply with the Reporting Rules. Please see ISDA's December 3, 2013 letter⁵ to DMO for additional information on the relevant challenges and considerations.

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

Sincerely,



Karel Engelen
Senior Director; Head, Data, Reporting & FpML
International Swaps and Derivatives Association, Inc.

cc: David Van Wagner, Chief Counsel, Division of Market Oversight, CFTC
Nancy Markowitz, Deputy Director, Division of Market Oversight, CFTC
Laurie Gussow, Special Counsel, Division of Market Oversight, CFTC

⁵ http://www2.isda.org/attachment/NjY3OQ==/Request%20to%20DMO%20for%20No-Action%20Relief%20for%20Parts%2045%20&%2046%20Cross%20Border%20Swaps_03Dec13_FINAL.pdf

Request for Extension of No-Action Relief for SDR Reporting for Cross-Border Swaps

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 October 10, 2014 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,

A handwritten signature in black ink, appearing to read "K. Engelen", is written over a horizontal line. The signature is stylized and somewhat cursive.

Karel Engelen
Senior Director; Head, Data, Reporting & FpML
International Swaps and Derivatives Association, Inc.