ISDA Safe, Efficient Markets

19 November 2013

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ASX 24 Exchange Traded Derivatives and OTC Interest Rate Derivatives Client Clearing Service Second Consultation Paper on Draft Operating Rules

The International Swaps and Derivatives Association, Inc. ("**ISDA**")[1] welcomes the opportunity to provide comments on the Australian Securities Exchange ("**ASX**") second consultation paper on the *Draft Operating Rules for ASX 24 Exchange Traded Derivatives and OTC Interest Rate Derivatives Client Clearing Service* (the "**2nd Consultation Paper**") released on 17 October 2013.

Individual members will have their own views on different aspects of the Consultation paper, and may provide their comments to ASX independently.

In general, we have no major objections to the 2nd Consultation Paper with regards to the juniorization process.

Response to specific questions

The remainder of this letter sets out our comments in relation to the specific questions posed in the Consultation paper as it relates to OTC Clearing. The questions used below correspond to the questions used in the Consultation paper.

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 60 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.

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QUESTIONS

	Question	Feedback
A1	Do you agree with ASX's approach to the composition of the Default Portfolio? If not, why not?	It is unclear from OTC Rule 6.8[2] that the Client Positions will be terminated and cease to be Client Positions before it is combined with the House Positions to form one or more portfolios, after commencement of the default management process, for hedging, sale or auction. This is an area of concern as ASX should ensure that regulatory guidelines for segregation are not impacted when the non-ported Client Positions are combined with the House Positions prior to hedging, sale or auction of the combined portfolio. If hedging, sale or auction is part of the default management process and Loss is attributed after the default management process has been activated, how will ASX take into account the cost of the hedges, sale or auction in its Loss allocation at the point of combining the Terminated Client Contracts since the hedging/ auction/ sale occurs after this combination? If the Client Positions are closed out at the point of combination of the Client Positions and the House Positions, what Termination Value will the Client receive since the final losses, costs, charges and expenses in connection with the Default Management Process is not yet known?
B1	Do you agree with the proposed refinements to the default auction process in the Operating Rules? If not, why not?	We are generally supportive of the refinements to the auction process. It should be noted that for multi-unit auction whereby the highest bidder wins the portfolio for each auction unit is different from the modified Dutch auction whereby there is a single uniform price. We strongly believe ASX should consult with the DMG prior to making any determinations regarding default management process, such as the hedging of a portfolio, the auction units, composition of the auction portfolio, auction weights and the auctioning or sale of a portfolio.
C1	Do you agree with ASX's proposed approach to allocation of losses, costs and expenses? If not, why not?	We agree with the approach of using IM as a risk measure for allocating losses across participants.
D1	Do you have any comments on	In general, we agree to the creation of tranches to define the Priority

[2] Australian Stock Exchange, *ASX 24 Exchange Traded Derivatives and OTC Interest Rate Derivatives Client Clearing Service Second Consultation on Draft Operating Rules*, Oct 2013, OTC Rules, 6.8, Page 30.

	the draft Operating Rule amendments that give effect to OTC Commitment juniorisation?	Groups in the juniorisation process. However, we do not believe an Uneconomic Price[3] is necessary as the bid furthest from the winning bid, which may be above the Uneconomic Price, will still be ranked last in the Priority Group but above the Non-Contributing Participants. As all Mandatory Participants are conscious that very low bids will threaten the mutualized guaranteed fund, we believe this should serve as sufficient incentive for Mandatory Participants to bid sensibly without the need for an Uneconomic Price. The bids submitted by a Mandatory Participant will reflect the risk being brought to its portfolio and will be different for each Mandatory Participant. Additionally, we do not believe there should be a Reserve Price imposed in an auction as it may potentially result in the auction failure even though all Mandatory Participants submitted bids. The auction should set the price for the defaulted portfolio without the need to set a minimum price ahead of the auction.

Yours sincerely,

For the International Swaps and Derivatives Association, Inc.

Keith Noyes
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3 Australian Stock Exchange, *ASX 24 Exchange Traded Derivatives and OTC Interest Rate Derivatives Client Clearing Service Second Consultation on Draft Operating Rules*, Oct 2013, OTC Rules, Schedule 3, 4.6, Page 51.