



NEWS RELEASE  
For Immediate Release

## **ISDA Publishes 2015 Section 871(m) Protocol**

**NEW YORK, November 2, 2015** – The International Swaps and Derivatives Association, Inc. (ISDA) today announced the launch of the ISDA 2015 Section 871(m) Protocol.

The Protocol comes in response to changes in US tax laws, which will impose a 30% withholding tax on a variety of equity derivatives transactions that reference US equity securities. Final regulations under Section 871(m) of the Internal Revenue Code were issued by the US Treasury and Internal Revenue Service on September 17, 2015, and will affect transactions entered into from January 1, 2016.

The Protocol enables market participants to amend their ISDA Master Agreements to allocate the withholding tax to the party that takes the long position.

ISDA has published two previous Protocols prior to the release of the final regulations that address the impact of Section 871(m): the ISDA 2010 HIRE Act Protocol and the ISDA 2010 Short Form HIRE Act Protocol. The latest Protocol preserves existing provisions under the 2010 Protocols for transactions entered into before January 1, 2017. The new Protocol provisions would apply from that date. The burden of withholding tax in all three Protocols is effectively the same.

Section 871(m) was enacted in 2010, and required dividend-equivalent payments on certain US total return products to be subject to a US withholding tax of up to 30% when the long party to the trade is a non-US person. The final regulations will require withholding, unless an exception applies, on all US equity derivatives with a delta of at least 0.8 for: (i) transactions entered into during 2016, but only with respect to payments made on or after January 1, 2018; and (ii) transactions entered into from January 1, 2017.

The Protocol is open for adherence for ISDA members and non-members from November 2, 2015.

Please visit the Protocol Management section of the ISDA website to read the Protocol, updates to the list of adhering firms and a frequently-asked-questions document:

<http://www2.isda.org/functional-areas/protocol-management/open-protocols/>.

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**About ISDA**

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 68 countries. These members comprise a broad range of 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, such as exchanges, intermediaries, clearing houses 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](http://www.isda.org).

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