

International Swaps and Derivatives Association, Inc.

**REGULATORY MARGIN SELF-DISCLOSURE LETTER – HONG KONG
SUPPLEMENT**

published on December 23, 2016

by the International Swaps and Derivatives Association, Inc.

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.¹ 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) Hong Kong and (viii) Singapore, 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 Hong Kong 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 Hong Kong 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 the Appendices I-II.

¹ 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 Hong Kong-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 Hong Kong regulatory margin regime, including if Hong Kong 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 Hong Kong should complete this Letter. This Letter does not need to be completed if Hong Kong-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 “authorized institution” under the Banking Ordinance (Cap. 155, Laws of Hong Kong), such Recipient will likely need the information requested in this Letter to determine whether and how the HKMA Margin Requirements apply to the particular relationship between Principal and Recipient. At the same time, if Principal is itself an authorized institution, 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 Hong Kong 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 Information²*

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: _____

² 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 2.1.7 of the HKMA Margin Requirements.

2. Hong Kong Information

If HKMA Margin Requirements may apply to the relationship between Principal and Recipient (i.e., if either Principal or Recipient is an entity regulated under the HKMA 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) **HKMA Margin Requirements Entity Status**

Please complete each of the questions below, as applicable. By checking a box, Principal is indicating that its entity status for the purposes of the HKMA Margin Requirements is the status specified next to the box checked.

(i) Excluded Entity

If Principal is an Excluded Entity, please check one or more of the boxes below to indicate what type of Excluded Entity it is. If Principal identifies itself as an Excluded Entity, it does not need to complete the rest of this Letter.

- Sovereign
- Central Bank
- Public Sector Entity
- Multilateral Development Bank
- Bank for International Settlements

(ii) AI

If Principal has not been identified as an Excluded Entity in Section 2(a)(i), please indicate if Principal is an AI.

- Yes
- No

(iii) Covered Entity

If Principal has not been identified as an Excluded Entity, please indicate Principal's entity type by checking one of the boxes below. By checking any of the boxes below other than "None of the above", Principal indicates that it is a Covered Entity for the purposes of the HKMA Margin Requirements. If Principal has identified itself as an AI in Section 2(a)(ii), it should answer this question as well.

- Financial Counterparty³

³ See Section 2(a)(iii) below. Please note that a threshold applies: see definition of "Financial Counterparty".

- Significant Non-Financial Counterparty⁴
- An entity designated by the HKMA as a Covered Entity
- None of the above

(iv) Financial Counterparty

If Principal has been identified as a Financial Counterparty in Section 2(a)(iii), please check one of the boxes below to indicate the type of Financial Counterparty Principal falls under.

- AI
- In-Scope Licensed Corporation
- Mandatory Provident Fund Scheme
- Occupational Retirement Scheme
- Insurance Company
- Money Service Operator
- Money Lender
- Special Purpose Entity
- Collective Investment Scheme
- Private equity fund
- Overseas Regulated Entity

(b) ***Hong Kong Cross-Border Status***

(i) Place of incorporation of AI

If Principal has been identified as an AI in Section 2(a)(ii), is Principal incorporated in Hong Kong or outside Hong Kong?

- Incorporated in Hong Kong
- Incorporated outside Hong Kong

(ii) Hong Kong Branches of AI

If Principal has been identified as an AI in Section 2(a)(ii) and is an entity incorporated outside Hong Kong as indicated in Section 2(b)(i), and has also indicated that it is a Multibranch Entity in Section 1(b), please indicate whether Principal will transact in non-centrally cleared derivatives with Recipient through a Hong Kong branch. If Principal checks the box next to

⁴ Please note that a threshold applies: see definition of “Significant Non-Financial Counterparty”.

“No Hong Kong Branch Transactions”, it is indicating that it will not enter into non-centrally cleared derivatives with Recipient through one or more branches in Hong Kong. If Principal checks the box next to “Hong Kong Branch Transactions”, it is indicating that it may enter into non-centrally cleared derivatives with Recipient through one or more branches in Hong Kong.

- No Hong Kong Branch Transactions
- Hong Kong Branch Transactions

(c) ***Application of deemed substituted compliance***⁵

If (1) Principal has not been identified as an AI in Section 2(a)(ii) but has been identified as a Covered Entity in Section 2(a)(iii), and Principal is required to comply with the margin requirements of any of the foreign jurisdictions listed below; or (2) Principal has been identified as an AI in Section 2(a)(ii) and Principal intends to follow primarily the margin requirements of any of the foreign jurisdictions listed below, please indicate such jurisdictions by checking all relevant boxes:

- Australia
- Canada
- A member state of the European Union
- India
- Japan
- Republic of Korea
- Mexico
- Russia
- Singapore
- Switzerland
- United States
- None of the above

⁵ Under the HKMA Margin Requirements, the margin requirements of Australia, Canada, the European Union, India, Japan, Republic of Korea, Mexico, Russia, Singapore, Switzerland and the United States are deemed to be comparable for substituted compliance purposes from the day such requirements enter into force until a comparability assessment is completed by the HKMA. Accordingly, AIs which are allowed under the HKMA Margin Requirements to apply substituted compliance may follow the margin standards of a “deemed comparable jurisdiction”. An overseas incorporated AI should notify HKMA its intention to follow the margin standards of its home jurisdiction or a foreign jurisdiction (provided that, in each case, such jurisdiction is a deemed comparable jurisdiction or a jurisdiction for which the HKMA has issued a comparability determination) as soon as practicable and in any event before it applies the relevant foreign standards.

(d) **Hedging Declaration by Significant Non-Financial Counterparty⁶**

If Principal has been identified as a Significant Non-Financial Counterparty in Section 2(a)(iii), does Principal predominantly use non-centrally cleared derivatives for hedging purposes? If Principal checks the box next to “Yes”, it is declaring that it predominantly uses non-centrally cleared derivatives for hedging purposes. If Principal checks the box next to “No”, it is indicating that it does not predominantly use non-centrally cleared derivatives for hedging purposes.

Yes

No

(e) **Hong Kong AANA Information**

If Principal has been identified as an AI in Section 2(a)(ii) or a Covered Entity in Section 2(a)(iii), please complete each of the questions below, as applicable.

(i) **Hong Kong AANA Group Information**

(1) Is Principal a member of a Hong Kong AANA Group?

Yes

No

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

Legal Name: _____

Entity Identifier: _____

Address: _____

Country: _____ City: _____

Province/State: _____

Postal Code/Zip Code: _____

(ii) **2016 Hong Kong AANA Threshold⁷**

Please check one of the boxes below:

⁶ Under the HKMA Margin Requirements, an AI may elect not to exchange VM or IM with a Significant Non-Financial Counterparty that predominantly uses non-centrally cleared derivatives for hedging purposes, provided that: (i) the AI has put in place appropriate internal limits and risk management policies and procedures, commensurate to its risk appetite, as to monitor and control the risks of relevant exposures; and (ii) the AI has obtained a declaration from the Significant Non-Financial Counterparty that it predominantly uses the non-centrally cleared derivatives for hedging purposes.

⁷ Please note that counterparties may have to exchange AANA information on an annual basis. ISDA will publish a separate form for, and ISDA Amend will be built to facilitate, subsequent exchanges of AANA information.

- *Checking the first box below indicates that Principal's Hong Kong AANA for 2016 is above HK\$ 24 trillion.*
- *Checking the second box below indicates that Principal's Hong Kong AANA for 2016 is not above HK\$ 24 trillion.*
- *Checking the third box below indicates that Principal's Hong Kong AANA information will be separately reported by its Hong Kong Ultimate Parent.*
- *Checking the fourth box below indicates that Principal's Hong Kong AANA information will be separately reported by a third party other than its Hong Kong Ultimate Parent; if the fourth box is checked, please also provide appropriate contact information for that third party.*

- Above HK\$ 24 trillion Hong Kong AANA
- Not above HK\$ 24 trillion Hong Kong AANA
- Hong Kong AANA information will be separately reported by Principal's Hong Kong Ultimate Parent
- Hong Kong AANA information will be separately reported by the following person:

Legal Name: _____

Entity Identifier: _____

Address: _____

Country: _____ City: _____

Province/State: _____

Postal Code/Zip Code: _____

(iii) Hong Kong AANA Threshold Estimate⁸

If Principal's Hong Kong AANA is not above HK\$ 24 trillion in 2016, please indicate the estimated year (if any) in which Principal expects to cross the relevant Hong Kong 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 (HK\$ 18 trillion Hong Kong AANA)

⁸ Please note that counterparties may have to exchange AANA information on an annual basis. ISDA will publish a separate form for, and ISDA Amend will be built to facilitate, subsequent exchanges of AANA information.

- 2018 (HK\$ 12 trillion Hong Kong AANA)
- 2019 (HK\$ 6 trillion Hong Kong AANA)
- 2020 (HK\$ 60 billion Hong Kong 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 – Hong Kong Supplement. As to information other than answers provided in Section 2(e)(iii), Principal agrees to promptly provide updates if any such information changes in any material respect.

[Name of Principal]⁹

By: _____

Name: _____

Title: _____

Date of Completion:

⁹ 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 – Hong Kong 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 HKMA 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 – Hong Kong Information

“**AI**” means an authorized institution under the Banking Ordinance.

“**Banking Ordinance**” means the Banking Ordinance (Cap. 155 of the Laws of Hong Kong).

“**BCR**” means the Banking (Capital) Rules (Cap. 155L of the Laws of Hong Kong).

“**CCP**” means a central counterparty as defined in section 2 of the BCR.

“**Central Bank**” means the central bank of a country or an authority of a country which performs in the country functions similar to the functions performed by the HKMA.

“**Collective Investment Scheme**” means a collective investment scheme as defined in section 1, Part 1 of Schedule 1 of the SFO.

“**Covered Entity**” means a Financial Counterparty, a Significant Non-Financial Counterparty or an entity designated by the HKMA, but excluding Excluded Entities.

“**Domestic Public Sector Entity**” means an entity specified in Part 1 of Schedule 1 to the BCR. As of the date of publication of this Letter, the following entities are specified as Domestic Public Sector Entities:

- MTR Corporation Limited.
- Kowloon-Canton Railway Corporation.
- Hong Kong Housing Authority.
- Hospital Authority.
- Airport Authority.
- The Hong Kong Mortgage Corporation Limited.
- Urban Renewal Authority.
- 香港五隧一橋有限公司 Hong Kong Link 2004 Limited.
- Hong Kong Trade Development Council.
- Ocean Park Corporation.

“**Excluded Entity**” means (i) a Sovereign, (ii) a Central Bank, (iii) a Public Sector Entity, (iv) a Multilateral Development Bank or (v) the Bank for International Settlements.

“**Financial Counterparty**” means an AI, an In-Scope Licensed Corporation, a Mandatory Provident Fund Scheme, an Occupational Retirement Scheme, an Insurance Company, a Money Service Operator, a Money Lender, a Special Purpose Entity, a Collective Investment Scheme, a private equity fund or an Overseas Regulated Entity, in each case,

where the entity or the group to which it belongs has a Hong Kong AANA of over HK\$ 15 billion.

“Foreign Public Sector Entity” means an entity specified by a relevant banking supervisory authority outside Hong Kong (whether by means of legislation or a public notice or otherwise) to be a public sector entity for the purposes of applying preferential risk-weighting treatment under capital adequacy standards formulated in accordance with:

- (a) the document entitled "International Convergence of Capital Measurement and Capital Standards" published by the Basel Committee in July 1988; or
- (b) the document entitled "International Convergence of Capital Measurement and Capital Standards – A Revised Framework (Comprehensive Version)" published by the Basel Committee in June 2006.

“HKD” or **“HK\$”** means Hong Kong dollars.

“HKMA” means the Hong Kong Monetary Authority.

“HKMA Margin Requirements” means the margin requirements as provided in the SPM Margin Module.

“Hong Kong AANA” means an amount in HKD equal to the average of the total gross notional amount of month-end positions (such month-end positions, if not in HKD, converted to HKD using corresponding month-end spot rates) of non-centrally cleared derivatives for March, April and May preceding the 1 September starting date in a relevant year for a Hong Kong AANA Group including (i) physically settled FX forward and FX swaps, the “FX transactions” embedded in cross-currency swaps associated with the exchange of principal, physically settled commodity forwards, single-stock options, equity basket options and equity index options; (ii) all non-centrally cleared derivatives of all entities within the Hong Kong AANA Group including, for the avoidance of doubt, those for which an AI faces no counterparty risk or those entered into with an Excluded Entity; and (iii) all non-centrally cleared derivatives that entities within the Hong Kong AANA Group have entered into with each other, counting each of them once.

“Hong Kong AANA Group” means a group of entities for which consolidated financial statements are prepared.

“Hong Kong Ultimate Parent” means the person identified in Section 2(e)(i)(2) of this Letter.

“In-Scope Licensed Corporation” means a corporation licensed by the Securities and Futures Commission under the SFO for any of the following types of regulated activities:

- Type 1: Dealing in securities
- Type 2: Dealing in futures contracts
- Type 3: Leveraged foreign exchange trading

- Type 4: Advising on securities
- Type 5: Advising on futures contracts
- Type 6: Advising on corporate finance
- Type 8: Securities margin financing
- Type 9: Asset management
- Type 11: Dealing in OTC derivative products or advising on OTC derivative products
- Type 12: Providing client clearing services for OTC derivative transactions

“Insurance Company” means a company authorized by the Insurance Authority to carry on any class of insurance business under the Insurance Companies Ordinance (Cap. 41 of the Laws of Hong Kong).

“Mandatory Provident Fund Scheme” means a mandatory provident fund scheme registered under the Mandatory Provident Fund Schemes Ordinance (Cap. 485 of the Laws of Hong Kong).

“Money Lender” means a money lender licensed under the Money Lenders Ordinance (Cap. 163 of the Laws of Hong Kong).

“Money Service Operator” means a licensed money service operator licensed by the Commissioner of Customs & Excise under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615 of the Laws of Hong Kong).

“Multilateral Development Bank” means an entity as specified by the HKMA by notice published in the Hong Kong Government Gazette pursuant to section 2(19) of the Banking Ordinance. As of the date of publication of this Letter, the following entities are specified as Multilateral Development Banks:

- The International Bank for Reconstruction and Development;
- The International Finance Corporation;
- The Asian Development Bank;
- The African Development Bank;
- The European Bank for Reconstruction and Development;
- The Inter-American Development Bank;
- The European Investment Bank;
- The European Investment Fund;

- The Nordic Investment Bank;
- The Caribbean Development Bank;
- The Islamic Development Bank;
- The Council of Europe Development Bank;
- The International Finance Facility for Immunization; and
- The Multilateral Investment Guarantee Agency.

“non-centrally cleared derivative” means an OTC derivative product that is not cleared through a CCP.

“Occupational Retirement Scheme” means an occupational retirement scheme registered under the Occupational Retirement Schemes Ordinance (Cap. 426 of the Laws of Hong Kong).

“OTC derivative product” means an OTC derivative product as defined in section 1B, Part 1 of Schedule 1 of the Securities and Futures (Amendment) Ordinance 2014 (Ordinance No. 6 of 2014).

“Overseas Regulated Entity” means an entity that carries on a business outside Hong Kong and is engaged predominantly in any one or more of the following activities:

- banking;
- securities business;
- management of retirement fund schemes;
- insurance business;
- operation of a remittance or money changing service;
- lending;
- securitisation (except where and to the extent that the related special purpose entity enters into non-centrally cleared derivative transactions for the sole purpose of hedging);
- portfolio management (including asset management and funds management); and
- activities that are ancillary to the conduct of these activities.

For the avoidance of doubt, an Overseas Regulated Entity would include foreign deposit-taking institutions, hedge funds, pension funds and asset managers.

“Public Sector Entity” means a Domestic Public Sector Entity or a Foreign Public Sector Entity, each as defined in section 2 of the BCR.

“**SFO**” means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong).

“**Significant Non-Financial Counterparty**” means an entity other than a Financial Counterparty for a one-year period from 1 September each year to 31 August of the following year, if the entity itself or its Hong Kong AANA Group has a Hong Kong AANA exceeding HKD 60 billion.

“**Sovereign**” means the central government of a country.

“**Special Purpose Entity**” means a special purpose entity as defined in section 227 of the BCR, except where and to the extent that the special purpose entity enters into non-centrally cleared derivative transactions for the sole purpose of hedging.

“**SPM Margin Module**” means the module entitled “Non-centrally Cleared OTC Derivatives Transactions – Margin and Other Risk Mitigation Standards (CR-G-14)” of the Supervisory Policy Manual published by the HKMA.