ISDA Safe, Efficient Markets

March 7, 2014

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Dear Sir:

1. **Introduction**

The International Swap and Derivatives Association, Inc.[1] ("**ISDA**") and the industry are appreciative of the open dialogue with the Monetary Authority of Singapore ("**MAS**") on the reporting obligations under the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 (the "**Regulations**"). The industry supports MAS' efforts to meet the G20 objective to strengthen regulatory oversight of over-the-counter ("**OTC**") derivatives through trade reporting. As specified in the Regulations, all banks in Singapore licensed under the Banking Act and all merchant banks approved as a financial institution under the Monetary Authority of Singapore Act (the "**Phase 1B participants**") will commence reporting of eligible interest rate derivatives and credit derivatives contracts to a Singapore licensed trade repository by the reporting commencement date of April 1, 2014.

The Phase 1B participants continue to work towards meeting the reporting obligations by the reporting commencement date. As you are aware, the trade reporting regime is being implemented in a number of jurisdictions, including Australia, Hong Kong, the United States ("**US**") and Europe. Each of these jurisdictions have different reporting requirements, leading to increased operational complexity and technical and resource constraints for firms subject to reporting obligations in multiple jurisdictions. At an operational level, there exist incompatibilities and contradictions which have proven to be challenging for Phase 1B participants to meet some of their reporting obligations under the Regulations. Accordingly, we would like to request MAS to consider granting relief

[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 62 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.

for certain reporting requirements in the Regulations. This will allow the Phase 1B participants to work on a solution that they each can operationalize to meet the Singapore reporting requirements and enables MAS and the industry to arrive at a workable final position with regards to the implementation of the reporting requirements in Singapore.

2. "Traded in Singapore" transactions

2.1 We commend MAS for working with the industry to identify and work through the operationalization of the "traded in Singapore" concept used in sections 125(1) and 125(3) of the Securities and Futures Act[2] (the "**Trading Nexus**") for reporting purposes. We support MAS' efforts to attain a pragmatic solution with the industry and other regional regulators through the harmonization of the definition of the Trading Nexus with other jurisdictions such as Australia and Hong Kong. A harmonized Trading Nexus definition will allow the industry to apply the same criteria when identifying such transactions across jurisdictions, which will in turn, allow for consistent reporting of transactions across the jurisdictions and reduce implementation costs.

2.2 As the Trading Nexus is a new requirement which has not yet been implemented in any other trade reporting regime, identifying and reporting these transactions will require firms to build and change their existing information technology ("**IT**") systems as they would now be required at the point of execution of the transactions to identify a trader's location (within private banking context, this would mean private bank relationship managers[3], who may execute transactions on behalf of their private bank clients. Firms may need to make extensive changes to their business as usual ("**BAU**") processes to ensure a trader's (or, in the case of private banks, a relationship manager's) identity is tagged to a particular transaction based on his location. In some instances, firms may be required to change their transaction booking process to meet this reporting requirement. The resources required to make these changes are further strained when taking into account the various reporting regimes being implemented this year. Firms are facing the practical issue of operationalizing the Trading Nexus scope. In addition to the IT build that will be needed, firms may also need to change their BAU processes around updating a trader's (or, in the case of private banks, a relationship manager's) location and maintaining these changes post implementation as part of its BAU process. As discussed with MAS, there are also issues with identifying the traders in certain transactions and under certain circumstances, which still require some work to reach a pragmatic solution that may be applied across the industry.

2.3 When the criteria for the Trading Nexus scope has been finalized, firms will need some lead time to build their systems to capture such transactions. Given the differences in the infrastructure setup in each firm, each firm would need to design their own in-house solution, implement this solution and perform system tests to ensure the appropriate transactions are identified and accurately reported.

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[2] http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%2225de2ec3-ac8e-44bf-9c88-927bf7eca056%22%20Status%3Ainforce%20Depth%3A0;rec=0;whole=yes, Securities and Futures Act (Chapter 289), Revised Edition 2006, Sections 125(1) and 125(3).

[3] For the avoidance of doubt, a private bank relationship manager does not act as a trader in the traditional sense of the word or sit on a trading desk as in the investment banking/wholesale banking context.

2.4 We respectfully request MAS to consider granting relief from the obligation to report the Trading Nexus used under sections 125(1) and 125(3) of the Securities and Futures Act, for interest rate derivatives transactions and credit derivatives transactions for 10 months from the reporting commencement date, beginning April 1, 2014 to January 31, 2015 (inclusive); or for 10 months starting from the publication of the Frequently Asked Questions ("**FAQs**"), whichever is later. For example, if the FAQs are published on May 1, 2014, the relief period should run from May 1, 2014 to February 28, 2015 (inclusive). The time period requested is similar to the industry's request to the Australian Securities and Investments Commission ("**ASIC**") for the "entered into" limb of the Australian Nexus transactions. This grace period takes into account the resourcing constraints firms will face during the Christmas and New Year holiday season as well as the IT freezes that occur at yearend. This grace period of 10 months for interest rate derivatives transactions and credit derivative transactions will also ensure middleware providers have sufficient time to allocate and implement an IT solution for the Trading Nexus transactions for the Phase 1B participants.

While the industry is appreciative of the efforts MAS has taken to provide clarity via the FAQs, the industry's ability to implement and operationalize the Trading Nexus definition will also depend on the clarity and guidance in the FAQs. The clarity and guidance of the definition of the Trading Nexus will aid in reducing the possibility of different interpretations and facilitate the adoption of a consistent approach amongst the Phase 1B participants.

When considering the commencement start date of the second phase for trade reporting ("**Phase 2**") for the other asset classes, we respectfully request MAS to factor in any potential conflicts in implementation timelines between Phase 1B and Phase 2 and the industry's preference to avoid reporting the trading Nexus transactions for all asset classes at the same time. This phased-in approach will allow firms sufficient time to upgrade their systems and to ensure their systems are able to correctly capture the required transactions for each asset class for trade reporting.

3. A Single Trade Identifier

3.1 Under the Regulations, counterparties to any uncleared contracts, that are not electronically confirmed, would need to agree on one Unique Transaction Identifier ("**UTI**") to be reported to the trade repository, otherwise referred to as the 'matching and pairing' of the UTI. ISDA, together with the industry, are developing and promoting data standards that facilitate consistent, efficient methods for reporting parties to agree, implement and maintain values suitable for use in regulatory reporting. The industry has leveraged on the Unique Swap Identifier ("**USI**") used to meet the US Commodity and Futures Trading Commission's ("**CFTC**") reporting requirements to develop a standard for generating and exchanging UTIs for the purposes of reporting one trade identifier globally. Like the USI, the goal of the UTI is to have a single trade identifier known to both parties. ISDA and the industry have developed a standard for generating and exchanging a single UTI for the purposes of global reporting as published in the paper

Unique Trade Identifiers (UTI): Generation, Communication and Matching [4] (the "**global UTI standard**"). We acknowledge that further work is necessary to ensure the acceptance of the global UTI standard by all regulators and the implementation of the UTI as a global standard by all firms subject to any trade reporting obligation.

As further work is required on the global UTI standard, we respectfully request MAS to consider granting a time limited relief from having to match and pair UTIs for all reportable transactions (including historical transactions) until April 1, 2015. As an interim solution, the industry proposes reporting the trade identifier without requiring firms to 'match and pair' such trade identifiers. The relief period will allow the industry to assess offshore developments, regarding transaction identifiers and implement a global solution that is consistent across jurisdictions and increases standardization of data being reported to the various trade repositories globally. The relief period would also allow the trade repository to build its capability to support the matching of UTIs, without which, firms will be unable to configure their internal systems to exchange a UTI by the reporting commencement date.

3.2 In Asia, a larger proportion of firms as compared to Europe and the US, are using paper confirmations as their counterparties tend to confirm their transactions this way as opposed to electronic confirmations. The confirmation and affirmation process for paper confirmations may take longer than two business days from the date of execution of the transaction, particularly for complex or bespoke transactions, as the paper confirmation may need to be generated manually instead of relying on a system generated confirmation used for standardized paper confirmations. As such, a firm may be unable to 'match and pair' the UTI for uncleared transactions, that are not electronically confirmed, within two business days as stated in the Regulations. The 'matching and pairing' process may require more than two business days as it will also depend on the counterparty's ability to consume the UTI and if this process is automated. If the process to consume a UTI is not automated, a firm will need time to introduce a manual workaround solution while building towards an automated solution. While the industry is working towards a single trade identifier or global UTI standard, however, as noted earlier, there is still further work needed before the global UTI standard may be implemented globally.

4. Masking of client information

4.1 As stated in paragraph 11 of the Regulations[5], a specified person may defer reporting client information if "(a) he is prohibited from reporting the counterparty information by (i) the laws of any jurisdiction specified in the Fifth Schedule; or (ii) any requirements imposed on him by any authority of any jurisdiction specified in the Fifth Schedule; and (b) where the laws or requirements referred to in sub-paragraph (a) allow him to report the counterparty information with the consent of the counterparty to the specified

[4] http://www2.isda.org/attachment/NjE4Ng==/2013%20Dec%2010%20UTI%20Workflow%20v8%207%208%20clean.pdf. One of the key principles provides that "if a trade requires a Unique Swap Identifier (USI), this should be used as the UTI".

[5] http://www.mas.gov.sg/~/media/MAS/Regulations%20and%20Financial%20Stability/Regulations%20Guidance%20and%20Licensing/Securities%20Futures%20and%20Fund%20Management/Regulations%20Guidance%20and%20Licensing/Regulations/Reporting%20Regs.pdf, Monetary Authority of Singapore, Securities and Futures (reporting of Derivatives Contracts) regulations 2013, paragraph 11.

derivatives contract, he has made reasonable efforts, but was unable, to obtain such consent."

We commend MAS for recognizing a firm's inability to disclose client information to a trade repository because of blocking statues or other applicable legal or regulatory restrictions relating to the disclosure of client information to a trade repository. While we acknowledge that the Fifth Schedule will aid the industry's compliance with the trade reporting regulations in Singapore by addressing some relevant privacy conflict issues, due to the global nature of the derivatives business, there will be additional legal regimes that will give rise to privacy conflict issues for firms. In some cases such privacy conflict issues could mean firms would have to stop trading with the relevant clients once the April 1, 2014 deadline has passed. To avoid such an outcome, we request that MAS considers allowing Phase 1B reporting entities to mask client information for all transactions where a conflict with a legal or regulatory requirement prevents them from reporting regardless of which jurisdiction the legal or regulatory requirement relates to until November 1, 2014, with the reporting of client information on or before December 31, 2014. This would align with the deferment period stated in paragraph 11[6] of the Regulations. The relief period will allow firms more time to manage these issues appropriately so as to avoid any disruption to client facing trading activity in Singapore.

4.2 As you are aware, a client in a jurisdiction not listed in the Fifth Schedule, may not grant consent to report their information to a trade repository. This would not be due to any blocking statutes or any prohibition by a relevant authority to report client information but simply due to the fact that the client will not provide consent to the firm to report their information. For example, one of the common law obligations for banks is the duty of confidentiality. Consequently, even in a jurisdiction that has no blocking statute; a bank has a duty of confidentiality to its clients and therefore cannot report the client information to a trade repository without client consent.

Clients of firms have the right to refuse to provide consent and frequently do so if there is no incentive or if there is a cost associated with this. It is also likely that requests for consent by firms would not be swiftly acted on by clients, or would need to pass through multiple channels of review before it is executed by someone with the authority to do so. Firms would need to expend considerable effort in chasing such consents, convincing and educating clients on the need to provide such consents. It may not be possible for firms to receive positive consent back from its entire client base by the reporting commencement date, especially for firms with a large client base. In such an instance, a bank has the difficult choice of either reporting the client information, in which case it will breach the duty of confidentiality owed to its client or masking the client's information, in which case it will be a breach of its reporting obligations.

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6 http://www.mas.gov.sg/~/media/MAS/Regulations%20and%20Financial%20Stability/Regulations%20Guidance%20and%20Licensing/Securities%20Futures%20and%20Fund%20Management/Regulations%20Guidance%20and%20Licensing/Regulations/Reporting%20Regs.pdf, Monetary Authority of Singapore, Securities and Futures (reporting of Derivatives Contracts) regulations 2013, paragraph 11.

4.3 Firms understand that there is a clear expectation that Phase 1B reporting entities should make all reasonable efforts to obtain consent and as noted in paragraph 11(b) of the Regulations[7], a reporting entity may have "made reasonable efforts, but was unable, to obtain such a consent". In such cases, relating to clients in jurisdictions not listed in the Fifth Schedule, we would like to request that a Phase 1B reporting entities be allowed to mask client information ("**Masking Relief**") until November 1, 2014, with the reporting of client information on or before December 31, 2014. This Masking Relief would be similar to the one granted by ASIC to the reporting banks under its regime.

5. Legal Entity Identifiers ("LEIs")

5.1 ISDA and the industry support the use of LEIs as the global standard as recommended by the Financial Stability Board ("**FSB**") and endorsed by the G20 countries. As one of the G20 objectives is to strengthen regulatory oversight of OTC derivatives through trade reporting, we commend and support MAS in their use of the LEI as the required entity identifier and as the first priority in the identifier hierarchy for "Specified Persons" in the Regulations. However, the industry anticipates some of their counterparties will not apply for LEIs by the reporting commencement date, as these firms may not have applied for LEIs for various reasons, including the costs involved or because they have no reporting obligation and are not mandated to have LEIs. A possible solution may be for regulators to work in concert globally towards the global LEI standard and to mandate the use of LEIs in their respective jurisdictions for the entities under their purview as well as entities that are counterparties to reportable transactions under their purview.

5.2 As you are aware, the reporting regime has commenced in some jurisdictions. Firms subject to the reporting regimes inn those jurisdictions, would have built their systems to meet the reporting requirements of these jurisdictions. These firms would have an existing counterparty identifier hierarchy which is used to report their transactions. It would be a significant challenge for these firms to re-configure their existing systems to apply a different counterparty identifier hierarchy for the Singapore reporting requirements. The use of alternative identifier types, beyond LEIs and pre-LEIs, would enable firms to fulfil their reporting obligation without significant system re-engineering and minimize the possibility of breaching reporting requirements, particularly for cross border transactions that are reportable in more than one jurisdiction. There will also be instances in which counterparty, particularly an end user, may not have a LEI, pre-LEI, SWIFTBIC code or any other alternative identifier code. In such instances, the Phase1B participants will have no choice but to report these transactions using an internal client code. We request MAS to consider allowing the use of internal counterparty identifiers for counterparties that are not "Specified Persons" in such instances.

5.3 We would like to request relief until April 1, 2015 during which firms could apply the following hierarchy of identifier codes when the counterparty is not a "Specified Person":

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7 http://www.mas.gov.sg/~/media/MAS/Regulations%20and%20Financial%20Stability/Regulations%20Guidance%20and%20Licensing/Securities%20Futures%20and%20Fund%20Management/Regulations%20Guidance%20and%20Licensing/Regulations/Reporting%20Regs.pdf, Monetary Authority of Singapore, Securities and Futures (reporting of Derivatives Contracts) regulations 2013, paragraph 11(b).

1. the use of LEI;
2. the use of pre-LEI if LEI is not available;
3. the use of SWIFTBIC code, DTCC ID or AVOX ID if there is no LEI or pre-LEI; or
4. the use of an internal client code if all the above identifier codes are unavailable.

Yours sincerely,
For the International Swaps and Derivatives Association, Inc.

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