

July 26, 2016

The Honorable Mark Mazur  
Assistant Secretary for Tax Policy  
Department of the Treasury  
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Washington, DC 20220

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Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Re: Section 871(m) Effective Date Delay

Ladies and Gentlemen:

On behalf of the North American Tax Working Group (“NATWG”) of the International Swaps and Derivatives Association, Inc. (“ISDA”),<sup>1</sup> I am writing in support of the comments submitted by the Securities Industry and Financial Markets Association (“SIFMA”) in its letter dated June 24, 2016 (the “SIFMA Letter”) seeking a delay of the implementation date for the final and temporary regulations under section 871(m) of the

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<sup>1</sup> Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 67 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 ISDA’s web site: [www.isda.org](http://www.isda.org).

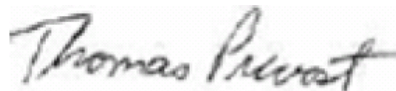
Internal Revenue Code (the “Regulations”). The NATWG respectfully requests the government to adopt the SIFMA Letter’s recommendation that the implementation date be delayed until at least one year after the date on which the Treasury department and Internal Revenue Service issue guidance to resolve the issues addressed in the SIFMA Letter.

In addition to endorsing the statements and recommendations made in the SIFMA Letter, and without fully commenting on the qualified derivatives dealer (“QDD”) rules set forth in Notice 2016-42 (the “Notice”) in this letter, I would like to emphasize that while the Notice resolved certain issues relating to the application of the QDD exception contained in the Regulations, a number of the concerns expressed in the SIFMA Letter with respect to the QDD rules remain unaddressed. Furthermore, any withholding and information reporting systems designed for QDDs must take account of the final QDD rules, and substantial work will be required after the finalization of the QDD rules to properly give effect to those rules when the Regulations are fully implemented. The NATWG is deeply concerned that there will be insufficient time between the finalization of the QDD rules and January 1, 2017 for this work to be done properly. Furthermore, in certain respects, the Notice provides rules that extend beyond the QDD rules provided for by the Regulations. NATWG members are currently analyzing the rules set forth in the Notice and the ramifications of such rules, and time will be needed for market participants to comment on the Notice and for the government to consider those comments in finalizing the QDD rules.

The NATWG also reiterates the SIFMA Letter’s statements regarding the difficulties of implementing the combination rule and the exception for non-qualified indices. In order to give practical effect to these rules, both derivatives dealers and their counterparties must answer numerous questions that are not adequately addressed by the Regulations. In certain respects, and in particular in the application of the combination rule, it is unclear whether these rules can be practicably implemented even if all of the uncertainties inherent in them were clarified. For all of the foregoing reasons, the NATWG unreservedly agrees with the SIFMA Letter’s recommendation to delay the implementation of the Regulations until at least one year after administrative guidance is promulgated to address these issues.

Thank you for your consideration of these concerns. We would be pleased to discuss any aspect of this letter with you further.

Yours truly,

A handwritten signature in cursive script that reads "Thomas Prevost".

Thomas Prevost



cc: Marjorie Rollinson, Associate Chief Counsel (International), IRS Chief Counsel  
Mark Erwin, Branch Chief, International Branch 5, IRS Chief Counsel  
Peter Merkel, Senior Technical Reviewer, International Branch 5, IRS Chief Counsel  
Karen Walny, Attorney-Advisor, International Branch 5, IRS Chief Counsel