

## Equity Derivatives Definitions

### Philippines Market Closures Guidance

The International Swaps and Derivatives Association, Inc. (“ISDA”) announces the following guidance for parties to over-the-counter derivative transactions that are affected by the closure of markets and systems described below.

*On March 16, 2020, in light of the escalating cases of the coronavirus disease (COVID-19), President Rodrigo Duterte of the Philippines announced in a televised address an enhanced community quarantine covering the entirety of Luzon, effective 12:00 a.m. March 17, 2020 and expiring 12:00 a.m. April 13, 2020.*

*This resulted in:*

- (i) *the announcement on March 16, 2020 by the Philippine Stock Exchange, Inc. (“PSE”) that no trading at PSE and no clearing and settlement at the Securities Clearing Corporation of the Philippines (“SCCP”) would take place, in each case, starting, March 17, 2020 until further notice. The announcement can be found here: [https://www.pse.com.ph/resource/memos/2020/CN\\_2020-0021.pdf](https://www.pse.com.ph/resource/memos/2020/CN_2020-0021.pdf).*
- (ii) *the announcement on March 17, 2020 by the PDS Group that PDS Fixed Income Trading, Clearing and Settlement, Payment and Transfer Operations (PDDTS and RTS), as well as Depository Operations were to be suspended from 17 March 2020, until further notice. The announcement can be found here: <https://www.pds.com.ph/index.html%3Fp=73748.html>*
- (iii) *the announcement on March 16, 2020 by the Bankers Association of the Philippines that there would be no trading of the BAP Spot USD/PHP on March 17, 2020. The announcement can be found here. <https://bap.org.ph/media/bap-advisory-re-bap-spot-usd-php/>*

*Subsequently:*

- (a) *On March 17, 2020, PDS Group published a further announcement that all PDS Operations would recommence on March 18, 2020 with the exception of the Equity Depository System which it stated will resume operations on Thursday, 19 March 2020. The announcement can be found here: <https://www.pds.com.ph/index.html%3Fcat=12.html>*
- (b) *On March 17, 2020, PSE published a further announcement that trading at PSE and clearing and settlement at the SCCP will resume on Thursday, March 19, 2020. The announcement can be found here: [https://www.pse.com.ph/resource/memos/2020/CN\\_2020-0025.pdf](https://www.pse.com.ph/resource/memos/2020/CN_2020-0025.pdf)*
- (c) *On March 17, 2020, the Bankers Association of the Philippines published a further announcement that the BAP Spot USD/PHP market resumes on March 18, 2020. The announcement can be found here: <https://bap.org.ph/media/bap-fx-usd-php-spot-market-resumes-on-march-18-2020/>*

ISDA is issuing this guidance in the interest of mitigating market risk and the promotion of orderly and efficient valuation and settlement of positions by market participants. This guidance illustrates the consequences of the market closure event based on the default provisions described in the main definitional booklets and specified Master Confirmation Agreements. This guidance does not provide views on conventions or consequences, which parties may have bilaterally agreed, that deviate from such defaults. Where this guidance assumes the reopening of markets as anticipated in the announcements detailed above, market participants should be aware that the guidance may change to the extent that the markets do not reopen as anticipated. **This guidance is not legal advice and market participants should consult their legal advisors as appropriate.** Market participants should not rely on this guidance for any purpose but should review the contractual terms of each affected transaction in order to understand the effects of the events described above. ISDA does not assume any responsibility for this guidance and it is not intended to set a precedent. Parties are not obliged to follow this guidance and may choose alternate means of addressing the aforementioned event. In addition, firms should consider contacting their counterparties to discuss the consequences for their transactions.

For cleared transactions and transactions executed on electronic confirmation platforms, market participants should refer to the contractual terms of the applicable clearing house or confirmation platform, as applicable.

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## *Guidance*

### **1 2002 ISDA Equity Derivatives Definitions<sup>1</sup>**

It is ISDA's understanding that, as a consequence of the announcement of the PSE, such Exchange will no longer be open for trading on Tuesday 17<sup>th</sup> March and Wednesday 18<sup>th</sup> March 2020 (the "**Relevant Dates**") and therefore the Relevant Dates should not be treated as an Exchange Business Day for such exchange.

The announcement of the market closure by the PSE was made on 16<sup>th</sup> March 2020 after the close of financial markets in the Philippines<sup>2</sup>, and effective from 17<sup>th</sup> March 2020 until further notice. Due to the short-notice and the feedback received from members on a relevant ISDA call held on 17<sup>th</sup> March 2020, this guidance has been prepared on the basis that the closure on the Relevant Dates is unscheduled and that such dates therefore continue to be a Scheduled Trading Day, as defined in the 2002 ISDA Equity Derivatives Definitions booklet. On this basis, the Relevant Dates are therefore Scheduled Trading Days that are a Disrupted Days as a result of the failure of the Exchange to open.

Some market participants may consider that the Relevant Dates should not be treated as Scheduled Trading Days because the announcement was made on a previous day. If parties adopt this approach, then the dates referred to in paragraphs 1.1 and 1.2 below would all move forward to the next Scheduled Trading Day.

#### *1.1 Exercise/expiration of Option Transactions*

##### **Exercise**

If a Potential Exercise Date (Bermuda Option) or Expiration Date falls on a Relevant Date, that Potential Exercise Date or Expiration Date should be moved to the next following Scheduled Trading Day that is not a Disrupted Day subject to such date moving forward by a maximum of eight Scheduled Trading Days. If a Relevant Date falls in the Exercise Period for an American Option and the Option Buyer purports to exercise the Option on that date, the exercise will be valid but the Valuation Date in respect of such exercise will be the next Scheduled Trading Day that is not a Disrupted Day (see 'Valuation Date' below).

#### *1.2 Valuation of Options, Swaps and Forwards*

##### **Valuation Date**

If a Valuation Date in respect of a Transaction falls on a Relevant Date, that Valuation Date should be moved to the next following Scheduled Trading Day that is not a Disrupted Day,

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<sup>1</sup> This Section of the guidance covers Transactions documented under the 2002 ISDA Equity Derivatives Definitions and also Transactions documented under the master confirmation agreements as detailed below. It does not cover any additional supplements, master confirmations or standard terms used in conjunction with the 2002 ISDA Equity Derivatives Definitions, as evidenced in the relevant Section of this document.

<sup>2</sup> ISDA understands that the government announced the Enhanced Community Quarantine around 3:30 p.m. on March 16, 2020. At this time, the implementing procedure was yet to follow. Hence, as a precaution, PSE decided to suspend its operation for March 17, 2020 on the evening of March 16, 2020. They first announced it via their facebook page, "Philippine Stock Exchange, Inc." at around 10:34 p.m., before officially releasing a memorandum via PSE Edge at 11:01 p.m.. According to PSE Edge, the official disclosure portal of PSE, the announcement was uploaded on March 16, 2020 at 11:01 p.m. (which is after market hours in the Philippines).

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subject to that Valuation Date moving forward by a maximum of eight Scheduled Trading Days.

### **Averaging**

Parties should look at their Confirmation to see whether ‘Omission’, Postponement’ or ‘Modified Postponement’ applies to Averaging Dates. If ‘Omission’ applies, each of the Relevant Dates will be omitted as an Averaging Date, unless the omission would result in there being no Averaging Date, in which case the Averaging Date that falls on the final Relevant Date (which is also the Valuation Date) will move to the next Scheduled Trading Day that is not a Disrupted Day, subject to moving forward by a maximum of eight Scheduled Trading Days. If ‘Postponement’ applies, an Averaging Date that falls on a Relevant Date will move to the next Scheduled Trading Day that is not a Disrupted Day, subject to such date moving forward by a maximum of eight Scheduled Trading Days. If ‘Modified Postponement’ applies, an Averaging Date that falls on a Relevant Date will move to the next Scheduled Trading Day that is not a Disrupted Day and is not also another Averaging Date, subject to such date moving forward by a maximum of eight Scheduled Trading Days.

### 1.3 *Payments*

It is ISDA’s understanding that:

- on 17<sup>th</sup> March 2020 commercial banks were open for business in Manila but dealings in foreign exchange were not conducted. Accordingly, 17 March 2020 will not be a Currency Business Day.
- on 18<sup>th</sup> March 2020 commercial banks and foreign exchange markets were open for business in Manila. Accordingly, 18<sup>th</sup> March 2020 will be a Currency Business Day.
- On 17<sup>th</sup> and 18<sup>th</sup> March 2020 (the “**Relevant Dates**”) the Securities Clearing Corporation of the Philippines was not open. Accordingly, the Relevant Dates will not be a Clearance System Business Day (where the Securities Clearing Corporation of the Philippines is the specified or relevant Clearing System).

Each Cash Settlement Payment Date, Premium Payment Date, Dividend Payment Date or Prepayment Date that is specified in the Confirmation as 17<sup>th</sup> March 2020 will be moved to the next following Currency Business Day for the relevant currency (i.e. 18<sup>th</sup> March 2020 for payments in PHP).

Payments falling due on an Initial Exchange Date, Final Exchange Date or Prepayment Date (where the Prepayment Date is not otherwise specified in the Confirmation) falling on 17<sup>th</sup> March should be made on the next following Currency Business Day for the relevant currency that is also an Exchange Business Day (expected to be 19<sup>th</sup> March 2020).

Deliveries due on a Settlement Date falling on a Relevant Date should be made on the next following Clearance System Business Day (expected to be 19<sup>th</sup> March 2020).

## 2 Pan-Asia Interdealer Master Equity Derivatives Confirmation Agreement (the “Pan-Asia MCA”)

The 2009 Pan-Asia Interdealer Master Equity Derivatives Confirmation Agreement, the Pan-Asia Interdealer Index Swap General Terms Confirmation (“**PAIIS**”) and the Pan-Asia Interdealer Share Swap General Terms Confirmation (“**PAISS**”) cover as standard certain Asian jurisdictions including the Philippines.

### 2.1 PAIIS

If the parties have entered into a Transaction under the Pan-Asia MCA and the PAIIS in respect of an Index comprised of component securities that are principally traded on the PSE, then, assuming that:

1. the Index Sponsor is scheduled to publish the level of the Index on a Relevant Date; and
2. the PSE is a Related Exchange<sup>3</sup> (i.e. an exchange where trading has a material effect on the overall market for futures or options contracts relating to the Index),

each Relevant Date (i) will not be an Exchange Business Day, and (ii) will be a Scheduled Trading Day that is a Disrupted Day, in each case due to the failure of the PSE to open on the Relevant Dates.

#### 2.1.1 Valuation

If the Final Price election is ‘Close’, then if the final Valuation Date falls on a Relevant Date, the Final Price shall be determined by the Calculation Agent in accordance with limb (ii)(b) of the definition of ‘Final Price’ in the PAIIS. This involves using the formula/method for calculation of the Index and taking the price of each non-affected security as at close on the Relevant Date and taking the price for each affected security as at close on the following Scheduled Trading Day that is not a Disrupted Day, up to a maximum of eight Scheduled Trading Days roll.

If the Final Price election is “Hedge Execution”, there will be no impact and the Final Execution Period will be extended out as necessary to allow the Hedging Party to terminate its Hedge Positions.

If the Early Final Valuation Date (pursuant to an Optional Early Termination) falls on the Relevant Date, the Early Final Valuation Date will be the first succeeding Scheduled Trading Day that is not a Disrupted Day.

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<sup>3</sup> ISDA’s understanding is that no listed derivatives are traded on the PSE, in which case the PSE should not be a Related Exchange. On the other hand, if listed derivatives on the underlying are in fact traded on the PSE, then such exchange could be the a Related Exchange.

### 2.1.2 *Payments*

If the Payment Date and the Cash Settlement Payment Date<sup>4</sup> fall on 17<sup>th</sup> March 2020, the Payment Date and Cash Settlement Payment Date will be moved to the next Currency Business Day.

## 2.2 *PAISS*

If the parties have entered into a Transaction under the Pan-Asia MCA and PAISS in respect of a security that is principally traded on the PSE, each Relevant Date would be a Scheduled Trading Day but would not be an Exchange Business Day. Due to the failure of the PSE to open on the Relevant Dates, such day would be a Disrupted Day.

### 2.2.1 *Valuation*

The guidance set out in paragraph 1.2 above applies equally to the Valuation Date in respect of any Transaction documented under the Pan-Asia MCA and the PAISS.

### 2.2.2 *Payments*

If the Payment Date is specified to fall on the Cash Settlement Payment Date and such Payment Date and Cash Settlement Payment Date fall on 17<sup>th</sup> March 2020, the Payment Date and Cash Settlement Payment Date will be moved to the next Currency Business Day.

If the Payment Date is not specified to be the Cash Settlement Payment Date, and is specified to fall on the Relevant Date, the Modified Following Business Day Convention will apply, unless another Business Day Convention is specified in the Transaction Supplement.

## 3 **Second Revised 2007 AEJ Master Variance Swap Confirmation Agreement (“AEJ VS MCA”)**

### ***Index Variance Swap and Share Variance Swap***

If “Multiple Exchange” applies, the guidance below only applies if,

1. each Relevant Date is a day on which the Index Sponsor is scheduled to publish the level of the Index, and
2. The PSE is a Related Exchange<sup>5</sup> for the purposes of the relevant Index.

### 3.1 ***Observation and Valuation***

#### *Observation Days*

The AEJ VS MCA – Annex IVS and Annex SVS both provide, for the purposes of an Observation Day and the Observation Period End Date only, that “*a day shall not be a*

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<sup>4</sup> By default, the Payment Date is specified to fall on the Cash Settlement Payment Date.

<sup>5</sup> ISDA’s understanding is that no listed derivatives are traded on the PSE, in which case the PSE should not be a Related Exchange. On the other hand, if listed derivatives on the underlying are in fact traded on the PSE, then such exchange could be the a Related Exchange.

*Scheduled Trading Day if it is known at any time before that day that an Exchange or Related Exchange is not scheduled to be open for trading for its regular trading session on that day.”* Accordingly, for the purpose of Observation Days, each Relevant Date would not be a Scheduled Trading Day and, hence, would not be an Observation Day.

#### *Observation Start Date*

Each Relevant Date will be a Scheduled Trading Day that is a Disrupted Day for the purposes of the Observation Start Date.<sup>6</sup> If the Observation Start Date is a Relevant Date, for the purposes of the Final Realized Volatility, the official level of the index/Share Price will be observed on the immediately following Observation Day that is not a Disrupted Day.

#### *Expected N*

“Expected N” is defined in the AEJ VSMCA as “*The number specified as such in the relevant Transaction Supplement or, if not so specified, the number of days that, as of the Trade Date, are expected to be Scheduled Trading Days for the period from, but excluding, the Observation Start Date to, and including, the Observation End Date.*”.

Unless otherwise specified, if the Trade Date of such a Variance Swap Transaction is before the announcement by the PSE, Expected N will include each Relevant Date falling in the period from, but excluding, the Observation Start Date to, and including, the Observation End Date.

#### *Valuation Date*

Each Relevant Date will be a Scheduled Trading Day that is a Disrupted Day for the purposes of the Valuation Date. If the specified Valuation Date (the Scheduled Valuation Date) falls on a Relevant Date, the Valuation Date will be the first succeeding Scheduled Trading Day that is not a Disrupted Day.

### 3.2 *Payment*

The Cash Settlement Payment Date falls the specified number of Currency Business Days after the Valuation Date. If the Cash Settlement Payment Date falls on 17<sup>th</sup> March 2020, it will be moved to the next Currency Business Day.

## **4 Second Revised 2005 AEJ Interdealer Master Equity Derivatives Confirmation Agreement**

The guidance set out in paragraph 1 above should be equally applicable to this document (and the Annexes attached to it).

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<sup>6</sup> The Observation Start Date is not an Observation Day and so is subject to the usual definition of Scheduled Trading Day in the 2002 ISDA Equity Derivatives Definitions.

## 5 Revised 2008 AEJ Master Equity Derivatives Confirmation Agreement

The guidance set out in paragraph 1 above is also relevant to this document (and the related Annexes). However, in addition, the following points should be noted:

- where the Multiple Exchange Index Annex applies, there will only be a Disrupted Day if (i) the Index Sponsor fails to publish the level of the Index, (ii) the Related Exchange<sup>7</sup> fails to open for trading during its regular trading session or (iii) a Market Disruption Event has occurred.
- under Annex OMISO and Annex CMISO:
  - where the Strike Date falls on a Relevant Date, it is treated in the same way as if it were a Valuation Date, i.e. it moves to the next following Scheduled Trading Day that is not a Disrupted Day (subject to a maximum movement of eight Scheduled Trading Days); and
  - the Settlement Method Election Date is two Scheduled Trading Days prior to the Valuation Date and so, if the Valuation Date moves forward, in accordance with the principles discussed above, the Settlement Method Election Date will do so as well.

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<sup>7</sup> ISDA's understanding is that no listed derivatives are traded on the PSE, in which case the PSE should not be a Related Exchange. On the other hand, if listed derivatives on the underlying are in fact traded on the PSE, then such exchange could be the a Related Exchange.

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