

31 January 2020 (updated 3 February 2020)

## Closed Days Guidance – 2020 Equity Derivatives Definitions

### 2020 Chinese Lunar New Year Holiday Extension

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 extension to the holiday period described below.

*The General Office of the State Council announced on Monday 27 January 2020 that the Lunar New Year holiday, which was originally scheduled to run from Friday 24 January 2020 to Thursday 30 January 2020 (inclusive), will now be extended to Sunday 2 February 2020 (inclusive). The announcement can be found [here](#).*

*As a consequence, it is ISDA’s understanding that the financial markets under the regulatory supervision of the People’s Bank of China<sup>1</sup> (including the interbank lending market, interbank bond market, China foreign exchange trading system, gold market and commercial paper market), the securities and futures markets under the supervision of the China Securities Regulatory Commission and commercial banks in the People’s Republic of China (excluding Hong Kong, Macau and Taiwan) (“Mainland China”) are expected to remain closed (including for dealings in foreign exchange and foreign currency deposits) until Sunday 2 February 2020 (inclusive). The Shanghai Stock Exchange<sup>2</sup>, the Shenzhen Stock Exchange<sup>3</sup> and the China Financial Futures Exchange<sup>4</sup> (the “Chinese Exchanges”) have confirmed that they will also remain closed until that date.*

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 booklet. This guidance does not provide views on conventions or consequences, which parties may have bilaterally agreed, that deviate from such defaults, nor does it cover transactions which are not subject to the definitional booklet and for which no bilateral agreement has been reached regarding the subject matter of this guidance. **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

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<sup>1</sup> <http://m.safe.gov.cn/safe/2020/0128/15267.html>

<sup>2</sup> [http://www.sse.com.cn/disclosure/announcement/general/c/c\\_20200127\\_4991582.shtml](http://www.sse.com.cn/disclosure/announcement/general/c/c_20200127_4991582.shtml)

<sup>3</sup> [http://www.szse.cn/disclosure/notice/general/t20200127\\_573917.html](http://www.szse.cn/disclosure/notice/general/t20200127_573917.html)

<sup>4</sup> <http://www.cffex.com.cn/jysgg/20200127/24291.html>

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event. In addition, firms should consider contacting their counterparties in advance of Friday 31 January 2020 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>5</sup>**

It is ISDA's understanding that, as a consequence of the extension to the Chinese Lunar New Year holiday, various Exchanges and Related Exchanges<sup>6</sup> in Mainland China will no longer be open for trading on Friday 31 January 2020 (the "**Relevant Date**") and therefore the Relevant Date should not be treated as an Exchange Business Day for those exchanges.

The announcement of the extension to the Chinese Lunar New Year holiday by the General Office of the State Council (the "**Announcement**") was made following the commencement of the period of public holidays constituting the Chinese Lunar New Year. This guidance has therefore been prepared on the basis that the closures on the Relevant Date are unscheduled and that such date therefore continues to be a Scheduled Trading Day. On this basis, the Relevant Date is therefore a Scheduled Trading Day that is a Disrupted Day.

However, some market participants may consider that the Relevant Date should not be treated as a Scheduled Trading 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 the 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 (expected to be Monday 3 February 2020) subject to such date moving forward by a maximum of eight Scheduled Trading Days. If the 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 the Relevant Date, that Valuation Date should be moved to the next following Scheduled Trading Day that is not a Disrupted Day (which is expected to be Monday 3 February 2020), subject to that Valuation Date moving forward by a maximum of eight Scheduled Trading Days.

If Futures Price Valuation applies to an Index Transaction, and the Official Settlement Price is published on the Valuation Date, that day should be treated as the Valuation Date irrespective of whether that day is a Disrupted Day. If the Official Settlement Price is not published, the Valuation

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<sup>5</sup> This guidance covers Transactions documented under the 2002 ISDA Equity Derivatives Definitions and the additional ISDA documentation for use with the 2002 ISDA Equity Derivatives Definitions as described in this guidance. It does not cover any additional supplements, master confirmations or standard terms used in conjunction with the 2002 ISDA Equity Derivatives Definitions, other than as set out herein.

<sup>6</sup> Please refer to page one for the list of exchanges that are closed.

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Date should move forward to the next Scheduled Trading Day on which the Official Settlement Price is published irrespective of whether that day is a Disrupted Day.

### **Averaging**

Parties should look at their Confirmation to see whether ‘Omission’, Postponement’ or ‘Modified Postponement’ applies to Averaging Dates. If ‘Omission’ applies, the Relevant Date 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 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, the Averaging Date that falls on the 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, the Averaging Date that falls on the 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 commercial banks and the China Securities Depository and Clearing Corporation Limited will not be open on the Relevant Date.<sup>7</sup> Accordingly, the Relevant Date will not be a Currency Business Day or a Clearance System Business Day.

Each Cash Settlement Payment Date, Premium Payment Date, Dividend Payment Date or Prepayment Date that is specified in the Confirmation will be moved to the next following Currency Business Day for the relevant currency, expected to be Monday 3 February 2020. Payments falling due on an Initial Exchange Date, Final Exchange Date or Prepayment Date (where the Prepayment Payment Date is not otherwise specified in the Confirmation) should be made on the next following Currency Business Day for the relevant currency that is also an Exchange Business Day, which is expected to be Monday 3 February 2020.

Deliveries due on a Settlement Date falling on the Relevant Date should be made on the next following Clearance System Business Day, expected to be Monday 3 February 2020.

## **2 Additional Provisions for Shares traded through the China Connect Service (the “CCS Additional Provisions”)**

**2.1** It is ISDA’s understanding that the China Connect Service will be closed<sup>8</sup> on the Relevant Date.

The Relevant Date should therefore not be treated as an Exchange Business Day for a transaction applying the CCS Additional Provisions. On the same basis as set out in paragraph 1 above, the Relevant Date continues to be a Scheduled Trading Day and due to the closure of the China Connect Service is therefore a Scheduled Trading Day that is Disrupted Day for

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<sup>7</sup> Please refer to the following announcement:

<http://www.chinaclear.cn/zdjs/gszb/202001/9ef2bce2110c4c93aa199c98d41636ca.shtml>

<sup>8</sup> [https://www.hkex.com.hk/News/News-Release/2020/200128news?sc\\_lang=en](https://www.hkex.com.hk/News/News-Release/2020/200128news?sc_lang=en)

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a Transaction applying the CCS Additional Provisions. If parties choose to treat the Relevant Date as a non-Scheduled Trading Day, please refer to paragraph 1 above for the consequences.

## **2.2** *Exercise/expiration of Option Transactions, Valuation of Options, Swaps and Forwards and Payments.*

The guidance set out in paragraphs 1.1, 1.2, and 1.3 above applies equally to any Transaction documented under the 2002 ISDA Equity Derivatives Definitions and applying the CCS Additional Provisions.

## **3** **BRIC40 Index Template**

This guidance in respect of Transactions documented pursuant to the 2002 ISDA Equity Derivatives Definitions and the BRIC40 Index Template makes the following assumptions:

1. The Relevant Date is a day on which the sponsor of the S&P BRIC40 Index (the “**Index**”) is scheduled to publish the level of the Index.
2. More than 20% by weight<sup>9</sup> of the component securities of the Index are principally traded on the Chinese Exchanges.

Subject to assumption 1 above, the Relevant Date will be a Scheduled Trading Day for the purposes of the BRIC40 Index Template.

Subject to assumption 2 above, the Relevant Date will not be an Exchange Business Day.

Subject to assumption 2 above, an “Exchange Disruption” (which is a Market Disruption Event) will occur on the Relevant Date, which will result in the Relevant Date being a Disrupted Day.

### **3.1** *Valuation and Payments.*

The guidance set out in paragraphs 1.1, 1.2, and 1.3 above applies equally to any Transaction documented under the 2002 ISDA Equity Derivatives Definitions and the BRIC40 Index Template.

## **4** **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

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<sup>9</sup> The relevant percentage contribution of a component security to the level of the Index shall be based on a comparison of (x) the portion of the level of the Index, in each case based on the official opening weightings as published by the Index Sponsor as part of the market “opening data” on the Relevant Date, or if no opening data is available for such date, the percentage contribution of the component security as of (i) for the purposes of determining the weightings for an Exchange Business Day, the time at which the official closing level of the Index is calculated and published by the Index Sponsor, and (ii) for the purposes of determining the weightings for a Market Disruption Event, the Scheduled Closing Time on the Exchange for such component security.

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Asian jurisdictions but do not, unless otherwise specified by the parties, cover Mainland China.

#### **4.1 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 one or both of the Chinese Exchanges, then assuming that:

1. the Index Sponsor is scheduled to publish the level of the Index on the Relevant Date; and
2. one of the Chinese Exchanges is an exchange where trading has a material effect on the overall market for futures or options contracts relating to the Index,

the Relevant Date would be a Scheduled Trading Day but would not be an Exchange Business Day. Due to the failure of the Chinese Exchanges to open on the Relevant Date, such day would be a Disrupted Day.

#### **4.2 Valuation**

##### **Valuation Date**

If the Final Price election is ‘Close’, then if the final Valuation Date falls on the 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 Final Price election is “Futures Price Valuation”, the final Valuation Date shall be the first succeeding Scheduled Trading Day on which the Official Settlement Price is published.

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.

#### **4.3 Payments**

If the Payment Date and the Cash Settlement Payment Date<sup>10</sup> fall on the Relevant Date, the Payment Date and Cash Settlement Payment Date will be moved to the next Currency Business Day.

#### **4.4 PAISS**

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<sup>10</sup> By default, the Payment Date is specified to fall on the Cash Settlement Payment Date.

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

#### **4.5** *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.

#### **4.6** *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 the Relevant Date, 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.

Where Beijing is a relevant financial center for the purposes of the Modified Following Business Day Convention, the application of that convention to a Payment Date falling on 31 January 2020 would strictly require the relevant payment to be made on a date that has already passed. This is because the extension to the Chinese Lunar New Year holiday was announced on 27 January 2020 and the Modified Following Business Day Convention, if applied strictly, would move the Payment Date back to 23 January 2020 (the first day preceding 31 January 2020 that is a Business Day). ISDA considers that this cannot have been the parties' intention and so believes that the right approach is for the payment to be made on the first day that falls after 31 January 2020, in effect adjusting the Payment Date to 3 February 2020 as if the Following Business Day Convention applied.

### **5** **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 assumes that,

1. the Relevant Date is a day on which the Index Sponsor is scheduled to publish the level of the Index, and
2. one of the Chinese Exchanges is a Related Exchange for the purposes of the relevant Index.

#### **5.1** ***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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*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, the Relevant Date would not be a Scheduled Trading Day and hence, would not be an Observation Day.

#### *Observation Start Date*

The Relevant Date will be a Scheduled Trading Day that is a Disrupted Day for the purposes of the Observation Start Date.<sup>11</sup> If the Observation Start Date is the 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 to be Monday 3 February 2020).

#### *Expected N*

“Expected N” is defined in the AEJ VS MCA 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 Chinese Exchanges, Expected N will include the additional holiday that falls in the period from, but excluding, the Observation Start Date to, and including, the Observation End Date.

#### *Valuation Date*

The 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 the Relevant Date, the Valuation Date will be the first succeeding Scheduled Trading Day that is not a Disrupted Day.

If Futures Price Valuation for the purposes of an Index Variance Swap is applicable and the Official Settlement Price is not published on the Scheduled Valuation Date, the Valuation Date shall be the first succeeding Scheduled Trading Day on which the Official Settlement Price is published.

## **5.2** *Payment*

The Cash Settlement Payment Date falls the specified number of Currency Business Days after the Valuation Date. If the Cash Settlement valuation Date falls on the Relevant Date, it will be moved to the next Currency Business Day (expected to be Monday 3 February 2020).

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<sup>11</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.

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## **6 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).

## **7 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 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 the 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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