

Request for No-Action Relief – Parts 43, 45 and 46

November 16, 2012

Mr. Richard Shilts
Director
Division of Market Oversight
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Request for No-Action Relief – Parts 43, 45 and 46

Dear Mr. Shilts:

The International Swaps and Derivatives Association, Inc. (“**ISDA**”) and the Global Foreign Exchange Division (“**GFXD**”) of the Global Financial Markets Association, on behalf of their members with reporting obligations under Part 43, Part 45 or Part 46 of the Regulations (collectively, the “**Reporting Rules**”) of the Commodity Futures Trading Commission (the “**Commission**”) and other similarly situated persons, are writing to request no-action relief pursuant to Rule 140.99 with regard to the compliance date for reporting equity swaps, foreign exchange swaps and other commodity swaps (collectively, “**Group 2 Swaps**”). ISDA and GFXD request confirmation that the staff of the Division of Market Oversight will not recommend enforcement action to the Commission against swap dealers for failure to comply with the Reporting Rules with respect to Group 2 Swaps prior to February 25, 2013.

ISDA’s mission is to foster safe and efficient derivatives markets to facilitate effective risk management for all users of derivative products. ISDA has more than 800 members from 58 countries on six continents. These members include a broad range of OTC derivatives market participants: global, international and regional banks, asset managers, energy and commodities firms, government and supranational entities, insurers and diversified financial institutions, corporations, law firms, exchanges, clearinghouses and other service providers.

GFXD was formed in cooperation with the Association for Financial Markets in Europe (“**AFME**”), the Securities Industry and Financial Markets Association (“**SIFMA**”) and the Asia Securities Industry and Financial Markets Association (“**ASIFMA**”). Its members comprise

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22 global foreign exchange market participants,¹ collectively representing more than 90% of the foreign exchange dealer market.² Both GFXD and its members are committed to ensuring a robust, open and fair marketplace and welcome the opportunity for continued dialogue with global regulators.

ISDA and GFXD recognize the importance of the various Reporting Rules and strongly support initiatives to increase regulatory transparency. We also appreciate the efforts of CFTC staff over the past several months to provide direction and clarification where possible as our members began preparations for complying with the new Reporting Rules.

ISDA and GFXD member firms that expect to register as swap dealers by the end of 2012 have been working diligently toward the compliance dates of the Reporting Rules. ISDA and GFXD are concerned, however, that, despite firms' ongoing and extensive efforts, the disruption of industry preparations by Hurricane Sandy will make it impracticable for many firms to commence reporting with respect to Group 2 Swaps by January 10, 2012.

As the Commission is aware, flooding caused by Hurricane Sandy at DTCC's offices in lower Manhattan has incapacitated the testing infrastructure for reporting to DTCC, a principal swap data repository ("SDR") with which many market participants have been working for months to develop and test reporting systems for a number of swap product groups. As of the date of this letter, DTCC's testing systems remain unavailable. Because dealer firms have generally developed their reporting infrastructure for a given asset class to interface with a single SDR, firms cannot simply transition to a different SDR without introducing additional setbacks.

The unavailability of DTCC's testing infrastructure during this crucial period has disrupted implementation for the start of reporting for credit swaps and interest rate swaps (collectively, "**Group 1 Swaps**") as well as Group 2 Swaps. The backloading of swaps for Part 46 has been delayed. Although DTCC has informed dealers that it anticipates that its testing infrastructure will be operational well in advance of the start of Group 1 Swap reporting by swap dealers on December 31, 2012, meeting that date will now require increased efforts by reporting firms and DTCC, which will divert resources from preparations for the Group 2 Swap compliance date.

Industry code freezes, which are typically put into effect near the calendar year-end to ensure a stable IT environment for the closing of books and records, will limit any adjustments to reporting systems during the freeze period and compress the period available for systems development following the recovery of the DTCC testing infrastructure. Code freezes will additionally limit the ability to modify reporting systems for Group 2 Swaps based on the experience gained from the reporting of Group 1 Swaps.

Member firms have informed ISDA and GFXD that they believe adhering to the current compliance schedule for Group 2 Swaps would compromise efforts that should now be directed

¹ Bank of America Merrill Lynch, Bank of New York Mellon, Bank of Tokyo Mitsubishi UFJ, Barclays Capital, BNP Paribas, Citigroup, Credit Agricole, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan, Lloyds, Morgan Stanley, Nomura, Royal Bank of Canada, Royal Bank of Scotland, Société Générale, Standard Chartered Bank, State Street, UBS, and Westpac.

² According to Euromoney league tables.

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toward the successful commencement of reporting for Group 1 Swaps. Assuming the recovery of DTCC's testing infrastructure by the final week of November as anticipated, the additional six weeks requested should increase the possibility of having relatively smooth starts to both Group 1 Swap and Group 2 Swap reporting, without materially delaying the anticipated benefits of reporting.

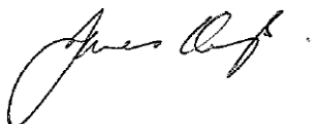
For the foregoing reasons, ISDA and GFXD request that the staff of the Division of Market Oversight issue the no-action relief described above.

Thank you for your consideration of these concerns. Please contact the undersigned or ISDA or GFXD staff if you have any questions or concerns.

Sincerely,



Robert Pickel
Chief Executive Officer
ISDA



James Kemp
Managing Director
Global Foreign Exchange Division, GFMA³

Cc: Mr. Gary Barnett, Director, Division of Swap Dealer and Intermediary Oversight

³ The Global Financial Markets Association (GFMA) brings together three of the world's leading financial trade associations to address the increasingly important global regulatory agenda and to promote coordinated advocacy efforts. The Association for Financial Markets in Europe (AFME) in London and Brussels, the Asia Securities Industry & Financial Markets Association (ASIFMA) in Hong Kong and the Securities Industry and Financial Markets Association (SIFMA) in New York and Washington are, respectively, the European, Asian and North American members of GFMA.

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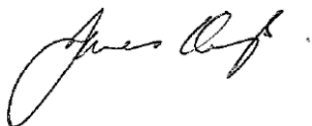
Certification Pursuant to Commission Regulation 140.99(c)(3)

As required by Commission Regulation 140.99(c)(3), each of the undersigned hereby (i) certifies that the material facts set forth in the attached letter dated November 16, 2012 are true and complete to the best of his knowledge; and (ii) undertakes to advise the Commission, prior to the issuance of a response thereto, if any material representation contained therein ceases to be true and complete.

Sincerely,



Robert Pickel
Chief Executive Officer
ISDA



James Kemp
Managing Director
Global Foreign Exchange Division, GFMA