

June 24, 2013

Dr. Yoo, Jaehoon
Standing Commissioner
Financial Services Commission
97 Yeoui-Daero, Youngdeungpo-gu
Seoul, Korea, 150-743

Re: Draft FSC regulation on central clearing counterparties (CCP)

Dear Mr. Yoo,

The International Swaps and Derivatives Association, Inc. (“ISDA”) appreciates the opportunity to provide the Korean Financial Services Commission (the “Commission”) with comments regarding the draft regulations on central clearing counterparties (the “FSC Regulation”). ISDA presents this letter to the Commission respectfully on behalf of its members.

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 60 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.

We understand that the addendum of the FSC Regulation provides that that the regulation will come into force from October 7, 2013 which means that mandatory clearing of Korean Won denominated interest rate swaps (IRS) will start in October 2013. ISDA believes that the implementation date proposed in the draft FSC Regulation gives the industry very little time to cope with the regulatory conflicts caused by the US and EU extraterritorial regulations and thus may adversely impact the liquidity of the local market. Accordingly, ISDA would like to request that the Commission extend the implementation date for reasons stated below.

ISDA commends the Commission on its effort to meet Korea’s G20 commitments to offer central clearing for standardized and liquid OTC derivatives. ISDA is supportive of the objective expressed by the G20 nations to require standardized OTC derivatives to be centrally cleared. ISDA notes, however, that international nature of the swap markets makes international coordination critical to achieve an appropriate level of oversight of swaps activities and minimize the potential for regulatory arbitrage among regions.

OTC derivatives market volumes are concentrated in the US and Europe and as a result, those two jurisdictions have a significant impact on the Asian markets.¹ The global dealers, most of whom are based in the US or Europe, are also the major liquidity providers for the Asian markets.² As a result, the extraterritorial rules of the new US and EU OTC derivatives regulations will, unavoidably, have a significant impact on the Asian markets.

In the US, the two regulators of OTC derivatives, the Commodity Futures Trading Commission (CFTC) and the Securities Exchange Commission (SEC) have proposed their respective cross-border rules but have yet to finalize these rules.³ In Europe, the European Commission requested ESMA set a 25 September 2013 deadline for producing cross border rules and we expect that there would be a comment period following the release of ESMA's proposal.⁴ The extraterritorial effect of the European Market Infrastructure Regulation (EMIR) has far reaching impact on certain issues (such as EMSA recognition of third-country CCPs), causing significant concerns among Asian regulators, market participants and CCPs. We understand that the Commission is currently engaged in conversation with the industry and KRX on the ESMA recognition issue and we appreciate the Commission's recent efforts in this regard.

Similar to the US and EU, following on from the G20 initiative, a number of Asian jurisdictions have also begun to put new rules in place to govern OTC derivatives markets. In Asia, seven jurisdictions (Australia, China, Hong Kong, India, Korea, Japan and Singapore) have formalized or are in the process of formalizing, new rules to govern OTC derivatives transactions, including requiring the establishment of new central clearing arrangements and the creation of trade repositories. Among the seven jurisdictions, aside from Japan, none of the Asia Pacific jurisdictions have started to implement mandatory clearing and as far as we are aware, none of the Asia Pacific jurisdictions (except Australia) are planning to do so before the end of this year.⁵ We understand that India, Hong Kong and Singapore have decided to postpone the implementation dates of their mandatory clearing requirements until there is more clarity about the US and EU cross-border rules due to the concern that the market liquidity of their local markets would be impacted were European or US financial institutions unable to participate in the cleared OTC derivatives and securities markets. The industry would encourage the Commission to actively participate in discussions among regulators on developing consistent standards across jurisdictions for OTC derivatives. We believe that an extension of implementation date for mandatory clearing would provide the necessary time for beneficial international conversations to continue towards resolution.

¹ According to the 2010 BIS Triennial Survey, OTC derivatives in Asia account for only about 8% of the global total, 4% if one excludes Japan.

² According to the Asian OTC Derivatives Markets report published by ISDA in April 2013, the dealers account for 57% of the turnover of OTC derivatives across Asia.

³ See <http://www.cftc.gov/PressRoom/PressReleases/pr6293-12> and <http://www.sec.gov/news/press/2013/2013-77.htm>

⁴ See http://www.esma.europa.eu/system/files/2013_04_17_letter_jf_to_esma-rts_art_44_and_1114.pdf

⁵ Australia is planning to implement mandatory clearing from the 4th quarter of 2013 largely due to the "substituted compliance" requirements proposed in the CFTC cross-border guidance given that the four biggest Australian banks have all registered as a "swap dealer" with the CFTC in the US. To date, no Korean banks have registered as a "swap dealer" in the US.

International Swaps and Derivatives Association, Inc.

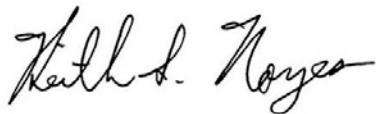
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Further, we also want to point out that it is vital that central clearing of OTC products takes place on a sound basis: central clearing without proper and adequate risk management will result in an increase in risk – it is therefore imperative that risk reduction remains the primary focus. We understand that some banks have written to the Commission, asking the Commission and KRX to allow additional time to finalize the KRX clearing rules. Robust and comprehensive clearing rules will not only reduce systemic risk in the financial market but also are a very important aspect of the equivalence assessment should KRX decide to seek recognition from the ESMA. We understand that market players and the KRX all agree that the Korean Won IRS market will remain deeper and more liquid with the continued participation of European financial institutions and therefore are looking into the ESMA recognition issue carefully. Extending the implementation deadline would give KRX the much-needed time to work with the industry on the clearing rules.

For the above reasons, we respectfully request that the Commission extend the implementation date for nine months, till June 2014, when ESMA is expected to decide on KRX's application for recognition assuming KRX submits its application to ESMA on or around September 15, 2013. ISDA thanks you for your time and awaits your response.

Respectfully submitted,



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