

May 15, 2015

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

Re: Request for Division of Market Oversight Staff No-Action Letter Pursuant to CFTC Regulation 140.99: Valuation Data Reporting for Cleared Swaps (Part 45.4(b)(2)(ii))

Dear Mr. McGonagle:

The International Swaps and Derivatives Association, Inc.¹ (“ISDA”) and its members recognize the importance of the Part 45 regulations (the “Reporting Rules”) of the Commodity Futures Trading Commission (the “Commission” or “CFTC”) and strongly support initiatives to increase regulatory transparency. However, challenges remain with respect to complying with the Reporting Rules as discussed in ISDA’s letter² to the Commission in response to its Review of Swap Data Recordkeeping and Reporting Requirements (79 Fed. Reg. 16689) (“ISDA RFC Response”). The requirement for Swap Dealers (“SDs”) and Major Swap Participants (“MSP”) to provide valuation data for cleared swaps in accordance with §45.4(b)(2)(ii) was highlighted in the letter as one of the challenging requirements³ that warrants a permanent resolution by the Commission. Until such time, ISDA, on behalf of its members that are “reporting counterparties” under Part 45⁴ (collectively, “Reporting Parties”), hereby request relief from certain requirements under the Reporting Rules, as explained below.

¹ 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 67 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.

² http://www2.isda.org/attachment/NjY1NQ==/2014%20May%2023%20CFTC%20RFC-%20ISDA%20Response_FINAL.pdf

³ See ISDA RFC Response at 13

⁴ 17 CFR Part 45 Swap Data Recordkeeping and Reporting Requirements, 77 Fed. Reg. 2136 (Jan 13, 2012). CFTC regulation 45.1 defines the term “reporting counterparty” to mean “the counterparty required to report swap data pursuant to this [Part 45], selected as provided in §45.8.”

I. Background

On December 13, 2012, ISDA submitted its first request to staff of the CFTC's Division of Market Oversight ("DMO") requesting no-action relief on behalf of its members, and other similarly situated market participants, from the requirements of §45.4(b)(2)(ii) of the Reporting Rules.

In response to ISDA's request, DMO issued CFTC Letter No.12-55⁵ which granted conditional relief to SDs and MSPs from their obligations under Part 45.4(b)(2)(ii) until June 30, 2013. Subsequently, DMO extended such relief until June 30, 2014 under CFTC Letter No. 13-34⁶ and then until June 30, 2015 pursuant to CFTC Letter No. 14-90⁷ ("NAL 14-90").

ISDA and its members are grateful for the relief granted by Commission staff with respect to Part 45.4(b)(2)(ii) to date. Unfortunately, the conditions that prompted the original request for relief, and the subsequent extensions, remain. Reporting Parties require certainty as to (i) their obligations with respect to valuation data reporting for cleared swaps and (ii) whether any such reporting of valuation data for cleared swaps may be sent to the Swap Data Repository ("SDR") of their choice or may be required to be sent to the SDR selected by the Derivatives Clearing Organization ("DCO").

Certainty on these points is essential before Reporting Parties could commence (i) reporting valuation data to an SDR to which they are already connected or (ii) onboarding, development and testing necessary to submit valuation data to an SDR to which they are not already connected and live with reporting. Such work would be significant, especially in the event reporting to multiple additional SDRs is required. With four provisionally registered SDRs, parties may need to connect to as many as three additional repositories, thus multiplying the time and effort required to prepare. Such cost and effort would not be justified since additional valuation data provided by an SD or MSP does not provide a material benefit beyond that which is provided by the DCO.

As indicated by the remarks made by Chairman Massad before the DerivOps North America 2015 Conference⁸, it is apparent that the Commission acknowledges the associated challenges and limited benefits of §45.4(b)(2)(ii) and intends to resolve by proposing an amendment to the Reporting Rules that would eliminate this requirement. ISDA supports that solution and looks forward to the Commission's proposed rule on the matter. However, until such time as the Commission approves the relevant amendment to Part 45 and such amendment becomes effective, Reporting Parties will need an extension of the relief currently afforded to them under NAL 14-90.

⁵ <http://www.cftc.gov/LawRegulation/CFTCStaffLetters/12-55>

⁶ <http://www.cftc.gov/LawRegulation/CFTCStaffLetters/13-34>

⁷ <http://www.cftc.gov/ucm/groups/public/@lrlattergeneral/documents/letter/14-90.pdf>

⁸ <http://www.cftc.gov/PressRoom/SpeechesTestimony/opamassad-16>

Request for No-Action Relief for Valuation Data Reporting for Cleared Swaps (Part 45.4(b)(2)(ii))

II. Relief request

In consideration of the conditions described above, ISDA respectfully requests that DMO further extend the relief granted pursuant to NAL 14-90 and thereby recommend that enforcement action not be taken against a Reporting Party which does not report valuation data for cleared swaps as required by §45.4(b)(2)(ii) of the Reporting Rules. We request an extension of such relief until such time as the Commission approves an amendment to the Reporting Rules that eliminates the obligation under 45.4(b)(2)(ii) and such amendment comes into effect.

Thank you for your consideration of these concerns. Please contact me if you have any questions or concerns regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Tara Kruse", with a stylized, cursive script.

Tara Kruse
Director, Co-Head of Data, Reporting & FpML
International Swaps and Derivatives Association, Inc.

cc: Dan Bucsa, Deputy Director, Division of Market Oversight

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

As required by Commission Regulation 140.99(c)(3), I hereby (i) certify that the material facts set forth in the attached letter dated May 15, 2015 are true and complete to the best of my knowledge; and (ii) undertake 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,

A handwritten signature in black ink, appearing to read "Tara Kruse". The signature is fluid and cursive, with the first name "Tara" and last name "Kruse" clearly distinguishable.

Tara Kruse
Director, Co-Head of Data, Reporting & FpML
International Swaps and Derivatives Association, Inc.