



International Swaps and Derivatives Association, Inc.

**REGULATORY MARGIN SELF-DISCLOSURE LETTER –
SOUTH AFRICA SUPPLEMENT**
published on September 27, 2023
by the International Swaps and Derivatives Association, Inc.

Various jurisdictions are implementing regulatory margin requirements for uncleared derivatives transactions based on the framework published by the Basel Committee on Banking Supervision and the International Organization of Securities Commissions.¹ Regulatory margin requirements based on the BCBS-IOSCO Framework have been proposed or adopted in, relevantly, (i) Canada, (ii) the European Union, (iii) Japan, (iv) Switzerland, (v) the United States, (vi) Australia, (vii) Hong Kong, (viii) Singapore, (ix) Korea, (x) Brazil, (xi) Mexico, (xii) United Kingdom and (xiii) South Africa, and it is expected that other jurisdictions will propose and adopt similar requirements. The ISDA Regulatory Margin Self-Disclosure Letter, published on June 30, 2016 (“Original Self-Disclosure Letter”) is intended to assist market participants with the exchange of the information necessary to determine if, and when, their trading relationship will become subject to regulatory margin requirements for uncleared swaps in one or more of the following jurisdictions: (i) Canada, (ii) the European Union, (iii) Japan, (iv) Switzerland, and (v) the United States. The Original Self-Disclosure Letter is available at <http://www2.isda.org/functional-areas/wgmr-implementation/isda-regulatory-margin-self-disclosure-letter/>. This Self-Disclosure Letter is intended to provide market participants with a standard form for providing counterparties with information necessary to determine if and when compliance with the South African regulatory margin regime will be required. The information provided in this Letter is being provided solely for making such determinations. This Self-Disclosure Letter is a stand-alone document. Counterparties may exchange information using this Letter without exchanging the Original Self-Disclosure Letter. Market participants who wish to provide information necessary to determine if and when the South African regulatory margin regime and one or more of the regulatory margin regimes covered by the Original Self-Disclosure Letter apply should exchange both this Letter and the Original Self-Disclosure Letter.

Capitalized terms used in this Letter are defined in Appendices I-II.

¹ See Margin requirements for non-centrally cleared derivatives (Mar. 2015) (“BCBS-IOSCO Framework”), available at <https://www.bis.org/bcbs/publ/d317.htm>.

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Instructions:

Section 1 of this Self-Disclosure Letter (the “Letter”) requests general information about the market participant on whose behalf this Letter will be delivered (referred to herein as “Principal”). Section 2 of this Letter requests South Africa-specific information.

This Letter should be completed and delivered on behalf of Principal to another market participant (referred to herein as “Recipient”) if Principal or Recipient may be subject to the South African regulatory margin regime, including if South Africa is a jurisdiction that they have been informed or otherwise have reason to conclude is a jurisdiction in which Recipient is generally regulated for purposes of uncleared derivatives margin. In addition, market participants that are subject to direct regulation under the uncleared derivatives margin rules of South Africa should complete this Letter. This Letter does not need to be completed if South Africa-specific information is not required for the particular relationship between Principal and Recipient.

For example, if this Letter is being delivered to a Recipient that is a Counterparty, such Recipient will likely need the information requested in this Letter to determine whether and how the South African regulatory margin regime applies to the particular relationship between Principal and Recipient. At the same time, if Principal is itself as a Counterparty, Recipient will likely need this information for its own purposes, including (if it is regulated in a different jurisdiction) potential application of substituted compliance and other rules.

Thus, when preparing to fill out this Letter for particular Recipients, market participants should consider obtaining instructions from the Recipient ahead of time if it is not clear whether the Recipient needs this Letter completed.

If you are unsure of whether the South African regulatory margin regime will apply to Principal's relationship with a Recipient, you should contact the applicable Recipient. Market participants may exchange contact information for this purpose by using Section 1(c).

1. General Biographical Information

Please complete this Section 1 with the biographical information of the Principal. Definitions of certain terms used in this Section 1 are set forth in Appendix I to this Letter.

(a) Principal Information

Legal Name: _____

Entity Identifier: _____

Address: _____

Country: _____

State/Province: _____

Zip/Postal Code: _____

(b) Multibranch Entity Information²

Is Principal a Multibranch Entity?

Yes

No

(c) Contact Information

This space may be used to provide contact information to a Recipient who may have questions about information provided by Principal in its Letter or about what information to provide in its corresponding Letter to Principal. This contact information is not required and is solely for purposes of providing an address for Recipient to direct questions regarding this Letter or Principal.

Name: _____

E-Mail: _____

Phone: _____

² It may be necessary to identify branches for purposes of establishing when a pair of Counterparties is within the scope of margin rules.

2. South Africa Information

If the Margin Requirements may apply to the relationship between Principal and Recipient (i.e., if either Principal or Recipient is an entity subject to the Margin Requirements), please complete each relevant subsection of this Section 2. Definitions of certain terms used in this Section 2 are set forth in Appendix II to this Letter.

(a) ***South Africa Margin Requirements Entity Status***

Please check one box for each of the questions below. By checking a box, Principal is indicating that its entity status for purposes of Margin Requirements is the status specified next to the box checked.

(i) Provider

Is Principal a Provider?

Yes

No

(ii) Counterparty

Is Principal a Counterparty?

Yes

No

(iii) Foreign counterparty³

Is Principal a foreign counterparty?

Yes

No

(b) ***Exemption Rules***

If Principal has been identified as a Provider in Section 2(a)(i) of the Letter, or a Counterparty in Section 2(a)(ii) of the Letter, or a foreign counterparty in Section 2(a)(iii) of the Letter, is that Principal subject to any of the exemptions below? Please check the boxes below if applicable.

³ Certain deemed compliance provisions may apply to transactions with foreign counterparties in terms of section 2.3 of the Margin Requirements.

- sovereign
- central bank
- multilateral development bank
- the Bank for International settlements

(c) ***Deemed compliance for Covered Transactions with a foreign counterparty***

If Principal has been identified as a foreign counterparty in Section 2(a)(iii) of the Letter, is the foreign counterparty directly subject to the margin requirements of the foreign jurisdiction in which it is located?

- Yes
- No

(d) ***South Africa AANA Information***

If Principal has been identified as a Provider in Section 2(a)(i) of the Letter or a Counterparty in Section 2(a)(ii) of the Letter, please complete each of the questions below, as applicable.

(i) South Africa AANA Threshold⁴

Please check one of the boxes below.

(1) Checking the first box below indicates that Principal's South Africa AANA for March, April and May 2020 is above ZAR30 trillion and Principal must comply with the Margin Requirements from the effective date.

(2) Checking the second box below indicates that Principal's South Africa AANA for March, April and May 2020 is not above ZAR30 trillion.

- Above ZAR30 trillion South Africa AANA
- Not above ZAR30 trillion South Africa AANA

(ii) South Africa AANA Threshold Estimate

If Principal's South Africa AANA does not exceed ZAR30 trillion, please indicate the estimated date and year (if any) in which Principal expects to come into scope for the Margin Requirements based on Principal's South Africa AANA by checking the

⁴ Please note that counterparties may have to exchange AANA information on an annual basis, for which ISDA may publish a separate form, and ISDA Amend will be built to facilitate, subsequent exchanges of AANA information.

appropriate box below. A person completing this form may also select "Decline to answer" in this section.

This information is not mandatory, is not a representation that Principal will, in fact, cross the relevant threshold in the indicated year, and is provided solely to enable Recipient to plan for future documentation or other changes that may be necessary to comply with regulatory initial margin requirements.

- 1 September 2021 (ZAR23 trillion South Africa AANA for March, April & May 2021)
- 1 September 2023 (ZAR15 trillion South Africa AANA for March, April & May 2023)
- 1 September 2024 (ZAR8 trillion South Africa AANA for March, April & May 2024)
- 1 September 2025 (ZAR100 billion South Africa AANA for March, April & May 2025)
- Decline to answer

The information provided in this Letter is, to the best of Principal's knowledge and belief, accurate as of the date of completion of this Regulatory Margin Self-Disclosure Letter – South Africa Supplement. As to information other than answers provided in Sections 2(b)(ii), Principal agrees to promptly provide updates if any such information changes in any material respect.

[Name of Principal]⁵

By: _____

Name: _____

Title: _____

Date of Completion:

⁵ If this Letter is being delivered by an agent on behalf of one or more Principals, the agent should insert "as agent for [name of Principal][the Principals named on the attached sheet]." If the agent is acting on behalf of more than one Principal, (i) it may list the names of such Principals on a separate sheet and (ii) this Letter should be treated as if it were a separate Letter with respect to each Principal listed on such sheet. Similarly, if this Letter is being delivered by a trustee on behalf of one or more trusts or trust funds, the trustee should insert "as trustee for [name of trust or trust fund][the [trusts][trust funds] named on the attached sheet]."

Appendix I: Definitions – General Biographical Information

“**Entity Identifier**” means an [LEI/GEI/other acceptable identifier].

“**Letter**” or “**Self-Disclosure Letter**” means this Regulatory Margin Self-Disclosure Letter – South Africa Supplement, as published by the International Swaps and Derivatives Association, Inc..

“**Multibranch Entity**” means a Provider or Counterparty entity that has local branches, offices or agencies in multiple jurisdictions for purposes of the Margin Requirements.

“**Principal**” means the market participant whose information is disclosed in this Letter, as identified in Section 1(a).

“**Recipient**” means the derivatives counterparty of Principal to whom this Letter is or will be delivered.

Appendix II: Definitions – South African Information

“**authorised user**” means an authorised user as defined in the Financial Markets Act, 2012.

“**Counterparty**” means (a) an authorised user, (b) a bank, bank controlling company or branch as defined in terms of the Banks Act, 1990; (c) a financial services provider authorised to provide financial services in derivative instruments as contemplated in the Financial Advisory and Intermediary Services Act, 2002; (d) an insurer licensed or deemed to be licensed to conduct life insurance business in terms of the Insurance Act, 2017; (e) an insurer licensed or deemed to be licensed to conduct non-life insurance business in terms of the Insurance Act, 2017; (f) an investment fund; (g) a Provider; (h) any other person declared by the Financial Sector Conduct Authority, with the concurrence of the Prudential Authority, to be a Counterparty. .

“**Covered Transaction**” means an uncleared over-the-counter derivatives contract as defined in the Financial Markets Act, 2012, excluding those contracts expressly exempt from the Margin Requirements in terms of section 2 of the Margin Requirements.

“**effective date**” means 16 August 2021.

“**Financial Sector Conduct Authority**” means the authority established in terms of section 56 of the Financial Sector Regulation Act, 2017.

“**foreign counterparty**” means a person outside the Republic of South Africa who (a) is authorised by a supervisory authority to perform a service or services similar to one or more of the services referred to in the definition of "Provider" above or the services performed by an authorised user; or (b) is registered, licensed, recognised, approved or otherwise authorised to conduct the business of a bank or of an institution referred to in paragraphs (d), (e) or (f) of the definition of "Counterparty" above by a supervisory authority with functions similar to those of the Financial Sector Conduct Authority or the Prudential Authority referred to in the legislation listed in paragraph (b), (d) or (e) of the definition of "Counterparty" above or the Collective Investment Schemes Control Act, 2002.

“**Group**” means a group of companies as defined in the Companies Act, 2008.

“**investment fund**” includes a portfolio of a collective investment scheme administered by a manager registered in terms of the Collective Investment Schemes Control Act, 2002 and a private equity fund.

“**Margin Requirements**” means the margin requirements set out in Joint Standard 2 of 2020 published by the Financial Sector Conduct Authority and the Prudential Authority on 2 June 2020 (*Margin Requirements for non-centrally cleared over-the-counter derivatives transactions*) under the Financial Sector Regulation Act, 2017.

“**private equity fund**” means a managed pool of capital that –

- (a) has as its principal business, the making of equity, equity orientated or equity related investments primarily in unlisted companies or ventures to earn income or capital gains;

- (b) is managed or advised by a member of the South African Venture Capital and Private Equity Association or other equivalent private equity and venture capital industry body; and
- (c) is not open or offered to the public as an investment.

“Provider” means an authorised over-the-counter derivative provider as defined in the Regulations to the Financial Markets Act, 2012 published under Government Notice R98 in Government Gazette 41433 of 9 February 2018.

“Prudential Authority” means the authority established in terms of Section 32 of the Financial Sector Regulation Act, 2017.

“South Africa” means the Republic of South Africa.

“South Africa AANA” means the aggregate month-end average gross notional amount of OTC derivatives for March, April and May of the given year for a Group, including in respect of physically settled foreign exchange forwards and swaps.

“sovereign” means the central government and includes the central government in the Republic of South Africa as constituted by the national sphere of government, excluding any national public entity or national government business enterprise as defined in the Public Finance Management Act, 1999.