

Hurricane Sandy Guidance
October 29, 2012
Second Update October 30, 2012

****Paragraph 2 (Options, Rate Resets and Swaptions) has been updated****

This document includes previous updates.

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 closing of U.S. exchanges on Monday October 29 and Tuesday October 30 due to Hurricane Sandy. This guidance is based on information available to ISDA at 3:00pm EST on October 29, 2012. Further guidance may become available, and participants should monitor information updates from exchanges and other sources listed below.

Late on October 28, the NYSE, Nasdaq, NYMEX, COMEX and ICE announced that their respective exchanges will be closed on October 29. On October 29, NYSE and Nasdaq announced October 30 closings also.

The Securities Industry and Financial Markets Association recommended an early close of 12:00pm EST on Monday, October 29, 2012 for the trading of US dollar-denominated fixed-income securities in the United States and a full close of the fixed income market on October 30.

ISDA is issuing this guidance in the interest of mitigating market risk and the promotion of orderly valuation and settlement of positions by market participants. Parties are not obliged to follow the guidance set forth below and may choose alternate means of addressing these events.

Guidance

ISDA, in consultation with market participants, recommends the following guidance for the operation of derivative transactions affected by the October 29, 2012 and October 30, 2012 closure of U.S. exchanges and markets.

1. Exercise, Valuation and Expiration of Option Transactions and Observation Days for Variance Swap Transactions under the 2002 ISDA Equity Derivatives Definitions

Unless the parties otherwise agree, each of October 29, 2012 and October 30, 2012 should be treated as a Scheduled Trading Day that is a Disrupted Day, as each term is defined in the 2002 Definitions, due to the failure of the relevant U.S. exchange(s) to open for trading during their regular trading sessions.

For Transactions for which either October 29, 2012 or October 30, 2012 is a Valuation Date, such Valuation Date should be adjusted in accordance with the relevant provision of the 2002 Definitions applicable to Disrupted Days, subject to any amendments made in any relevant confirmation between the parties. For example, if a Valuation Date in respect of an Option Transaction is specified as October 29th and is governed by the 2002 Definitions, such

Valuation Date should be postponed to the next Scheduled Trading Day that is not a Disrupted Day (which, for the avoidance of doubt, is expected to be October 31, 2012 as of the date of this statement). For Index Variance Swap Transactions and Share Variance Swap Transactions documented under the 2007 Americas Master Variance Swap Confirmation Agreement (the “Americas Variance MCA”), the following should apply (terms used, but not otherwise defined below, shall have the meanings assigned to them in the Americas Variance MCA):

- (i) where either October 29, 2012 or October 30, 2012 is not the Valuation Date, such day should be treated as an Observation Day that is a Disrupted Day, with the result that P_t for such Observation Day shall be deemed to equal P_{t-1} ;
- (ii) where either October 29, 2012 or October 30, 2012 is the Valuation Date, such Valuation Date should be postponed in accordance with the relevant provisions of the Americas Variance MCA; and
- (iii) for the avoidance of doubt, no change should be made to N .

In respect of other terms of Transactions that may have been affected by these events, such as averaging and exercise, the parties should consult their confirmations as to what consequences, if any, should apply.

2. *Options, Rate Resets and Swaptions under the 2006 ISDA Definitions*

October 29

It is ISDA’s understanding that commercial banks and foreign exchange markets in New York should settle payments and be open for general business (including dealings in foreign exchange and foreign currency deposits). Accordingly, the day would be a New York Business Day and a New York Banking Day. As a result, unless parties agree otherwise, in relation to transactions documented under the 2006 ISDA Definitions, obligations to pay, rights to exercise options and the valuation of cash settlements which would otherwise be due, exercisable and required to be performed, respectively, on October 29, should be made, may be exercised and should be performed notwithstanding the closure of various exchanges and markets in the U.S.

As the SIFMA recommendation is for an early close on October 29 and not a complete closure, the early close will not affect the closing time for settlements, October 29 will be considered a U.S. Government Securities Business Day, and relevant rates and fixings are expected to be published.

Resets of specific rates should be determined by whether a rate is being quoted on that day. If no rate is quoted then the relevant fallback, contained in the Rate Option definition would apply. It is ISDA’s understanding that LIBOR quotes should be available on October 29.

Applying the provisions of the 2006 ISDA Definitions to Swaptions, October 29 should be a day on which Swaptions can be exercised as it should be an Exercise Business Day.

October 30

UPDATE: Market consensus is that October 30 is a New York Business and Banking Day, but not a U.S. Government Securities Business so (i) below is the appropriate scenario.

We are faced with the two scenarios below:

- (i) Remains a New York Business Day and New York Banking Day, but not a U.S. Government Securities Business Day – as for October 29, but in addition, options would still expire in accordance with the terms of the Confirmation. Rate Options which reference U.S. Government Securities Business Days would not fix and the previous days fixing would need to be applied per the Definitions.
- (ii) It is not a New York Business Day and New York Banking Day, in which case it would be presumably not be a U.S. Government Securities Business Day – In which case we treat as a normal holiday and apply the Definitions as written.

3. *Commodity Derivative Transactions under the 2005 ISDA Commodity Definitions and the 1993 ISDA Commodity Derivatives Definitions*

The statement in the original guidance from ISDA regarding NYMEX-based commodity derivatives transactions was based on information available at the time. We have subsequently learned that electronic trading of NYMEX contracts was possible during the course of October 29 and, based on information on the CME Group website, will be possible during the course of October 30. ISDA therefore confirms that based on information now available, both October 29 and October 30 should be treated as Commodity Business Days for NYMEX-and COMEX-based commodity derivative transactions.

4. *Credit Derivative Transactions under the 2003 ISDA Credit Derivatives Definitions*

For standard CDS transactions with payment dates on March 20, June 20, September 20 and December 20, ISDA does not anticipate that Hurricane Sandy will have any impact on the due date of any payment or the amount of any payment.

For a CDS transaction with a payment date occurring on October 29, 2012, as mentioned in item 2 above, it is ISDA's understanding that commercial banks and foreign exchange markets in New York should settle payments and be open for general business on October 29. As a result, unless parties agree otherwise, in relation to transactions documented under the 2003 ISDA Credit Derivatives Definitions (as amended by the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions), obligations to pay which would otherwise be due on October 29 should be made notwithstanding the closure of various exchanges and markets in the U.S.

For a CDS transaction with a payment date occurring in the days following October 29 and for which New York is specified as a relevant city for the "Business Day" definition, if on such payment date commercial banks and foreign exchange markets in New York are NOT

generally open to settle payments, the day would not be a Business Day for that transaction and parties should determine the payment date by applying the relevant Business Day Convention.

5. Payments

It is ISDA's understanding that the Fedwire Funds, Securities and National Settlement Services and clearing corporations, such as Depository Trust & Clearing Corporation, will be open on October 29 and October 30.