

March 20, 2020

The Honorable Randal Quarrels
Chairman
Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Ashley Alder
Chairman
International Organization of Securities Commissions
Oquendo 12, 28006
Madrid, Spain

Dear Chairman Quarrels and Chairman Alder,

Re: Maintaining market access during jurisdictional responses to the corona virus

ISDA strongly welcomes today's press release from the Financial Stability Board regarding their coordination of financial sector work to maintain global stability, keep markets open and functioning and preserve the financial system's capacity to finance growth¹. As you will be all too aware, the global corona virus pandemic is presenting unprecedented challenges for financial market participants as governments take extraordinary steps to moderate infections.

As recognized in the press release, it is vitally important that markets, clearing and settlement systems remain open wherever possible in order to ensure the financial community is able to trade, settle and clear their transactions consistent with their standard contractual terms during these difficult times. This letter sets out observations drawn from recent market closures.

It also sets out critical information that public sector authorities and infrastructure firms need to swiftly and definitively communicate to market participants in the event that a market is closed (preferably at least 2 business days before the closure) so that they are able to identify and apply contractual fallbacks.

¹ https://www.fsb.org/2020/03/fsb-coordinates-financial-sector-work-to-buttress-the-economy-in-response-to-covid-19/?utm_source=POLITICO.EU&utm_campaign=6da1500743-EMAIL_CAMPAIGN_2020_03_20_01_00&utm_medium=email&utm_term=0_10959edeb5-6da1500743-189889577

Lessons learned from recent market closures.

Unexpected market closures or the closure of key infrastructures introduce additional stress and uncertainty into an already difficult environment, impacting liquidity, transparency and stability. They drain time and resource from institutions which currently have a great need of both.

By way of a common example, if a market participant has a contract entitling it to acquire shares on a stock exchange at a set price on a fixed day, the unexpected closure of the stock exchange on that day would result in disruption to its contractual position. If the contract had been entered into in order to offset some other exposure, for example, in relation to a sale or acquisition it was making, it may find that the transaction and the exposure it was designed to hedge no longer align in the way intended.

There is a multitude of other such examples that can beset investors across the equities, fx, interest rate, commodities and other derivatives markets if those markets or the clearing and settlement systems close when they would otherwise be expected to be open.

Fortunately, ISDA's standardized derivatives documentation provides against such contingencies with fallbacks for specific disruption events which are designed to promote contractual continuity. However, the process by which impacted investors, dealers, central counterparties and others identify the practical effects of market closures in relation to their positions is complex, expensive, time-consuming and may lead to bespoke, imperfect and fragmented outcomes².

For example, the recent extension of the Chinese Lunar New Year holiday closed the markets over a month end and was announced in the course of the already scheduled holiday. For some transactions, a strict contractual interpretation of the fallback provisions would have required parties to have made payments to each other 4 days before they would have become aware of being under such an obligation. We understand that market participants dealt with this pragmatically, but it illustrates the difficulties that market closures can pose even where contracts have attempted to anticipate such an occurrence.

For equity derivative transactions, a closure extending beyond 8 days on which the exchange was otherwise expected to have been open may result in the calculation agent under each transaction (which is usually one of the parties to the transaction) having to determine the amount payable under the transaction. In circumstances in which the exchange remains closed, this is likely to result in uncertainty and divergent outcomes in relation to thousands of trades whose terms are identical.

We note and commend the recent efforts in China and the Philippines to ensure their markets, clearing and settlement systems reopened quickly following unscheduled closures. Our members are concerned, however, that other jurisdictions may be planning closures of their own.

We understand that the COVID-19 pandemic has created new challenges that were previously unanticipated, requiring market participants to make adjustments to accommodate the safety response. Working with our

² ISDA typically publishes guidance to market participants in relation to market closures such as those which occurred in respect of the National Day of Mourning declared in respect of President George W Bush (<https://www.isda.org/2018/12/03/george-h-w-bush-national-day-of-mourning/>); the extension of China's Lunar New Year in January 2020 (<https://www.isda.org/2020/01/30/market-closure-announcement-chinese-new-year/>) and the imposition of extended quarantine in the Philippines in March 2020 (<https://www.isda.org/2020/03/18/philippines-market-closures/>).

global membership we are responding in real time to help market participants accommodate these market closures. We request your continued and urgent assistance in helping to ensure that the relevant authorities globally are alerted to the issues that such closures (even if they are temporary) can cause.

Need for swift, definitive information on market closures.

If, despite best efforts, markets, clearing and/or settlement systems are unable to remain operational for any period, it is essential that market participants receive official notice in advance (ideally no less than 2 business days in advance) as to the occurrence of any closure. In our experience, the greater the advance notice of a closure and the shorter its duration, the less disruptive the impact on market participants.

Establishing the extent and nature of closures has historically proved very challenging. In respect of the recent extended quarantine in the Philippines, for example, there was no definitive official communication as to whether commercial banks were open for business or closed. The consequences of market closures on derivatives tend to be different depending on the answer to this question.

With this kind of issue in mind, I have included as an annex to this letter a table setting out a list of questions, the answers to which, provided swiftly and definitively by official sector bodies or the relevant institutions are critical to market participants' ability to understand the impact of the closure on their trades and positions.

Conclusion.

As this virus spreads throughout the world, if at all possible, it is essential that markets remain open to ensure critical payments and transactions can be fulfilled and capital can flow. To the extent that is not possible, I would be grateful if you could help ensure relevant authorities provide swift and definitive answers to the questions in the annex and that they remain poised to provide further information as required. ISDA and its members are prepared to provide any assistance you may require to alert market participants to possible market closures and to develop solutions to mitigate the impact of these events.

Sincerely,



Scott O'Malia
Chief Executive Officer
International Swaps and Derivatives Association, Inc.

cc:

Dietrich Domanski, Secretary General, FSB
Paul Andrews, Secretary General, IOSCO

Annex

Institution	Business	Open (provide detailed breakdown if open for some business)	Closed (provide detailed breakdown if open for some business)	Part Open (provide detailed breakdown if open for some business)	Early Close (provide detailed breakdown if early close for some business)	Announcing institution and place of announcement (provide link)	Time and date of announcement	Expected duration of any closure
Commercial Banks	General business							
	FX							
	Payments							
Central and Federal Banks	All business / publication of daily rates (e.g. interest rates or fx rates)							
Stock markets	Share exchanges							

Futures & Options exchanges	Futures and Options on shares/indices traded on listed markets							
SEFs, MTFs, OTFs	On venue trades							
National and pan-national settlement systems	All business							
Clearing systems	All business							
Fixed Income Markets (including bond markets)	All fixed income business							
FX markets	Onshore Spot fx							
Bullion markets and other commodity markets	All business							