

MEMORANDUM

From: ISDA Legal Department

Date: August 23, 2013

Re: Market Disruption Event Notification - 8/22/13 NASDAQ halt

We have received a number of inquiries about a 8/22/13 NASDAQ halt so are providing some information on the event. This information, regarding over-the-counter Transactions on stocks for which NASDAQ is the Exchange or indices which are comprised in whole or in part of stocks which trade on NASDAQ (“NASDAQ Transactions”), is based on information provided by NASDAQ and is not legal advice. Parties should rely on their own analysis of the terms of the Confirmation for any Transaction that may have been affected by the August 22nd Halt.

On Thursday August 22, 2013 at 12:14 PM EST NASDAQ announced that it would halt trading of all Tape C securities (the “August 22nd Halt”). NASDAQ later announced that trading in those stocks would resume at approximately 3:25 PM EST and it would not cancel prior open orders unless parties elected to do so.

A Market Disruption Event for a variance swap which is a NASDAQ Transaction documented under the 2007 Americas Master Variance Swap Confirmation Agreement published by ISDA (the “2007 NA Var Swap MCA”) occurs if there is a Trading Disruption or an Exchange Disruption, in either case at any time during the five minute period that ends at the relevant Valuation Time or an Early Closure on the relevant date. Note that in the case of an Observation Start Date or Valuation Date if the price of the relevant index or stock is determined for that date as a price that is not the closing price thereof (e.g., an agreed price or the Official Settlement Price of an Exchange-traded Contract), a Market Disruption Event will not in and of itself impact that day. Since the stocks on NASDAQ resumed trading prior to the five minute period that ends at the relevant Valuation Time, August 22nd was not a Disrupted Day for the Observation Start Date, any Observation Day during the Observation Period or the Valuation Date for a variance swap documented under the 2007 NA Var Swap MCA on the basis of the August 22nd Halt.

For any other NASDAQ Transaction for which August 22nd is an Averaging Date, a Valuation Date, a Potential Exercise Date, a Knock-in Determination Day, a Knock-out Determination Day or an Expiration Date, that uses the definition of Market Disruption Event in the ISDA 2002 Equity Derivatives Definitions, un-amended, as the August 22nd Halt was in effect within the hour before the Scheduled Closing Time, the Calculation



Agent will determine whether the event was “material” for purposes of determining whether or not there was a Trading Disruption or Exchange Disruption and, if applicable, the percentage of the index affected and accordingly, whether or not such day was a Disrupted Day.

For any NASDAQ Transaction that does not fit into the foregoing categories, including, a NASDAQ Transaction which determines the price of a stock on the basis of a volume-weighted price for such day, the Calculation Agent would refer to the terms of the relevant Confirmation to determine whether or not the August 22nd Halt constitutes a Market Disruption Event thereunder and, if applicable, the related consequences.