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13 October 2015

Dear Kelly, Yu Ting and Ken,

Re: Potential Extension of Masking Relief under Regulation 11 of the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 (“Reporting Rules”)

Thankyou for the opportunity to discuss the above issue with Kelly on 5 October, and for your consideration of the issues and suggestions raised in this letter. ISDA is actively engaged with providing input on regulatory proposals in the US, Canada, the EU and the Asian jurisdictions, including Hong Kong and Australia, among others. Our comments are derived from this international experience and constant dialogue, and reflect the views of firms in the Asia-Pacific region. As OTC derivatives tend to be cross-border in nature, we wish to highlight the importance of attaining efficiencies and minimising regulatory divergence through globally-consistent requirements, methodologies and practices, to the extent possible.

As previously discussed, one of the industry’s main concerns with respect to the reporting obligation relates to the scheduled expiration of the relief under Regulation 11 of the Reporting Rules (i.e. the deferred reporting of counterparty information in certain cases).

In this regard, our members have been very encouraged to understand that MAS is considering extending the relief, as this would greatly assist them by allowing them to continue to trade with clients who have not yet provided necessary consents to reporting or whose transaction information remains subject to blocking statutes after 1 November 2015.

However, although this would be a very positive development of the industry, even if expiration date of the relief is extended, our members have a residual concern that the relief will continue to be granted in the form of a temporary deferral. This means that reporting entities who rely on the relief to continue trading (and reporting those trades on a masked basis) after the expiry of the extended relief will continue to bear the risk that historical trades may be required to be unmasked at some point in the future (when the deferral period expires), even where consent has not been received (despite reasonable efforts), or the relevant blocking statute still applies.

We would therefore respectfully request that MAS consider modifying the relief provided under Regulation 11, so that trades entered into during the entire relief period do not need to be unmasked in the future, unless the relevant blocking statute has been removed or sufficient consent has been obtained from the client. We have proposed the attached drafting changes to the Regulation, which we would be very happy to discuss if desired.

Yours faithfully,

For the International Swaps and Derivatives Association, Inc.



Rishi Kapoor

Director, Policy, Asia-Pacific



Keith Noyes

Regional Director, Asia-Pacific

ATTACHMENT**Suggested Drafting Amendments to Regulation 11(1) of the Reporting Rules****Deferred reporting of counterparty information in certain cases**

11.—(1) ~~Subject to paragraph (3), a~~ A specified person who is a party to a specified derivatives contract need not report, before the date which is [2] months following the later of (A) [insert date of expiry of extended deferral period [2016]] and (B) the date on which neither paragraph (a) nor (b) continue to apply in respect of the relevant counterparty information~~1st November 2015~~, under section 125 of the Act, in respect of the specified derivatives contract executed prior to [insert date of expiry of extended deferral period [2016]], any counterparty information set out in the First Schedule, if —

- a) he is prohibited from reporting the counterparty information by —
 - i. the laws of any jurisdiction specified in the Fifth Schedule; or
 - ii. any requirements imposed on him by any authority of any jurisdiction specified in the Fifth Schedule; and
- b) where the laws or requirements referred to in sub-paragraph (a) allow him to report the counterparty information with the consent of the counterparty to the specified derivatives contract, he has made reasonable efforts, but was unable, to obtain such consent.

The same changes should be made to paragraph (2) of Regulation 11 of the Reporting Rules, and paragraph 3 of Regulation 11 of the Reporting Rules can be deleted.