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8 January 2015

Dear Oliver,

Re: Exemption 7 (Trade Identifiers) of ASIC Corporations (Derivative Transaction Reporting Exemption) Instrument 2015/844

The International Swaps and Derivatives Association, Inc. ("**ISDA**") and the Australian Financial Markets Association ("**AFMA**") (the **"Associations**") are submitting a request for the continuation of the relief provided under the above instrument ("**Instrument**") in relation to the requirement to 'share and pair' a universal transaction identifier ("**UTI**") from 1 February 2016, on the basis of a minor and technical departure from existing policy.

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 68 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on ISDA's web site: www.isda.org.

ISDA is actively engaged with providing input on regulatory proposals in the United States (the "**US**"), Canada, the European Union (the "**EU**") and Asian jurisdictions, including Singapore and Hong Kong, among others. The Associations' comments are derived from this international experience and constant dialogue, and reflect the views of both firms in the Asia-Pacific region and from further afield. As OTC derivatives tend to be cross-border in nature, we wish to highlight the importance of ensuring that regulatory requirements have a consistent domestic and cross-border effect, so as to not disproportionately impact any one sector of what is a global market. In the context of this request, we note ASIC's continued

engagement with its counterparts in Singapore and Hong Kong on the issue of shared and paired identifiers.

We set out our reasoning for this request below.

Problem

The Committee on Payments and Market Infrastructures ("**CPMI**") and the International Organisation of Securities Commissions ("**IOSCO**") ("**CPMI-IOSCO**") have delayed the release of the final recommendations on UTI, from end-2015 to 2016. At this stage, the Associations understand that these recommendations will now be released around mid-2016. These standards will serve as the basis for implementation by regulators, reporting entities, infrastructures and trade associations, and therefore market stakeholders have been eager to contribute to the development and finalisation of these standards. However, this delay means that according to the current timetable, Australian UTI requirements will now take effect ahead of global standards for the use of the UTI, which we understand was not the intention of ASIC.

Given the 1 February 2016 UTI 'share-and-pair' go-live date in Australia (as well as Hong Kong and Singapore), our members have raised the concern of building for a UTI standard under local reporting requirements, which may be superseded by international standards a matter of months later. This may mean a double-build, which would require extra resourcing, manpower and system technology changes, leading to a duplicative and inefficient use of limited resources by all participants.

What are the Facts?

It is now widely acknowledged by regulators, reporting entities, infrastructures and representative associations that globally-harmonised, consistent standards around trade reporting, data and formats are paramount to any meaningful attempt to aggregate OTC derivatives data. In line with this acknowledged importance of agreeing global standards around UTI, we also note that the original intention of CPMI-IOSCO was to finalise global UTI standards by the end of 2015.

Leading up to this date, stakeholders within the OTC market have been preparing for a UTI 'share-and-pair' requirement at a regional level. OTC trade reporting regimes in other regions, such as the EU, already require counterparties to agree and report the same identifier for their OTC derivative transactions, which has been met with varying degrees of acceptance, depending on the extent to which that requirement can be leveraged internationally. Similarly, trade identifier requirements in the US have proven to be problematic, due to the jurisdiction-

specific format for construction and unease of use for other trade reporting regimes. Issues such as these have only served to highlight the importance of having a single, global set of standards at the supranational level which all entities can have confidence in, and thus the industry has been eagerly anticipating the release of the CPMI-IOSCO UTI recommendations.

In the Asia-Pacific region, UTI requirements have yet to take effect, including in G-20 jurisdictions which are relatively advanced in their implementation of trade reporting, such as Australia, Singapore and Hong Kong, as regulators await the resulting outcome of CPMI-IOSCO's global standard-setting process. The industry has greatly appreciated this flexibility and international perspective, as this has allowed stakeholders to look to developments at the international level and avoid jurisdiction-specific builds in the Asia-Pacific. Given a large proportion of the Associations' members trade from and across multiple jurisdictions within this region, reporting entities have also greatly appreciated the synchronised go-live date of 1 February 2016 across Australia, Singapore and Hong Kong.

What is the Impact of the Problem?

Anticipating the need for a globally consistent approach to creation and use of UTI for multi-jurisdictional transaction reporting, ISDA worked with market participants to develop standards that address the creation and exchange of a single UTI for global reporting. That is, despite the delay in the release of the CPMI-IOSCO recommendations, industry participants have undertaken significant work to date around the UTI, in preparation for the 'share-and-pair' requirement. In particular, effort has been devoted to determining who should be the UTI generator, in which trading scenarios, with which counterparties and in which jurisdictions; the approach and format for generating the UTI prefix; the approach to UTI for reporting transactions 'entered into' in Australia; timing and testing, legal considerations and setting up industry contact lists. Regular meetings and calls occur with respect to UTI, discussing these matters and other UTI-related considerations.

The original intended release date of end-2015 of the CPMI-IOSCO UTI recommendations would have allowed reporting entities sufficient time to ensure that on the subsequent date of 1 February 2016 when the Asia-Pacific UTI requirement went live, their UTI processes were already aligned with those international standards. However, the delay in the release of the final CPMI-IOSCO UTI recommendations means that Australian (and additionally Singaporean and Hong Kong) UTI requirements will now precede those ultimate standards. This exposes reporting entities to the operational risk of having to go live with UTI processes on 1 February, before having to reconfigure systems, processes, generation logic and counterparty arrangements if the CPMI-IOSCO recommendations prove to be materially different from existing market practice. At this stage, we do anticipate that in at least one area, the standards will prescribe a different requirement to what is followed today, which will

have an enormous impact on UTI generation logic, not only for reporting entities, but also on existing UTI documentation (such as the ISDA UTI best practice document). This documentation may need to be amended and go through the relevant governance processes to align with the recommendations, along with industry education on those amendments. We would also note that any post-implementation change to UTI protocols and format will require the trade to be unlocked via an Exit-Unlock message and additional processes required by DTCC to correct the UTI.

We also note that in some cases, compliance with the conditions of Exemption 7 of the Instrument has proved to be problematic. In particular, it has been raised by our members that some confirmation platforms are able to supply UTIs, but not in an electronic, transmissible form when that platform provider is only being used for confirmation purposes but not as a reporting agent. This is leading to UTI ingestion difficulties, particularly for the buyside. We would welcome further discussions with ASIC on this issue.

What is the Impact of Legislative Provisions or ASIC Policy?

Existing ASIC policy, as set out in Exemption 7 of the Instrument, would require reporting entities, middlewares and infrastructures to implement the UTI requirement on 1 February, with associated deployment of resources (including resources to investigate and reconcile trades that should have paired), technology and personnel. Additional deployment may be required once the CPMI-IOSCO recommendations have been released (for example, to relink trades whose linkages are broken due to implementation prior to the CPMI-IOSCO UTI recommendations coming into effect), resulting in duplication of effort and additional cost.

The proposed continuation of relief would allow stakeholders and regulators alike to look to the supranational level for global standards, which can be applied on a consistent basis across jurisdictions, providing confidence that firms' builds have been to final requirements.

Relief Sought

We would be grateful if ASIC might consider whether there would be a regulatory benefit to requiring a shared-and-paired UTI from 1 February 2016, given that it may prove to be out of step with the CPMI-IOSCO recommendations. The Associations submit that it would be more efficient to allow IOSCO to complete its work on UTI standards before translating these into local requirements, which would maximise the chances of alignment between ASIC's UTI requirements and the standards finalised by IOSCO. We further understand that this was

one of the key considerations taken into account by the regulatory authorities of Australia, Hong Kong and Singapore when setting a delayed UTI go-live date of 1 February 2016.

Our members remain committed to implementation of the UTI, however may only be able to fully do so once final CPMI-IOSCO recommendations have been published. Therefore, the Associations request continuation of relief from the UTI 'share-and-pair' requirement in Australia under Exemption 7 of the Instrument, until such time as the CPMI-IOSCO UTI recommendations have been released, and the industry has had an opportunity to gauge the size and complexity of the build that will be required to ensure that its UTI practices are in compliance with the recommendations. We suggest that a date around the beginning of Q4, 2016 would avoid the complexity and cost of a double build which the 1 February 2016 date would imply, however we do note that this indicative timing is predicated on the timely release of the recommendations, and may need to be revisited if those recommendations prove to be released later than what current market expectations lead stakeholders to believe. We would be very happy to have subsequent discussions with ASIC and other regulators to refine the go-live date once the recommendations are published.

Members also saw great value in having a synchronized UTI go-live date across the 3 jurisdictions, as it provided simplicity and alignment, and would lead to ease of implementation in the Asia-Pacific region. The industry very much supports this constructive engagement with regional counterparts as it leads to better and more efficient regulatory outcomes, and therefore, if ASIC were minded to grant this request, we would appreciate it if its staff could coordinate and collaborate with their Hong Kong and Singaporean counterparts to arrive at a new date which is synchronized across the three jurisdictions.

Why Should Relief be Granted?

The Associations understand the importance of having 'shared and paired' transaction identifiers to facilitate matching in trade repositories, yet are also cognisant that in the Asia-Pacific region particularly, the sheer scale of this task means that participants are particularly concerned about being required to implement an Australian UTI requirement when global standards are due to emerge later this year which may be materially different in form or substance to what is required under Australian reporting requirements. We therefore submit that it would be in the interests of all stakeholders in the market to look and build to those global UTI standards once finalised, as opposed to a bespoke build a matter of mere months ahead of that standard, which may or may not be in alignment.

We are mindful that UTI go-live dates have been deferred previously in this region. However, we understand that the deferral to 1 February 2016 was given to allow all stakeholders, including reporting entities, middleware providers and regulators, to await the release of the

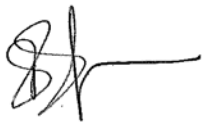
CPMI-IOSCO recommendations and then implement to these standards. Additionally, given the relatively short deferral time period being requested, we consider that a deferral in this case can be justified.

What Conditions Should be Imposed on the Relief?

The conditions in Exemption 7 of the Instrument should remain, although we note here the difficulties outlined earlier with regard to confirmation platforms and transmission of a UTI in an electronic format where the platform is not being used to report these transactions.

We would be very happy to discuss this request further at your convenience.

Yours faithfully,



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