



International Swaps and Derivatives Association, Inc.

ISDA MARCH 2013 DF PROTOCOL AGREEMENT

published on March 22, 2013,
by the International Swaps and Derivatives Association, Inc.

The International Swaps and Derivatives Association, Inc. (“**ISDA**”) has published this ISDA March 2013 DF Protocol Agreement (this “**Protocol Agreement**”) to enable parties to enter into ISDA March 2013 DF Protocol Master Agreements (as defined below) and/or supplement the terms of Protocol Covered Agreements (as defined below) by incorporating therein selected portions of the ISDA March 2013 DF Supplement published on March 22, 2013 by ISDA (the “**March 2013 DF Supplement**”).

1. Use of Protocol

- (a) A person who adheres to this Protocol Agreement (a “**Protocol Participant**”) in the manner set forth in paragraph 2 may use the terms of this Protocol Agreement to supplement one or more existing Protocol Covered Agreements by exchanging questionnaires substantially in the form of Exhibit 2 to this Protocol Agreement or in the form provided on ISDA Amend (in either form, a “**Questionnaire**”), in respect of such Protocol Covered Agreements in the manner set forth in paragraph 3. This Protocol Agreement may also be used by a Protocol Participant to enter into new Protocol Covered Agreements in the form of a 2002 ISDA Master Agreement with a Schedule as specified below (an “**ISDA March 2013 DF Protocol Master Agreement**”) by exchanging Questionnaires with another Protocol Participant in the manner specified in paragraph 3. As described below, the Protocol Participant may be either a principal or an agent in respect of a Protocol Covered Agreement.
- (b) “**Protocol Covered Agreement**” means (i) an ISDA March 2013 DF Protocol Master Agreement or (ii) any other written agreement between two parties, with at least one of such parties being a CFTC Swap Entity, that (A) is in existence on the Implementation Date applicable to such parties, and (B) governs the terms and conditions of one or more transactions in Swaps that each such party has or may enter into as principal. “**PCA Principal**” means a party who is or may become a principal to one or more Swaps under a Protocol Covered Agreement. “**PCA Agent**” means a party who has executed a Protocol Covered Agreement as agent on behalf of one or more PCA Principals.
- (c) An Protocol Covered Agreement may have been executed directly by a PCA Principal or by a PCA Agent. In the case of a Protocol Covered Agreement executed by a PCA Principal, only such PCA Principal may supplement such Protocol Covered Agreement pursuant to this Protocol Agreement. In the case of a Protocol Covered Agreement executed by a PCA Agent on behalf of a PCA Principal, only such PCA Agent may supplement such Protocol Covered Agreement on behalf of a PCA Principal pursuant to this Protocol Agreement (even if such PCA Principal is also a Protocol Participant in respect of one or more other Protocol Covered Agreements).
- (d) An ISDA March 2013 DF Protocol Master Agreement may be entered into pursuant to this Protocol Agreement by a PCA Principal or a PCA Agent. The capacity in which a Protocol Participant enters into an ISDA March 2013 DF Protocol Master Agreement pursuant to this Protocol Agreement is the same as the capacity in which it completes a Matched Questionnaire (as defined below).

2. Adherence Letters

- (a) Adherence to this Protocol Agreement will be evidenced by the execution and online delivery, in accordance with this paragraph 2, by a Protocol Participant to ISDA, as agent, of a letter substantially in

the form of Exhibit 1 (an “**Adherence Letter**”). A person wishing to participate in this Protocol Agreement, whether as PCA Principal or PCA Agent, or both, shall submit, using an online form, a single Adherence Letter to ISDA pursuant to this paragraph 2. ISDA will have the right, in its sole and absolute discretion, upon thirty calendar days’ notice on the “ISDA March 2013 DF Protocol” section of its website at www.isda.org (or by other suitable means) to designate a closing date of the adherence period for this Protocol (such closing date, the “**Adherence Cut-off Date**”). After the Adherence Cut-off Date, ISDA will not accept any further Adherence Letters with respect to this Protocol Agreement.

- (b) Each Protocol Participant executing an Adherence Letter will access the “Protocol Management” section of the ISDA website at www.isda.org to enter information online that is required to generate its form of Adherence Letter and will submit payment of any applicable fee. Either by directly downloading the populated Adherence Letter from the Protocol Management system or upon receipt via e-mail of the populated Adherence Letter, each Protocol Participant will print, sign and upload the signed Adherence Letter as a PDF (portable document format) attachment into the Protocol Management system. Once the signed Adherence Letter has been approved and accepted by ISDA, the Protocol Participant will receive an e-mail confirmation of the Protocol Participant’s adherence to this Protocol Agreement.
- (c) ISDA will publish, so that it may be viewed by all Protocol Participants, a conformed copy of each Adherence Letter containing, in place of each signature, the printed or typewritten name of each signatory.
- (d) Each Protocol Participant executing and submitting an Adherence Letter agrees that, for evidentiary purposes, a conformed copy of an Adherence Letter certified by the General Counsel (or other appropriate officer) of ISDA will be deemed to be an original.
- (e) Each Protocol Participant agrees that the determination of the date and time of acceptance of any Adherence Letter will be determined by ISDA in its absolute discretion.

3. **Questionnaires**

- (a) A Questionnaire in respect of Protocol Covered Agreements will only be deemed to be executed and submitted by a Protocol Participant who has executed and submitted an Adherence Letter. A Protocol Participant who wishes to enter into or supplement Protocol Covered Agreements with multiple counterparties may (but is not required to) execute multiple Questionnaires in order to deliver different Questionnaires to different counterparties pursuant to this paragraph 3; *provided* that a Protocol Participant who is a PCA Principal may not deliver more than one Questionnaire to the same Protocol Participant and a Protocol Participant who is a PCA Agent may not deliver more than one Questionnaire to the same Protocol Participant on behalf of a single PCA Principal.
- (b) A Protocol Participant may extend an offer to enter into and/or supplement Protocol Covered Agreements by executing a Questionnaire and delivering such Questionnaire to another Protocol Participant in the manner set forth in this paragraph 3. If and when a Protocol Participant receiving a Questionnaire also delivers an executed Questionnaire to the offering Protocol Participant, the receiving Protocol Participant will be deemed to have accepted the offer to enter into an ISDA March 2013 DF Protocol Master Agreement and supplement such agreement and their existing Protocol Covered Agreements, in each case if and to the extent set forth in paragraphs 4 and 5, as applicable. For purposes of this Protocol Agreement, each such Protocol Covered Agreement is referred to as a “**Matched PCA,**” both PCA Principals thereto are referred to together as “**Matched PCA Parties,**” and the Questionnaires delivered by or on behalf of the Matched PCA Parties in respect of the Matched PCA are referred to together as “**Matched Questionnaires.**” For the avoidance of doubt, if a PCA Agent has not delivered a Questionnaire on behalf of a particular PCA Principal, such PCA Agent will not have entered into or supplemented any Protocol Covered Agreement on behalf of such PCA Principal pursuant to this Protocol Agreement even if the PCA Agent has delivered a Questionnaire in respect of other PCA Principals.

- (c) For purposes of this Protocol Agreement, when a Protocol Participant delivers a Questionnaire to another Protocol Participant, each PCA Principal on whose behalf such Questionnaire is delivered is referred to as a “**Delivering PCA Principal.**” Delivery of a Questionnaire by a PCA Agent in the manner set forth in this paragraph 3 will be deemed to be delivery by each Delivering PCA Principal identified by the PCA Agent in such Questionnaire. Delivery of a Questionnaire to a PCA Agent in the manner set forth in this paragraph 3 will be deemed to be delivery by a relevant Delivering PCA Principal (i) to each PCA Principal on whose behalf the PCA Agent has entered into an existing Protocol Covered Agreement with such Delivering PCA Principal or (ii) if there is no existing Protocol Covered Agreement with respect to a Delivering PCA Principal, to each PCA Principal identified in the reciprocal Questionnaire delivered by the PCA Agent to such Delivering PCA Principal.
- (d) Delivery of a Questionnaire must be made in the manner described in this paragraph 3(d) not later than the 30th calendar day following the Adherence Cut-off Date (the “**Matching Cut-off Date**”). Delivery of a Questionnaire to a Protocol Participant shall be effective if delivered in a manner specified by such Protocol Participant in its Adherence Letter. In addition, without regard to the election that a Protocol Participant has made in its Adherence Letter, if such Protocol Participant has taken all steps necessary to establish the ability to receive a Questionnaire via ISDA Amend, delivery of a Questionnaire to such Protocol Participant via ISDA Amend shall be effective.
- (e) In using this Protocol Agreement to enter into and/or supplement Matched PCAs, a Protocol Participant may not specify additional provisions, conditions or limitations in its Questionnaire, except as expressly provided therein.

4. ISDA March 2013 DF Protocol Master Agreement

Every pair of Matched PCA Parties that have elected in their Matched Questionnaires to enter into an ISDA March 2013 DF Protocol Master Agreement will be deemed to have entered into such agreement as of the later of (i) the date on which at least one Matched PCA Party is registered (fully or provisionally) with the Commodity Futures Trading Commission (“**CFTC**”) as a (1) “swap dealer,” as defined in Section 1a(49) of the Commodity Exchange Act, as amended (“**CEA**”), and CFTC Regulation 1.3(ggg) thereunder, or (2) “major swap participant” as defined in Section 1a(33) of the CEA and CFTC Regulation 1.3(hhh) thereunder, as applicable, and (ii) the STRD Compliance Date. Matched PCA Parties will also be deemed to have agreed that the following constitutes the Schedule (as such term is used in the ISDA March 2013 DF Protocol Master Agreement) to such agreement:

- (a) **Scope.** This Master Agreement will govern any Swap between the parties that is entered into on or after the date hereof that is (i) not governed by an Existing Swap Agreement, and (ii) not intended by the parties to be cleared on a clearing organization. An “**Existing Swap Agreement**” means, in respect of a Swap, a written agreement that (i) exists at the time of execution of such Swap, (ii) provides for, among other things, terms governing the payment obligations of the parties, and (iii) the parties have established (by written agreement, oral agreement, course of conduct or otherwise) will govern such Swap. This Master Agreement will not govern any Swap that is (i) governed by an Existing Swap Agreement, or (ii) intended by the parties to be cleared on a clearing organization.
- (b) **Swaps.** For purposes of this Master Agreement, the term “**Swap**” means a “swap” as defined in Section 1a(47) of the Commodity Exchange Act, as amended (“**CEA**”), and regulations thereunder; *provided that* a commodity option entered into pursuant to Commodity Futures Trading Commission Regulation 32.3(a) is not a Swap for purposes hereof. The term “Swap” also includes any foreign exchange swaps and foreign exchange forwards that are exempted from regulation as “swaps” by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the CEA. For the avoidance of doubt, the term “Swap” does not include a swap that has been cleared by a derivatives clearing organization.
- (c) **Governing Law.** This Master Agreement will be governed by and construed in accordance with the laws of the State of New York (without reference to choice of law doctrine), unless otherwise agreed by the parties.
- (d) **Netting of Payments.** Except as otherwise agreed by the parties in writing, “Multiple Transaction Payment Netting” (1) will apply with respect to each Transaction that is an “FX Transaction” or “Currency Option Transaction” as defined in the ISDA 1998 FX and Currency Option Definitions (as published by

ISDA, the Emerging Markets Traders Association and the Foreign Exchange Committee), as supplemented from time to time, and (2) will not apply with respect to other Transactions, in each case for the purposes of Section 2(c) of this Master Agreement.

- (e) **ISDA August 2012 DF Protocol.** If both parties hereto have adhered to the ISDA August 2012 DF Protocol Agreement, as published on August 13, 2012, by ISDA (the “**August Protocol Agreement**”) and have delivered “Matched Questionnaires” (as defined in the August Protocol Agreement), then this Master Agreement shall be supplemented to the same extent as if it were a “Matched PCA” under the August Protocol Agreement.

5. Incorporation of the ISDA March 2013 DF Supplement into Matched PCAs

- (a) **Incorporation of DF Schedules.** Subject to Section 5(c) hereof, every pair of Matched PCA Parties will be deemed to have supplemented each Matched PCA as of the Implementation Date by incorporating therein DF Schedules 1 and 2 and any other applicable DF Schedules, as follows:
 - (i) such Matched PCA Parties will be deemed to have supplemented their Matched PCAs by incorporating DF Schedule 3 if (A) each Matched PCA Party is a CFTC Swap Entity or has indicated in its Matched Questionnaire that it is, to the best of its knowledge, a Financial Entity (or both) or (B) the Matched PCA Party that is not a CFTC Swap Entity has elected in its Matched Questionnaire to supplement its Matched PCAs by incorporating DF Schedule 3 or has failed to respond to the question, “Does PCA Principal agree to DF Schedule 3”; and
 - (ii) such Matched PCA Parties will be deemed to have supplemented their Matched PCAs by incorporating DF Schedule 4 unless one Matched PCA Party is a Non-CFTC Swap Entity who has elected in its Matched Questionnaire not to supplement its Matched PCAs by incorporating DF Schedule 4.
- (b) **Terms of Data Reconciliation.** With respect to a pair of Matched PCA Parties that have elected to supplement Matched PCAs by incorporating DF Schedule 4, data reconciliation shall be conducted as follows:
 - (i) **Two CFTC Swap Entities.** If both Matched PCA Parties are CFTC Swap Entities, then the Matched PCA Parties will be deemed to have agreed that Data Reconciliations will be conducted by the delivery of Portfolio Data by each Matched PCA Party pursuant to Part III of DF Schedule 4;
 - (ii) **Review.** If one Matched PCA Party is a Non-CFTC Swap Entity who has elected in its Matched Questionnaire to engage in portfolio reconciliation in accordance with Part II of DF Schedule 4, then the Matched PCA Parties will be deemed to have agreed that Data Reconciliations will be conducted by the delivery of Portfolio Data by the CFTC Swap Entity and the review of such data by the Non-CFTC Swap Entity pursuant to Part II of DF Schedule 4;
 - (iii) **Exchange.** If one Matched PCA Party is a Non-CFTC Swap Entity who has elected in its Matched Questionnaire to engage in portfolio reconciliation in accordance with Part III of DF Schedule 4, then the Matched PCA Parties will be deemed to have agreed that Data Reconciliations will be conducted by the delivery of Portfolio Data by each Matched PCA Party pursuant to Part III of DF Schedule 4; and
 - (iv) **SDR Data.** If both Matched PCA Parties have elected in their Matched Questionnaires to reconcile relevant terms of Swaps in accordance with Part V of DF Schedule 4, then Part V of DF Schedule 4 shall apply.
- (c) **Conditions on Obligations.** Each pair of Matched PCA Parties agrees that performance of the obligations of the Matched PCA Parties under any provision of the March 2013 DF Supplement that has been incorporated into their Matched PCAs shall be subject to the following conditions precedent:

- (i) at least one Matched PCA Party is registered (fully or provisionally) with the CFTC as a (1) “swap dealer,” as defined in Section 1a(49) of the CEA, and CFTC Regulation 1.3(ggg) thereunder, or (2) “major swap participant,” as defined in Section 1a(33) of the CEA and CFTC Regulation 1.3(hhh) thereunder, as applicable; and
- (ii)
 - (1) with respect to DF Schedule 3, the occurrence of the STRD Compliance Date that is applicable to the Matched PCA Parties; and
 - (2) with respect to DF Schedule 4, the occurrence of the PR Compliance Date that is applicable to the Matched PCA Parties.

6. Effectiveness

- (a) The agreement to enter into and/or supplement a Matched PCA on the terms and conditions set forth in this Protocol Agreement, the Matched Questionnaires and the March 2013 DF Supplement, will, as between any Matched PCA Parties, be effective as of the date on which the later of two Matched PCA Parties delivered its executed Questionnaire in accordance with paragraph 3 (such date, the “**Implementation Date**”).
- (b) This Protocol Agreement is intended for use without negotiation, but without prejudice to any amendment, modification or waiver in respect of a Protocol Covered Agreement that the parties may otherwise effect in accordance with the terms of that Protocol Covered Agreement or as otherwise provided by applicable law.
 - (i) In adhering to this Protocol Agreement, a party may not specify additional provisions, conditions or limitations in its Adherence Letter; and
 - (ii) Any purported adherence that ISDA, as agent, determines in good faith is not in compliance with this Protocol Agreement will be void and ISDA will inform the relevant parties of such fact as soon as reasonably possible after making such determination and will remove the party’s Adherence Letter from the ISDA website.

7. Representations and Agreements

- (a) Representations by a PCA Principal. In the case of a Protocol Participant who is a PCA Principal in respect of a Matched Questionnaire and Matched PCA, the PCA Principal represents to the other PCA Principal that is party to such Matched PCA that, as of the Implementation Date:
 - (i) **Status.** It is, if relevant, duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing or, if it otherwise represents its status in or pursuant to a Matched PCA, has such status;
 - (ii) **Powers.** It has the power to execute and deliver the Adherence Letter and the Matched Questionnaire and to perform its obligations under the Adherence Letter, this Protocol Agreement, the Matched Questionnaire, and each Matched PCA (as supplemented by this Protocol Agreement), and has taken all necessary action to authorize such execution, delivery and performance;
 - (iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
 - (iv) **Credit Support.** Such execution, delivery and performance will not, in and of itself, adversely affect any obligations owed, whether by it or by any third party, under any Credit Support Document in respect of its obligations relating to any Matched PCA;

- (v) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to the Adherence Letter, this Protocol Agreement, the Matched Questionnaire, and each Matched PCA (as supplemented by this Protocol Agreement) have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and
 - (vi) **Obligations Binding.** Its obligations under the Adherence Letter, this Protocol Agreement, the Matched Questionnaire, and each Matched PCA (as supplemented by this Protocol Agreement) constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).
- (b) **Representations by a PCA Agent.** In the case of a Protocol Participant who is a PCA Agent acting on behalf of a Delivering PCA Principal in respect of a Matched Questionnaire and Matched PCA, the PCA Agent represents to the other PCA Principal that is party to such Matched PCA that, as of the Implementation Date:
- (i) **Status.** Each of the Delivering PCA Principal and the PCA Agent is, if relevant, duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing or, if it otherwise represents its status in or pursuant to a Matched PCA, has such status;
 - (ii) **Powers.** The Delivering PCA Principal has the power to execute and deliver each Matched PCA (as supplemented by this Protocol Agreement) and to perform its obligations thereunder, and has taken all necessary action to authorize such execution, delivery and performance. The PCA Agent has the power to execute and deliver the Adherence Letter and the Matched Questionnaire and to perform its obligations under the Adherence Letter, this Protocol Agreement, the Matched Questionnaire, and each Matched PCA (as supplemented by this Protocol Agreement), and has taken all necessary action to authorize such execution, delivery and performance. The PCA Agent has all necessary authority to enter into the Adherence Letter, this Protocol Agreement, and the Matched Questionnaire on behalf of the Delivering PCA Principal and has in its files a written agreement or power of attorney authorizing it to act on the Delivering PCA Principal's behalf in respect thereof;
 - (iii) **No Violation or Conflict.** Such execution, delivery and performance by the Delivering PCA Principal and the PCA Agent, respectively, do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
 - (iv) **Credit Support.** Such execution, delivery and performance will not, in and of itself, adversely affect any obligations owed, whether by the Delivering PCA Principal or by any third party, under any Credit Support Document in respect of its obligations relating to any Matched PCA;
 - (v) **Consents.** All governmental and other consents that are required to have been obtained by the Delivering PCA Principal or the PCA Agent with respect to the Adherence Letter, this Protocol Agreement, the Matched Questionnaire, and each Matched PCA (as supplemented by this Protocol Agreement) have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and
 - (vi) **Obligations Binding.** The respective obligations of the Delivering PCA Principal and the PCA Agent under the Adherence Letter, this Protocol Agreement, the Matched Questionnaire, and each Matched PCA (as supplemented by this Protocol Agreement) constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights

generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

- (c) Agreements by Matched PCA Parties. Each Matched PCA Party agrees with the other Matched PCA Party that:
- (i) such other Matched PCA Party shall be a “CFTC Swap Entity” for purposes of the March 2013 DF Supplement if such other Matched PCA Party has elected to be a “CFTC Swap Entity” in its Matched Questionnaire;
 - (ii) any Credit Support Document between Matched PCA Parties that relates to a Matched PCA will be deemed to be supplemented to the extent necessary such that the operation thereof is not affected by the adherence by such Matched PCA Parties or any supplements contemplated by this Protocol Agreement and the relevant Matched Questionnaires;
 - (iii) all information and representations provided by it or by its PCA Agent on its behalf in the Matched Questionnaire shall be “**March 2013 DF Supplement Information**” for purposes of the March 2013 DF Supplement;
 - (iv) solely for purposes of delivering notices of the type specified in Section 2.3 of the March 2013 DF Supplement in respect of information or representations set forth in the Matched Questionnaire of the other Matched PCA Party, the other Matched PCA Party may provide such notices in any manner by which delivery of a Questionnaire to such Matched PCA Party would be effective under paragraph 3(d) hereof or to any substitute address provided by such Matched PCA Party under Section 2.3 of the March 2013 DF Supplement;
 - (v) solely for purposes of delivering notices in connection with the March 2013 DF Supplement (except in respect of information described in paragraphs (vi) or (vii) below), the “Notice Procedures” applicable to a Matched PCA Party include written notice by e-mail delivered to an address specified in such Matched PCA Party’s Questionnaire for delivery of such notices or to any substitute e-mail address provided under Section 2.3 of the DF Supplement. Such written notice shall be deemed delivered when sent to the specified address;
 - (vi) solely for purposes of delivering Risk Valuations (as such term is defined in the March 2013 DF Supplement) pursuant to DF Schedule 3, the “Notice Procedures” applicable to a Matched PCA Party include written notice by e-mail delivered to an address specified in such Matched PCA Party’s Questionnaire for delivery of Risk Valuations or to any substitute e-mail address provided under Section 2.3 of the DF Supplement. Such written notice shall be deemed delivered when sent to the specified address; and
 - (vii) solely for purposes of delivering Portfolio Data (as such term is defined in the March 2013 DF Supplement) pursuant to DF Schedule 4, the “Notice Procedures” applicable to a Matched PCA Party include written notice by e-mail delivered to an address specified in such Matched PCA Party’s Questionnaire for delivery of Portfolio Data or to any substitute e-mail address provided under Section 2.3 of the DF Supplement. Such written notice shall be deemed delivered when sent to the specified address.

8. Miscellaneous

- (a) ***Entire Agreement; Survival.***
- (i) This Protocol Agreement constitutes the entire agreement and understanding of the Protocol Participants with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto. Each Protocol Participant acknowledges that, in adhering to this Protocol Agreement, it has not relied on any oral or written representation, warranty or other assurance (except as provided for or referred to elsewhere in this Protocol Agreement, an Adherence Letter, or in a Questionnaire) and waives all rights and

remedies which might otherwise be available to it in respect thereof, except that nothing in this Protocol Agreement will limit or exclude any liability of a Protocol Participant for fraud.

- (ii) Except for any supplement deemed to be made pursuant to this Protocol Agreement in respect of any Protocol Covered Agreement, all terms and conditions of each Protocol Covered Agreement will continue in full force and effect in accordance with its provisions as in effect immediately prior to the Implementation Date. Except as explicitly stated in this Protocol Agreement, nothing herein will constitute a waiver or release of any rights of any party under any Protocol Covered Agreement.
- (b) **Amendments.** An amendment, modification or waiver in respect of the matters contemplated by this Protocol Agreement will only be effective in respect of a Matched PCA if made in accordance with the terms of such Matched PCA.
- (c) **Headings and Footnotes.** The headings and footnotes used in this Protocol Agreement, any Questionnaire, and any Adherence Letter are for informational purposes and convenience of reference only, and are not to affect the construction of or to be taken into consideration in interpreting this Protocol Agreement, any Questionnaire, or any Adherence Letter.
- (d) **Governing Law.** This Protocol Agreement and each Adherence Letter will, as between Matched PCA Parties, be governed by and construed in accordance with the laws of the State of New York, without reference to choice-of-law doctrine, *provided* that supplements to each Matched PCA effected by this Protocol Agreement shall be governed by and construed in accordance with the law governing such Matched PCA.

9. Definitions

As used in this Protocol Agreement, the following terms will have the following meanings:

“**CFTC Swap Entity**” means a party that elects in its Questionnaire to be a CFTC Swap Entity.

“**Commodity Trade Option**” means a commodity option entered into pursuant to CFTC Regulation 32.3(a).

“**Credit Support Document**” means, with respect to a Matched PCA Party, a document, which, by its terms, secures, guarantees or otherwise supports the obligations of one or both of the Matched PCA Parties under a Matched PCA, whether or not such document is specified as a “Credit Support Document” in such Matched PCA.

“**Data Reconciliation**” shall have the meaning provided in the March 2013 DF Supplement.

“**DF Schedule**” means a schedule to the March 2013 DF Supplement.

“**ISDA Amend**” means the web-based platform that has been developed by ISDA and Markit Group Limited and is available at <http://www.markit.com/en/products/distribution/document-exchange/registration.page> or such other web address specified by ISDA and Markit Group Limited.

“**Non-CFTC Swap Entity**” means a party that **has not** elected in its Questionnaire to be a CFTC Swap Entity.

“**Portfolio Data**” shall have the meaning provided in the March 2013 DF Supplement.

“**PR Compliance Date**” means, with respect to any Matched PCA, the later of July 1, 2013 (unless the compliance date under CFTC Regulation 23.502 is delayed, in which case such later date) or the Implementation Date.

“**Protocol**” means the process for amending Protocol Covered Agreements under this ISDA March 2013 DF Protocol Agreement and related documents.

“**STRD Compliance Date**” means, with respect to any Matched PCA, the later of July 1, 2013 (unless the compliance date under CFTC Regulation 23.504 is delayed, in which case such later date) or the Implementation Date.

“Swap” means a “swap” as defined in Section 1a(47) of the CEA and the regulations thereunder; *provided that* a Commodity Trade Option is not a Swap for purposes hereof. The term “Swap” also includes any foreign exchange swaps and foreign exchange forwards that are exempted from regulation as “swaps” by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the CEA. For the avoidance of doubt, the term “Swap” does not include a swap that has been cleared by a DCO.

EXHIBIT 1
to ISDA March 2013 DF Protocol Agreement

Form of Adherence Letter

[Letterhead of Protocol Participant]

[Date]

Dear Sirs:

Re: ISDA March 2013 DF Protocol – Adherence

The purpose of this letter is to confirm our adherence as a “**Protocol Participant**” to the ISDA March 2013 DF Protocol Agreement as published by the International Swaps and Derivatives Association, Inc. on March 20, 2013 (the “**Protocol Agreement**”). This letter constitutes an Adherence Letter as referred to in the Protocol Agreement. The definitions and provisions contained in the Protocol Agreement are incorporated into this Adherence Letter.

We agree to pay a one-time fee of \$500 to ISDA at or before the submission of this Adherence Letter.

1. Specific Terms

We hereby represent that this is the only Adherence Letter submitted by us to ISDA in respect of the Protocol Agreement.

2. Appointment as Agent and Release

We hereby appoint ISDA as our agent for the limited purposes of the Protocol Agreement and accordingly we waive, and hereby release ISDA from, any rights, claims, actions or causes of action whatsoever (whether in contract, tort or otherwise) arising out of or in any way relating to this Adherence Letter or our adherence to the Protocol Agreement or any actions contemplated as being required by ISDA.

3. Contact Details

Our contact information, solely for purposes of this Adherence Letter (and unrelated to the Questionnaire delivery options in the subsequent section) is:

Name:

Address:

Telephone:

Fax:

E-mail:

4. Delivery of Questionnaire

Delivery of a Questionnaire by another Protocol Participant may be made to us pursuant to paragraph 3 of the Protocol Agreement as follows, where the relevant box has been checked:

- if submitted via ISDA Amend in accordance with the terms thereof.
- if in writing and delivered in person or by courier, or by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested) to:

[Address]
[Address]
[Address]
[Attention]

if sent by facsimile transmission, to:

[Fax Number]
[Attention]

if sent by e-mail or other electronic messaging system, to:

[Address]

5. We understand that the Protocol is designed to allow “matching” of Questionnaires between a CFTC Swap Entity and other counterparties (including other CFTC Swap Entities). Accordingly, to assist in the administration of the Protocol, we have checked this box to indicate that (a) we intend to participate in the Protocol as a CFTC Swap Entity or (b) we are submitting this letter to participate in the Protocol on behalf of a PCA Principal who we intend to designate as a CFTC Swap Entity and whose legal name is: _____

We consent to the publication of a conformed copy of this letter by ISDA and to the disclosure by ISDA of the contents of this letter.

Yours faithfully,

[PROTOCOL PARTICIPANT]

Signature: _____
Name: _____
Title: _____



International Swaps and Derivatives Association, Inc.

ISDA MARCH 2013 DF SUPPLEMENT¹

**published on March 22, 2013,
by the International Swaps and Derivatives Association, Inc.**

¹ This March 2013 DF Supplement is intended to address requirements of the following final rules:

- (1) CFTC, Final Rule, *Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants*, 77 Fed. Reg. 55904 (Sept. 11, 2012);
- (2) CFTC, Final Rule, *End-User Exception to the Clearing Requirement for Swaps*, 77 Fed. Reg. 42559 (July 19, 2012); and
- (3) CFTC, Final Rule, *Clearing Requirement Determination Under Section 2(h) of the CEA*, 77 Fed. Reg. 74284 (Dec. 13, 2012).

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International Swaps and Derivatives Association, Inc.

ISDA March 2013 DF Supplement
(published on March 22, 2013)

Any of the following schedules of this ISDA March 2013 DF Supplement (as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”)) (this “**March 2013 DF Supplement**”) may be incorporated into an agreement (such agreement, a “**Covered Agreement**”) by written agreement of the relevant parties indicating which schedules of this March 2013 DF Supplement (each such schedule, a “**March 2013 DF Schedule**”) shall be incorporated into such Covered Agreement. Each March 2013 DF Schedule so incorporated in a Covered Agreement will be applicable to such Covered Agreement unless otherwise provided in such Covered Agreement. The headings and footnotes used in this March 2013 DF Supplement are for informational purposes and convenience of reference only, and are not to affect the construction of or to be taken into consideration in interpreting this March 2013 DF Supplement.

March 2013 DF Schedule 1 Defined Terms

The following terms shall have the following meanings when used in this March 2013 DF Supplement. In the event of any inconsistency between a definition provided in this March 2013 DF Supplement and a definition provided in a Covered Agreement, the definitions provided in this March 2013 DF Supplement shall govern for purposes of interpreting terms provided in any March 2013 DF Schedule that is incorporated by reference into such Covered Agreement and the definitions provided in the Covered Agreement shall govern for purposes of interpreting other terms in the Covered Agreement unless such Covered Agreement specifically provides otherwise.

“Active Fund” means a “private fund,” as defined in Section 202(a) of the Investment Advisers Act of 1940, that (i) is not a Third-Party Subaccount and (ii) has executed 200 or more swaps per month on average over the 12 months preceding November 1, 2012. For purposes of clause (ii) of this definition, “swaps” shall mean swaps as defined by the CFTC for purposes of implementation schedules under parts 23 and 50 of CFTC regulations and shall exclude, without limitation, foreign exchange swaps and foreign exchange forwards exempted from regulation as “swaps” by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the CEA.

“Agreement,” as used in a provision of this March 2013 DF Supplement that is incorporated into a Covered Agreement or any defined term used in such provision, means such Covered Agreement, as amended or supplemented from time to time.

“Annually” means once each calendar year.

“Applicable Portfolio Reconciliation Compliance Date” means the date on which CFTC Swap Entity compliance is required with respect to Counterparty under CFTC Regulation 23.502 and applicable law regarding the scope of application of CFTC Regulation 23.502, including applicable CFTC interpretations and other CFTC Regulations. For the avoidance of doubt, if both Parties are CFTC Swap Entities, the Applicable Portfolio Reconciliation Compliance Date shall occur on the first date on which compliance is required by either CFTC Swap Entity with respect to the other Party.

“Applicable STRD Compliance Date” means the date on which CFTC Swap Entity compliance is required with respect to Counterparty under CFTC Regulation 23.504 and applicable law regarding the scope of application of CFTC Regulation 23.504, including applicable CFTC interpretations and other CFTC Regulations. For the avoidance of doubt, if both Parties are CFTC Swap Entities, the Applicable STRD Compliance Date shall occur on the first date on which compliance is required by either CFTC Swap Entity in respect of the other Party.

“Category 1 Entity” means (i) a Swap Dealer, (ii) a Major Swap Participant, (iii) a Security-Based Swap Dealer, (iv) a Major Security-Based Swap Participant, or (v) an Active Fund.²

² CFTC Regulation 50.25.

“**Category 2 Entity**” means (i) a commodity pool as defined in Section 1a(10) of the CEA and CFTC Regulations thereunder, (ii) a “private fund,” as defined in Section 202(a) of the Investment Advisers Act of 1940, other than an Active Fund, or (iii) a person predominantly engaged in activities that are in the business of banking, or in activities that are “financial in nature,” as defined in Section 4(k) of the Bank Holding Company Act of 1956, *provided that*, in each case, the entity is not a Third-Party Subaccount.³

“**CEA**” means the Commodity Exchange Act, as amended.

“**CFTC**” means the U.S. Commodity Futures Trading Commission.

“**CFTC Regulations**” means the rules, regulations, orders and interpretations published or issued by the CFTC, as amended.

“**CFTC Swap Entity**” means a Party that (i) the Parties have agreed in writing will be a “CFTC Swap Entity” for purposes of the March 2013 DF Supplement, regardless of whether that Party is registered (fully or provisionally) as a “swap dealer” or “major swap participant” with the CFTC at the time of such agreement, or (ii) is or becomes registered (fully or provisionally) as a “swap dealer” or “major swap participant” with the CFTC and has notified the other Party of such registration in accordance with the Notice Procedures.

“**Close-Out Provision**” means (i) in respect of a Swap for which the Parties **have** agreed in writing (whether as part of the Agreement or otherwise) to a process for determining the payments to be made upon early termination of such Swap, the provisions specifying such process, and (ii) in respect of a Swap for which the Parties **have not** agreed in writing (whether as part of the Agreement or otherwise) to a process for determining the payments to be made upon early termination of such Swap, Section 6(e)(ii)(1) of the 2002 ISDA Master Agreement as if such Swap were governed thereby.

“**Commodity Trade Option**” means a commodity option entered into pursuant to CFTC Regulation 32.3(a).

“**Counterparty**” or “**CP**” means a Party to the Agreement that is a counterparty to a CFTC Swap Entity. For the avoidance of doubt, if two CFTC Swap Entities are party to the Agreement, each CFTC Swap Entity is also a Counterparty or CP for purposes of this March 2013 DF Supplement.

“**Covered Financial Company**” means a “covered financial company,” as defined in Section 201(a)(8) of the Dodd-Frank Act, 12 U.S.C. § 5381(a)(8).

“**Credit Support Agreement**” means a written agreement, if any, between the Parties (whether part of the Agreement or otherwise) that governs the posting or transferring of collateral or other credit support related to one or more Swaps.

³ CFTC Regulation 50.25.

“**Credit Support Call**” means a request or demand for the posting or transferring of collateral or other credit support related to one or more Swaps made pursuant to the terms of a Credit Support Agreement.

“**CSA Valuation**” means, in respect of a Swap and a Risk Valuation Date and subject to the terms of Part II of Schedule 3 of this March 2013 DF Supplement in the case of a dispute, the value of such Swap determined in accordance with the CSA Valuation Process, if any, expressed as a positive number if such Swap has positive value for the Risk Valuation Agent, and as a negative number if such Swap has negative value for the Risk Valuation Agent.

“**CSA Valuation Process**” means the process, if any, agreed by the Parties in writing (whether as part of the Agreement or otherwise) for determining the value of one or more transactions that may include a Swap or portfolio of Swaps for the purpose of posting or transferring collateral or other credit support. For the avoidance of doubt, such writing may be in the form of an ISDA Credit Support Annex or any other written agreement.

“**Daily**” means once each Joint Business Day.

“**Data Delivery Date**” means a date determined pursuant to Section 4.2 or 4.3 of this March 2013 DF Supplement, as applicable, that is a Joint Business Day.

“**Data Reconciliation**” means a comparison of Portfolio Data and, to the extent applicable, SDR Data received or obtained by a Party against such Party’s own books and records of Swaps between the Parties and, in respect of any Discrepancy, a process for identifying and resolving such Discrepancy. A Data Reconciliation may include (but shall not be required to include or be limited to) a systematic, line-by-line, field-by-field matching process performed using technological means such as a third-party portfolio reconciliation service or a technology engine.

“**DCO**” means a “derivatives clearing organization,” as such term is defined in Section 1a(15) of the CEA and CFTC Regulations.

“**Discrepancy**” means, (i) in respect of the Portfolio Data received with respect to a Swap and any SDR Data obtained for such Swap, a difference between a Material Term in such Portfolio Data or SDR Data and a party’s own records of the corresponding Material Term and (ii) in respect of the Portfolio Data received with respect to a Swap, a difference between a Valuation reported in such Portfolio Data and such party’s own Valuation of such Swap (calculated as of the same Joint Business Day in good faith and using commercially reasonable procedures in order to produce a commercially reasonable result) that is greater than the Discrepancy Threshold Amount.

“**Discrepancy Threshold Amount**” means, in respect of a Swap, an amount equal to ten percent (10%) of the higher of the two absolute values of the respective Valuations assigned to such Swap by the Parties.

“**Dodd-Frank Act**” means the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended.

“**FDIA**” means the Federal Deposit Insurance Act of 1950, as amended.

“**FDIC**” means the Federal Deposit Insurance Corporation.

“**Financial Company**” means a “financial company,” as defined in Section 201(a)(11) of the Dodd-Frank Act, 12 U.S.C. § 5381(a)(11).

“**Initial Mandatory Clearing Determination**” means the CFTC determination initially published in the Federal Register on December 12, 2012, pursuant to rulemaking under Section 2(h) of the CEA providing that certain classes of interest rate swaps and credit default swaps shall be subject to mandatory submission for clearing to a DCO eligible to clear such swaps under CFTC Regulation 39.5, as amended.⁴

“**Insured Depository Institution**” means an “insured depository institution,” as defined in 12 U.S.C. § 1813.

“**Joint Business Day**” means a day that is a Local Business Day in respect of each Party.

“**Local Business Day**” means, as used in a provision of this March 2013 DF Supplement, with respect to a Party, a day on which commercial banks are open for general business (including for dealings in foreign exchange and foreign currency deposits) in the city or cities specified by such Party in the March 2013 DF Supplement Information. If a Party does not specify a city in the March 2013 DF Supplement Information, such Party will be deemed to have specified the city specified by the other Party in the March 2013 DF Supplement Information. If neither Party specifies a city in the March 2013 DF Supplement Information, both Parties will be deemed to have specified the City of New York.

“**Major Security-Based Swap Participant**” means a “major security-based swap participant,” as defined in Section 3(a)(67) of the SEA and Rule 3a67-1 thereunder.

“**Major Swap Participant**” means a “major swap participant,” as defined in Section 1a(33) of the CEA and CFTC Regulation 1.3(hhh) thereunder.

“**March 2013 DF Schedule**” shall have the meaning given to such term in the introductory paragraph of this March 2013 DF Supplement.

“**March 2013 DF Supplement Information**” means any information or representation agreed in writing by the Parties to be March 2013 DF Supplement Information, as amended or supplemented from time to time in accordance with Section 2.3 of this March 2013 DF Supplement or in another manner agreed by the Parties.

“**March 2013 DF Supplement Rules**” means CFTC Regulations 23.500 through 23.505, CFTC Regulation 50.50, and CFTC Regulation 50.4 adopted in the following Federal Register publications, as amended and supplemented from time to time: (i) CFTC, Final Rule, *Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants*, 77 Fed. Reg. 55904 (Sept. 11, 2012); (ii) CFTC, Final Rule, *End-User Exception to the Clearing Requirement*

⁴ 77 Fed. Reg. 74284 (Dec. 13, 2012).

for Swaps, 77 Fed. Reg. 42559 (July 19, 2012) and (iii) CFTC, Final Rule, *Clearing Requirement Determination Under Section 2(h) of the CEA*, 77 Fed. Reg. 74284 (Dec. 13, 2012).

“**Material Terms**” has the meaning ascribed by the CFTC to such term for purposes of CFTC Regulation 23.502.

“**Monthly**” means once each calendar month.

“**Notice Procedures**” means (i) the procedures specified in the Agreement regarding delivery of notices or information to a Party, (ii) such other procedures as may be agreed in writing between the Parties from time to time, and (iii) with respect to a Party and a particular category of information or notice, if the other Party has specified other permissible procedures in writing, such procedures.

“**Party**” means, in respect of a Covered Agreement, a party thereto.

“**Portfolio Data**” means, in respect of a Party providing or required to provide such data, information (which, for the avoidance of doubt, is not required to include calculations or methodologies) relating to the terms of all outstanding Swaps between the Parties in a form and standard that is capable of being reconciled, with a scope and level of detail that is reasonably acceptable to each Party and that describes and includes, without limitation, current Valuations attributed by that Party to each such Swap. The information comprising the Portfolio Data to be provided by a Party on a Data Delivery Date shall be prepared (i) as at the time or times that such Party computes its end of day valuations for Swaps (as specified by that Party for this purpose in writing) on the immediately preceding Joint Business Day, as applicable, and (ii) in the case of Valuations, in good faith and using commercially reasonable procedures in order to produce a commercially reasonable result.

“**Quarterly**” means once each calendar quarter.

“**Recalculation Date**” means the Risk Valuation Date on which a Risk Valuation that gives rise to the relevant dispute is calculated; *provided, however*, that if one or more subsequent Risk Valuation Dates occurs prior to the resolution of such dispute, then the “Recalculation Date” in respect of such dispute means the last such Risk Valuation Date.

“**Reference Market-makers**” means four leading dealers in the relevant market selected by the Risk Valuation Agent in good faith (i) from among dealers of the highest credit standing which satisfy all the criteria that the Risk Valuation Agent applies generally at the time in deciding whether to offer or to make an extension of credit and (ii) to the extent practicable, from among such dealers having an office in the same city.

“**Risk Exposure**” means, in respect of a Swap and a Risk Valuation Date and subject to the terms of Part II of Schedule 3 of this March 2013 DF Supplement in the case of a dispute, the amount, if any, that would be payable to the Risk Valuation Agent by CP (expressed as a positive number) or by the Risk Valuation Agent to CP (expressed as a negative number) pursuant to the Close-Out Provision as of the Risk Valuation Time as if such Swap (and not any other Swap) was being terminated as of such Risk Valuation Date; *provided that* (i) if the Agreement provides for different calculations depending on whether one of the Parties is an

affected or defaulting Party, such calculation will be determined using estimates at mid-market of the amounts that would be paid for a replacement transaction; and (ii) such calculation will not include the amount of any legal fees and out-of-pocket expenses.

“**Risk Valuation**” means, in respect of a Swap and a Risk Valuation Date for which (i) there is a CSA Valuation determined by the Risk Valuation Agent or its agent, such CSA Valuation, and (ii) there is no CSA Valuation determined by the Risk Valuation Agent or its agent, the Risk Exposure determined by the Risk Valuation Agent or its agent for such Swap and Risk Valuation Date, unless, pursuant to Section 3.1 of this March 2013 DF Supplement, the Risk Valuation Agent has elected to use the CSA Valuation provided by CP for such Swap and Risk Valuation Date, in which case, such CSA Valuation provided by CP.

“**Risk Valuation Agent**” means, in respect of any Risk Valuation Date and any Swap: (i) if only one Party is a CFTC Swap Entity, such Party, (ii) if both Parties are CFTC Swap Entities and such Parties **have not** entered into a Credit Support Agreement relating to such Swap, the Party whom both Parties have agreed in writing will be the Risk Valuation Agent for such date (unless such date is only a Local Business Day for one of the Parties, in which case such Party shall be the Risk Valuation Agent for such date), and (iii) if both Parties are CFTC Swap Entities and such Parties **have** entered into one or more Credit Support Agreements relating to such Swap, the Party entitled to make a Credit Support Call under such Credit Support Agreements on such date; *provided that*, (a) on any such date on which both CFTC Swap Entities are entitled to make such a Credit Support Call, the Risk Valuation Agent shall be the Party entitled to make a Credit Support Call under such Credit Support Agreements on the most recent Risk Valuation Date on which only one CFTC Swap Entity was entitled to make such a call, and (b) on any such date on which neither CFTC Swap Entity is entitled to make such a Credit Support Call, if such date is only a Local Business Day for one of the Parties, such Party shall be the Risk Valuation Agent and otherwise the Risk Valuation Agent shall be the Party entitled to make a Credit Support Call under such Credit Support Agreement on the most recent preceding Risk Valuation Date on which only one CFTC Swap Entity was entitled to make such a call.

“**Risk Valuation Date**” means, with respect to a Swap, each Local Business Day for either Party that is a CFTC Swap Entity.

“**Risk Valuation Time**” means, with respect to a Swap and any day, the close of business on the prior Local Business Day in the locality specified by the Risk Valuation Agent in its notice of the Risk Valuation to CP.

“**SDR**” means a “swap data repository,” as defined in Section 1a(48) of the CEA and the CFTC Regulations.

“**SDR Data**” means Material Terms data that is available from an SDR.

“**SEA**” means the Securities Exchange Act of 1934, as amended.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Security-Based Swap Dealer**” means a “security-based swap dealer,” as defined in Section 3(a)(71) of the SEA and Rule 3a71-1 thereunder.

“Swap” means a “swap” as defined in Section 1a(47) of the CEA and regulations thereunder that is, or is to be, governed by the Agreement; *provided that* a Commodity Trade Option is not a Swap for purposes of this March 2013 DF Supplement. The term “Swap” also includes any foreign exchange swaps and foreign exchange forwards that are, or are to be, governed by the Agreement and that are exempted from regulation as “swaps” by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the CEA. For the avoidance of doubt, the term “Swap” does not include a swap that has been cleared by a DCO.

“Swap Dealer” means a “swap dealer,” as defined in Section 1a(49) of the CEA and CFTC Regulation 1.3(ggg) thereunder.

“Third-Party Subaccount” means an account that is managed by an investment manager who is (1) independent of and unaffiliated with the account’s beneficial owner or sponsor and (2) responsible for the documentation necessary for the account’s beneficial owner to clear swaps.

“Transaction Event” means any event that results in a new Swap between Parties or in a change to the terms of a Swap between Parties, including execution, termination, assignment, novation, exchange, transfer, amendment, conveyance, or extinguishing of rights or obligations of a Swap.

“Valuation” has the meaning ascribed to such term in CFTC Regulation 23.500.

“Weekly” means once each calendar week.

March 2013 DF Schedule 2 General Terms

This March 2013 DF Schedule 2 may be incorporated into an agreement between a CFTC Swap Entity and any other Party, including another CFTC Swap Entity.

If the Parties to an agreement have specified that this March 2013 DF Schedule 2 shall be incorporated into such agreement and any conditions to such incorporation set forth in such agreement have been satisfied, this March 2013 DF Schedule 2 shall be deemed to be a part of such agreement to the same extent as if this March 2013 DF Schedule 2 were restated therein in its entirety.

Part I. General Representations and Agreements

- 2.1. Each Party represents to the other Party (which representation is deemed repeated as of the time of each Transaction Event) that, as of the date of each Transaction Event, (i) all March 2013 DF Supplement Information (excluding representations) furnished by or on behalf of it to the other Party is true, accurate and complete in every material respect, and (ii) no representation provided in the March 2013 DF Supplement Information or in this March 2013 DF Supplement is incorrect or misleading in any material respect. The March 2013 DF Supplement Information is incorporated herein by reference.⁵

- 2.2. Each Party acknowledges that the other Party has agreed to incorporate one or more March 2013 DF Schedules into the Agreement, and, if the Parties enter into any Swaps on or after the date of such incorporation, the other Party will do so in reliance upon the March 2013 DF Supplement Information and the representations provided by such Party or its agent in the March 2013 DF Supplement Information and this March 2013 DF Supplement. Notwithstanding the foregoing, each Party agrees that an event of default, termination event, or other similar event that gives a Party grounds to cancel or otherwise terminate a Swap shall not occur under the Agreement or any other contract between the Parties solely on the basis of (i) a representation provided solely in the March 2013 DF Supplement Information or in this March 2013 DF Supplement being incorrect or misleading in any material respect, or (ii) a breach of any covenant or agreement set forth solely in this March 2013 DF Supplement; *provided, however*, that nothing in this Section 2.2 shall prejudice any other right or remedy of a Party at law or under the Agreement or any other contract in respect of any misrepresentation or breach hereunder or thereunder. For the avoidance of doubt, this Section 2.2 shall not alter a Party's rights or remedies, if any, applicable to a breach of any representation, warranty, covenant, or agreement that is not provided or set forth solely in March 2013 DF Supplement Information or in this March 2013 DF Supplement, including any such breach relating to any event or condition that could also cause or constitute an event specified in (i) or (ii) above.

⁵ CFTC Regulations 23.402(d) and 23.504(b)(5).

- 2.3. Each Party agrees to promptly notify the other Party in writing in accordance with the Notice Procedures (i) of any material change to March 2013 DF Supplement Information (other than representations) previously provided by such Party or on behalf of such Party and (ii) if any representations made in March 2013 DF Supplement Information or this March 2013 DF Supplement by or on behalf of such Party become incorrect or misleading in any material respect. For any representation made in one or more of the March 2013 DF Schedules that would be incorrect or misleading in any material respect if repeated on any date following the date on which the representation was last repeated, the notifying Party shall timely amend such representation by giving notice of such amendment to the other Party in accordance with the Notice Procedures.⁶

Part II. **Confirmations**

- 2.4. Unless the Parties have agreed otherwise in writing, each Party agrees that a confirmation of a Swap or another type of transaction under this Agreement may be created by delivery of written terms by each party; *provided that* (i) the terms delivered by each party match the terms delivered by the other party and (ii) the terms are either delivered by each party to the other party in a manner that permits each Party to review such terms or delivered by each party to a third-party agent or service provider that confirms the matching of such terms to the Parties (in each case by telex, electronic messaging system, email or otherwise). In each case, such a confirmation will be sufficient for all purposes to evidence a binding supplement to this Agreement. The foregoing shall not limit other agreed methods of creating binding confirmations and shall not be construed as an agreement to use a method provided in this paragraph to confirm any Transaction.⁷

Part III. **Clearing**

- 2.5. Each Party is hereby notified that, upon acceptance of a Swap by a DCO:
- a. the original Swap between CFTC Swap Entity and CP is extinguished;
 - b. the original Swap between CFTC Swap Entity and CP is replaced by equal and opposite Swaps with the DCO; and
 - c. all terms of the Swap shall conform to the product specifications of the cleared Swap established under the DCO's rules.⁸
- 2.6. Subject to Section 2.8, in the event that (i) the Parties have entered into a Swap that is of a type that the CFTC has included within the Initial Mandatory Clearing Determination and (ii) the execution of such Swap has occurred during the period

⁶ *Id.*

⁷ CFTC Regulation 23.501.

⁸ CFTC Regulation 23.504(b)(6).

where clearing is mandatory for such type of Swap between two Category 1 Entities, but not for such type of Swap between a Category 1 Entity and a counterparty that is not a Category 1 Entity, then, upon execution of such Swap, CP shall be deemed to have represented that CP is **not** a Category 1 Entity.

- 2.7. Subject to Section 2.8, in the event that (i) the Parties have entered into a Swap that is of a type that the CFTC has included within the Initial Mandatory Clearing Determination and (ii) the execution of such Swap has occurred during a period where clearing is mandatory for such type of Swap between two Category 1 Entities, or between a Category 1 Entity and a Category 2 Entity, but not between a Category 1 Entity and a counterparty that is neither a Category 1 Entity nor a Category 2 Entity, then, upon execution of such Swap, CP shall be deemed to have represented that CP is **not** a Category 1 Entity or a Category 2 Entity.
- 2.8. CP will not be deemed to have made a representation pursuant to Sections 2.6 or 2.7 hereof as to its status as a Category 1 Entity or a Category 2 Entity, in connection with the execution of a Swap, if (i) it is a CFTC Swap Entity, (ii) prior to execution of such Swap (a) CP has notified CFTC Swap Entity in writing in accordance with the Notice Procedures that it is a Category 1 Entity or (in the case of Section 2.7 only) a Category 2 Entity or (b) CP has instructed CFTC Swap Entity to clear such Swap with a DCO, or (iii) at the time of such execution, the Swap would not be subject to mandatory clearing pursuant to an exemption provided under Section 2(h)(7) of the CEA and CFTC Regulation 50.50 or in accordance with written CFTC guidance (by rulemaking or otherwise) that applies notwithstanding that CP may be a Category 1 Entity or (in the case of Section 2.7 only) a Category 2 Entity.

Part IV. **End-User Exception**

- 2.9. If CP elects not to clear any Swap that is subject to a mandatory clearing determination under Section 2(h) of the CEA pursuant to an exception from mandatory clearing provided under Section 2(h)(7) of the CEA and CFTC Regulation 50.50, CP shall notify CFTC Swap Entity of such election in writing prior to execution of such Swap, which notice may be provided as a standing notice for multiple swaps (in March 2013 DF Supplement Information or otherwise) or on a trade-by-trade basis.⁹ By providing such notice and executing any such Swap, CP shall be deemed to represent that (i) it is eligible for an exception from mandatory clearing with respect to such Swap under Section 2(h)(7) of the CEA and CFTC Regulation 50.50 and (ii) either:
 - a. it has reported the information listed in CFTC Regulation 50.50(b)(1)(iii) in an annual filing made pursuant to CFTC Regulation 50.50(b)(2) no more than 365 days prior to entering into such Swap, such information has been amended as necessary to reflect any material changes thereto; such annual filing covers the particular Swap for which such exception is being

⁹ CFTC Regulation 23.505(a)(2).

claimed; and such information in such filing is true, accurate, and complete in all material respects; or

b. it:

(1) has notified CFTC Swap Entity in writing in accordance with the Notice Procedures prior to entering into such Swap that it has not reported the information listed in CFTC Regulation 50.50(b)(1)(iii) in an annual filing described in clause 2.9(a) above;

(2) has provided to CFTC Swap Entity all information listed in CFTC Regulation 50.50(b)(1)(iii) and such information is true, accurate and complete in every material respect and covers the particular Swap for which such exception is being claimed;

(3) (A) is not a “financial entity,” as defined in Section 2(h)(7)(C)(i) of the CEA, without regard to any exemptions or exclusions provided under Sections 2(h)(7)(C)(ii), 2(h)(7)(C)(iii), or 2(h)(7)(D) or related CFTC regulations, (B) qualifies for the small bank exclusion from the definition of “financial entity” in Section 2(h)(7)(C)(ii) of the CEA and CFTC Regulation 50.50(d), (C) is excluded from the definition of “financial entity” in accordance with Section 2(h)(7)(C)(iii) of the CEA, or (D) qualifies for an exception from mandatory clearing in accordance with Section 2(h)(7)(D) of the CEA;

(4) is using such Swap to hedge or mitigate commercial risk as provided in CFTC Regulation 50.50(c); and

(5) generally meets its financial obligations associated with entering into non-cleared Swaps.¹⁰

2.10. If (i) CFTC Swap Entity and CP enter into a Swap subject to a mandatory clearing determination under Section 2(h) of the CEA that CP has elected not to clear pursuant to an exception from mandatory clearing provided under Section 2(h)(7) of the CEA and CFTC Regulation 50.50 and (ii) CP has satisfied the conditions specified in Sections 2.9(b)(1) and (2) above, then, if the Swap is subject to mandatory reporting to the CFTC or an SDR and CFTC Swap Entity is the “reporting counterparty,” as defined in CFTC Regulation 45.8, CFTC Swap Entity shall report the information listed in CFTC Regulation 50.50(b)(1)(iii) to the relevant SDR.¹¹

2.11. Notwithstanding anything to the contrary in the Agreement or in any non-disclosure, confidentiality or similar agreement between the Parties, if CP elects the exception from the Swap clearing requirement under Section (2)(h)(7)(A) of

¹⁰ CFTC Regulation 50.50 and 23.505(a).

¹¹ CFTC Regulation 50.50.

the CEA and CFTC Regulation 50.50 with respect to a particular Swap, each Party hereby consents to the disclosure of information related to such election to the extent required by the March 2013 DF Supplement Rules. Each Party acknowledges that disclosures made pursuant to this Section 2.11 may include, without limitation, the disclosure of trade information, including a Party's identity (by name, identifier or otherwise) to an SDR and relevant regulators. Each Party further acknowledges that, for purposes of complying with regulatory reporting obligations, an SDR may engage the services of a global trade repository regulated by one or more governmental regulators, *provided that* such regulated global trade repository is subject to comparable confidentiality provisions as is an SDR registered with the CFTC. For the avoidance of doubt, to the extent that applicable non-disclosure, confidentiality, bank secrecy or other law imposes non-disclosure requirements on the Swap and similar information required to be disclosed pursuant to the March 2013 DF Supplement Rules but permits a Party to waive such requirements by consent, the consent and acknowledgements provided herein shall be a consent by each Party for purposes of such other applicable law.

Part V. **Orderly Liquidation Authority**

- 2.12. Effective on and after the Applicable STRD Compliance Date, each Party agrees to provide notice to the other Party, in accordance with the Notice Procedures, if it becomes, or ceases to be, an Insured Depository Institution or a Financial Company.¹²
- 2.13. Each Party is hereby notified that in the event that a Party is (i) a Covered Financial Company or (ii) an Insured Depository Institution for which the FDIC has been appointed as a receiver (the “**covered party**”):
- a. certain limitations under Title II of the Dodd-Frank Act or the FDIA may apply to the rights of the non-covered party to terminate, liquidate, or net any Swap by reason of the appointment of the FDIC as receiver, notwithstanding the agreement of the Parties; and
 - b. the FDIC may have certain rights to transfer Swaps of the covered party under Section 210(c)(9)(A) of the Dodd-Frank Act, 12 U.S.C. § 5390(c)(9)(A), or 12 U.S.C. § 1821(e)(9)(A).¹³

¹² CFTC Regulation 23.504(b)(5)(iv).

¹³ CFTC Regulation 23.504(b)(5)(iii).

March 2013 DF Schedule 3
Calculation of Risk Valuations and Dispute Resolution

This March 2013 DF Schedule 3 may be incorporated into an agreement between a CFTC Swap Entity and any other Party, including another CFTC Swap Entity.

If the Parties to an agreement have specified that this March 2013 DF Schedule 3 will be incorporated into such agreement and any conditions to such incorporation set forth in such agreement have been satisfied, this March 2013 DF Schedule 3 will be deemed to be a part of such agreement to the same extent as if this March 2013 DF Schedule 3 were restated therein in its entirety.

Part I. Calculation of Risk Valuations for Purposes of Section 4s(j) of the CEA¹⁴

Each Party agrees that:

- 3.1. On each Risk Valuation Date, the Risk Valuation Agent in respect of each Swap for which a Transaction Event has occurred after the Applicable STRD Compliance Date (or its agent) will calculate the Risk Valuation of such Swap, *provided that* if CP has provided the Risk Valuation Agent with a CSA Valuation for such Swap and such Risk Valuation Date pursuant to a CSA Valuation Process that the Risk Valuation Agent has determined in good faith will allow the Risk Valuation Agent to satisfy the requirements of CFTC Regulation 23.504(b) as they relate to Section 4s(j) of the CEA, the Risk Valuation Agent may elect to treat such CSA Valuation as the Risk Valuation for such Swap.
- 3.2. Upon written request by CP delivered to the Risk Valuation Agent in accordance with the Notice Procedures on or prior to the Joint Business Day following a Risk Valuation Date, the Risk Valuation Agent (or its agent) will notify the CP of the Risk Valuations determined by it for such Risk Valuation Date pursuant to Section 3.1 of this March 2013 DF Schedule 3. Unless otherwise agreed by the Parties, the Risk Valuation Agent shall not be obligated to disclose to CP any confidential, proprietary information about any model the Risk Valuation Agent may use to value a Swap.
- 3.3. Notification of a Risk Valuation may be provided through any of the following means, each of which is agreed by the parties to be reliable: (i) written notice delivered by the Risk Valuation Agent to the CP in accordance with the Notice Procedures, (ii) any means agreed by the Parties for the delivery of CSA Valuations or (iii) posting on a secure web page at, or accessible through, a URL designated in a written notice given to CP pursuant to the Notice Procedures.

¹⁴ CFTC Regulations 23.504(b)(4)(i) and (ii).

- 3.4. Each Risk Valuation will be determined by the Risk Valuation Agent (or its agent) acting in good faith and using commercially reasonable procedures in order to produce a commercially reasonable result.

Part II. **Dispute Resolution for Risk Valuations for Purposes of Section 4s(j) of the CEA**¹⁵

Each Party agrees that:

- 3.5. If CP wishes to dispute the Risk Valuation Agent's calculation of a Risk Valuation, CP shall notify the Risk Valuation Agent in writing in accordance with the Notice Procedures on or prior to the close of business on the Joint Business Day following the date on which CP was notified of such Risk Valuation. Such notice shall include CP's calculation of the Risk Valuations for all Swaps as of the relevant date for which the Risk Valuation Agent has provided Risk Valuations to CP, which must be calculated by CP acting in good faith and using commercially reasonable procedures in order to produce a commercially reasonable result.
- 3.6. If CP disputes the Risk Valuation Agent's calculation of a Risk Valuation and the Parties **have** agreed in writing (whether as part of the Agreement or otherwise) to a valuation dispute resolution process by which CSA Valuations are to be determined, then such process will be applied to resolve the dispute of such Risk Valuation (as if such dispute of a Risk Valuation were a dispute of a CSA Valuation, each Swap that is the subject of the dispute were the only Swap for which a CSA Valuation was being disputed, and CP was the disputing party).
- 3.7. If CP disputes the Risk Valuation Agent's calculation of a Risk Valuation and the Parties **have not** agreed in writing (whether as part of the Agreement or otherwise) to a valuation dispute resolution process by which CSA Valuations are to be determined, then the following process will apply in respect of the dispute of such Risk Valuation:
- a. the Parties will consult with each other in an attempt to resolve the dispute; and
 - b. if they fail to resolve the dispute in a timely fashion, then the Risk Valuation Agent will recalculate the Risk Valuation as of the Recalculation Date by seeking four actual quotations at mid-market from Reference Market-makers and taking the arithmetic average of those obtained; *provided that* if four quotations are not available, then fewer than four quotations may be used; and, if no quotations are available, then the Risk Valuation Agent's original Risk Valuation calculation will be used.

¹⁵ CFTC Regulation 23.504(b)(4)(ii).

- 3.8. Following a recalculation pursuant to Section 3.7 of this March 2013 DF Schedule 3, the Risk Valuation Agent will notify CP not later than the close of business on the Local Business Day of the Risk Valuation Agent following the date of such recalculation, and such recalculation shall be the Risk Valuation for the applicable Risk Valuation Date.

Part III. Relationship to Other Valuations

- 3.9. The Parties agree and acknowledge that the process provided herein for the production and dispute of Risk Valuations is exclusively for determining the value of each relevant Swap for the purpose of compliance by CFTC Swap Entity (or if each Party is a CFTC Swap Entity, compliance by each Party) with risk management requirements under Section 4s(j) of the CEA. Failure by CP to dispute a Risk Valuation calculated by the Risk Valuation Agent does not constitute acceptance by CP of the accuracy of the Risk Valuation for any other purpose.
- 3.10. Resolution of any disputed Risk Valuation using a procedure specified in Part II of this March 2013 DF Schedule 3 is not binding on either Party for any purpose other than the CFTC Swap Entity's compliance with risk management requirements under Section 4s(j) of the CEA. Each Party agrees that nothing in this March 2013 DF Supplement providing for the calculation of Risk Valuations or for any right to dispute valuations in connection with such Risk Valuations shall affect any agreement of the Parties regarding the calculation of CSA Valuations or disputes regarding CSA Valuations or constitute a waiver of any right to dispute a CSA Valuation. Any resolutions of disputes regarding CSA Valuations may be different from the resolutions of disputes regarding Risk Valuations. The Parties acknowledge that the adoption of margin regulations under Section 4s(e) of the CEA may require additional agreements between the Parties regarding the calculation of Swap valuations for purposes of such regulations and CFTC Swap Entity's compliance with risk management requirements under Section 4s(j) of the CEA, and the Parties' agreement to incorporate this March 2013 DF Schedule 3 in no way constitutes agreement to adopt the procedures provided herein with respect to the calculation of, or resolution of disputes regarding, margin valuations.
- 3.11. Notwithstanding anything to the contrary in this March 2013 DF Supplement, the Parties may in good faith agree to any other procedure for (i) the calculation of Risk Valuations and/or (ii) the resolution of any dispute between them, in either case, whether in addition to or in substitution of the procedures set out in this March 2013 DF Supplement.

March 2013 DF Schedule 4 Portfolio Reconciliation¹⁶

This March 2013 DF Schedule 4 may be incorporated into an agreement between a CFTC Swap Entity and any other Party, including another CFTC Swap Entity.

If the Parties to an agreement have specified that this March 2013 DF Schedule 4 will be incorporated into such agreement and any conditions to such incorporation set forth in such agreement have been satisfied, this March 2013 DF Schedule 4 will be deemed to be a part of such agreement to the same extent as if this March 2013 DF Schedule 4 were restated therein in its entirety.

Part I. Required Reconciliation Dates

- 4.1. From time to time after the Applicable Portfolio Reconciliation Compliance Date, a CFTC Swap Entity may give to CP a notice (a “**Required Reconciliation Date Notice**”) in which such CFTC Swap Entity represents that it is (in such CFTC Swap Entity’s good faith belief) necessary for the Parties to perform a Data Reconciliation in order for such CFTC Swap Entity to comply with the March 2013 DF Supplement Rules regarding the frequency with which portfolio reconciliations are to be performed. A Required Reconciliation Date Notice will specify (i) the frequency with which such portfolio reconciliations are believed by the CFTC Swap Entity to be required, which may be “Daily,” “Weekly,” “Quarterly,” “Annually” or another frequency required by the March 2013 DF Supplement Rules and (ii) if Section 4.2 is applicable, one or more Data Delivery Dates.

Part II. One-way Delivery of Portfolio Data

- 4.2. Subject to Section 4.5, if (i) one of the Parties is not a CFTC Swap Entity and (ii) the Parties have agreed in writing that on each Data Delivery Date CFTC Swap Entity will deliver Portfolio Data to CP and CP will review such data, then the following shall apply:
 - a. The Required Reconciliation Date Notice will specify one or more Data Delivery Dates, *provided* that the first such date will be a day no earlier than the second Joint Business Day following the date on which such notice is given to CP, and *provided further*, that if, prior to the first such date, CP requests one or more different Data Delivery Dates, the relevant Data Delivery Dates will be as agreed by the Parties.
 - b. On each Data Delivery Date, CFTC Swap Entity (or its agent) will provide Portfolio Data to CP (or its agent) for verification by CP. For purposes of this Section 4.2, Portfolio Data will be considered to have been provided

¹⁶ CFTC Regulation 23.502(b).

to CP (and CP will be considered to have received such Portfolio Data) if it has been provided (i) in accordance with the Notice Procedures, or (ii) to a third-party service provider agreed to between the CFTC Swap Entity and CP for this purpose.

- c. On or as soon as reasonably practicable after each Data Delivery Date, and in any event not later than the close of business on the second Local Business Day of CP following the Data Delivery Date, CP will review the Portfolio Data delivered by CFTC Swap Entity with respect to each relevant Swap against its own books and records and Valuation for such Swap and notify CFTC Swap Entity whether it affirms the relevant Portfolio Data or has identified any Discrepancy. CP shall notify CFTC Swap Entity of all Discrepancies identified with respect to the Portfolio Data provided.
- d. If CP has notified CFTC Swap Entity of any Discrepancies in Portfolio Data in respect of any Material Terms or Valuations, then each Party agrees to consult with the other in an attempt to resolve all such Discrepancies in a timely fashion.

Part III. Exchange of Portfolio Data

- 4.3. Subject to Section 4.5, if (i) both Parties are CFTC Swap Entities or (ii) the Parties have agreed in writing that on each Data Delivery Date CFTC Swap Entity and CP will deliver Portfolio Data to each other, then, in either case, the following shall apply:
 - a. The Parties will negotiate in good faith to agree on one or more Data Delivery Dates that will comply with the Portfolio Reconciliation frequency specified in the Required Reconciliation Date Notice, *provided* that if the Required Reconciliation Date Notice specified that reconciliations are required Daily, each Joint Business Day shall be a Data Delivery Date.
 - b. On each Data Delivery Date, each Party (or its agent) will provide Portfolio Data to the other Party. For the purposes of this Section 4.3, Portfolio Data will be considered to have been provided to the other Party (and the other Party will be considered to have received such Portfolio Data) if it has been provided (i) in accordance with the Notice Procedures, or (ii) to a third-party service provider agreed to between CFTC Swap Entity and CP for this purpose.
 - c. On or as soon as reasonably practicable after each Data Delivery Date on which Portfolio Data is provided by each Party, either Party may perform a Data Reconciliation in respect of such Portfolio Data.
 - d. If (i) one of the Parties is not a CFTC Swap Entity and (ii) either Party notifies the other Party of a Discrepancy in Portfolio Data in respect of

either the Material Terms of a Swap or its Valuation, then each Party agrees to consult with the other in an attempt to resolve the Discrepancy in a timely fashion.

- e. If (i) both Parties are CFTC Swap Entities and (ii) either Party notifies the other Party of a Discrepancy in Portfolio Data in respect of the Material Terms of a Swap, then each Party agrees to consult with the other in an attempt to resolve such Discrepancy immediately.
- f. If (i) both Parties are CFTC Swap Entities and (ii) either Party notifies the other Party of a Discrepancy in Portfolio Data in respect of Valuations, then each Party agrees to consult with the other in an attempt to resolve such Valuation Discrepancy as soon as possible, but in any event within five Joint Business Days.

Part IV. Valuation Differences Below the Discrepancy Threshold Amount

- 4.4. The Parties hereby agree that a difference in Valuations in respect of a Swap that is less than the Discrepancy Threshold Amount shall not be deemed a “discrepancy” for purposes of CFTC Regulation 23.502 and neither Party shall be required under this March 2013 DF Schedule 4 to notify the other Party of such a difference or consult with the other Party in an attempt to resolve such a difference.

Part V. Reconciliation Against SDR Data

- 4.5. If the Parties have agreed in writing to reconcile their books and records of Swaps between the Parties against SDR Data in order to facilitate satisfaction of the requirements of CFTC Regulation 23.502 then the following shall apply:
 - a. On or as soon as practicable following a Data Exchange Date, each Party shall perform a Data Reconciliation against SDR Data to the extent that such SDR Data relates to Material Terms that would otherwise be delivered by the other Party as Portfolio Data. To the extent that either party does not have access to such SDR Data or determines that it is not technologically or operationally practical for such Party to obtain such data from the relevant SDR in a manner that permits the conduct of a timely Data Reconciliation in accordance with the applicable time periods specified in Section 4.2 or 4.3, such Party shall notify the other Party by or as soon as practicable after the relevant Data Exchange Date.
 - b. Notwithstanding Sections 4.2 and 4.3, neither Party shall be obligated to deliver Portfolio Data to the other Party on a Data Delivery Date to the extent that such Portfolio Data consists of Material Terms data reported to an SDR, *provided, however*, that if a Party has notified the other Party that it is not able to conduct a timely Data Reconciliation against corresponding SDR Data as provided in Section 4.5(a), the Parties shall

provide for the delivery of the relevant Portfolio Data as provided in Section 4.2(b) or 4.3(b), as applicable, as soon as reasonably practicable.

- c. If either Party identifies a Discrepancy in SDR Data, such Party shall immediately notify the other Party of such Discrepancy. Each Party agrees to consult with the other in an attempt to resolve any such Discrepancy immediately (if both Parties are CFTC Swap Entities) or in a timely fashion (if one Party is not a CFTC Swap Entity).
- d. Each Party agrees to notify the other Party, upon reasonable request, of (i) the SDRs to which such Party has reported Material Terms data with respect to Swaps between the Parties and (ii) any changes as to the particular SDRs at which data may be accessed.
- e. A Party may terminate this Section 4.5 with the effect that this Section 4.5 shall have no further force and effect and the Parties will each be released and discharged from all further obligations under this Section 4.5 by delivering written notice in accordance with the Notice Procedures to the other Party that it is terminating this Section 4.5 as of the effective date of such notice. The Parties agree that the effective date of any such notice is the second Joint Business Day following the date on which such notice is delivered in accordance with the Notice Procedures.

Part VI. Other Portfolio Reconciliation Procedures

- 4.6. In the event that the Parties have agreed to multiple Data Delivery Dates with a frequency specified in a Required Reconciliation Date Notice, the CFTC Swap Entity that delivered such notice shall notify Counterparty if, at any time during the period that such Data Delivery Dates are in effect, it is no longer required by the March 2013 DF Supplement Rules to conduct portfolio reconciliations with the specified frequency. Such notice shall specify (i) the new frequency with which portfolio reconciliations are believed by the CFTC Swap Entity to be required, which may be “Daily,” “Weekly,” “Quarterly,” “Annually” or another frequency required by the March 2013 DF Supplement Rules and (ii) if Section 4.2 is applicable, one or more new Data Delivery Dates. Upon delivery of such a notice, the Parties’ obligations to deliver Portfolio Data on the previously agreed Data Delivery Dates shall terminate, and such notice shall be a new Required Reconciliation Date Notice for purposes of Sections 4.2 and 4.3.
- 4.7. Notwithstanding anything to the contrary in this March 2013 DF Supplement, the Parties may in good faith agree to any other procedure for (i) the exchange, delivery and/or reconciliation of Portfolio Data, and/or (ii) the resolution of any discrepancy between them, in either case, whether in addition to or in substitution of the procedures set out in this March 2013 DF Supplement. Nothing in this March 2013 DF Schedule 4 shall prejudice any right of dispute or right to require reconciliation that either Party may have under Applicable Law, any term of the Agreement other than in this March 2013 DF Schedule 4, or any other agreement.



International Swaps and Derivatives Association, Inc.

ISDA MARCH 2013 DF PROTOCOL QUESTIONNAIRE¹

**published on March 22, 2013,
by the International Swaps and Derivatives Association, Inc.**

¹ This March 2013 DF Questionnaire is intended to address requirements of the following final rules:

- (1) CFTC, Final Rule, *Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants*, 77 Fed. Reg. 55904 (Sept. 11, 2012);
- (2) CFTC, Final Rule, *End-User Exception to the Clearing Requirement for Swaps*, 77 Fed. Reg. 42559 (July 19, 2012); and
- (3) CFTC, Final Rule, *Clearing Requirement Determination Under Section 2(h) of the CEA*, 77 Fed. Reg. 74284 (Dec. 13, 2012).



International Swaps and Derivatives Association, Inc.

ISDA March 2013 DF Protocol Questionnaire dated as of March 22, 2013

Instructions: A PCA Principal or PCA Agent that has adhered to the Protocol Agreement in the manner specified therein may complete and execute this Questionnaire and deliver it by a means specified in the Protocol Agreement in order to supplement existing Protocol Covered Agreements and/or enter into new Protocol Covered Agreements in the form of the ISDA March 2013 DF Protocol Master Agreement.

This Questionnaire may be executed and delivered by a PCA Principal on its own behalf or by a PCA Agent on behalf of one or more PCA Principals. By delivering this Questionnaire to another PCA Principal or PCA Agent in a manner specified in the Protocol Agreement, the deliverer may agree to enter into and/or supplement Protocol Covered Agreements with such other PCA Principal or PCA Agent. Where an existing Protocol Covered Agreement was originally executed by a PCA Agent on behalf of one or more PCA Principals, only the relevant PCA Agent (and not a PCA Principal) may use this Questionnaire and the Protocol Agreement to supplement such Protocol Covered Agreement.

In the case of a PCA Principal executing and delivering this Questionnaire on its own behalf, (i) such party must identify itself as the PCA Principal in column 1 of the PCA Principal Answer Sheet, and (ii) this Questionnaire will only be effective to supplement existing Protocol Covered Agreements executed by such party on its own behalf and/or to enter into ISDA March 2013 DF Protocol Master Agreements on its own behalf. In the case of a PCA Agent executing and delivering this Questionnaire on behalf of one or more PCA Principals, (i) the PCA Agent must list the names of each such PCA Principal in column 1 of the PCA Principal Answer Sheet, and (ii) this Questionnaire will only be effective to enter into ISDA March 2013 DF Protocol Master Agreements on behalf of listed PCA Principals and/or supplement Protocol Covered Agreements executed by the PCA Agent on behalf of the listed PCA Principals. For the avoidance of doubt, if this Questionnaire is being completed by a PCA Agent on behalf of multiple PCA Principals, this Questionnaire shall be treated as if it were a separate Questionnaire with respect to each separate PCA Principal listed in column 1 of the PCA Principal Answer Sheet.

The responses to Part II, Sections 6 through 8 and Part III Section 5(b) of this Questionnaire may be set forth directly on this Questionnaire, or if there is insufficient space, on a separate schedule. The responses to all other sections of this Questionnaire must be set forth on the PCA Principal Answer Sheet.

Part I: Definitions

References in this Questionnaire to the following terms shall have the following meanings:

“**CEA**” means the Commodity Exchange Act, as amended.

“**CFTC**” means the U.S. Commodity Futures Trading Commission.

“**CFTC Regulations**” means the rules, regulations, orders and interpretations published or issued by the CFTC, as amended.

“**Commodity Trade Option**” means a commodity option entered into pursuant to CFTC Regulation 32.3(a).

“**DCO**” means a “derivatives clearing organization,” as such term is defined in Section 1a(15) of the CEA and the CFTC Regulations.

“**DF Schedule**” means a schedule to the DF Supplement.

“**DF Supplement**” means the ISDA March 2013 DF Supplement published on March 22, 2013 by the International Swaps and Derivatives Association, Inc.

“**Existing Swap Agreement**” means, in respect of a Swap, a written agreement that (i) exists at the time of execution of such Swap, (ii) provides for, among other things, terms governing the payment obligations of the parties, and (iii) the parties have established, by written agreement, oral agreement, course of conduct or otherwise, will govern such Swap.

“**Financial Company**” has the meaning ascribed to such term in Section 201(a)(11) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5381(a)(11).

“**Financial Entity**” means a person that is a “financial entity” as defined in Section 2(h)(7)(C)(i) of the CEA, without regard to an exemption or exclusion provided in Section 2(h)(7)(C)(ii) of the CEA and CFTC regulations thereunder or in Section 2(h)(7)(C)(iii) of the CEA.²

“**Insured Depository Institution**” has the meaning ascribed to such term in 12 U.S.C. § 1813.

² Section 2(h)(7)(C)(i) of the CEA defines a “financial entity” for purposes of mandatory clearing as (i) a swap dealer, (ii) a security-based swap dealer, (iii) a major swap participant, (iv) a major security-based swap participant, (v) a commodity pool, (vi) a private fund as defined in Section 202(a) of the Investment Advisors Act of 1940, (vii) an employee benefit plan as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income and Security Act of 1974, and (viii) a person predominantly engaged in activities that are in the business of banking, or in activities that are financial in nature as defined in Section 4(k) of the Bank Holding Company Act of 1956.

“**LEI/CICI**” means a “legal entity identifier” satisfying the requirements of CFTC Regulation 45.6 or such other entity identifier as shall be provided by the CFTC, pending the availability of such legal entity identifiers.

“**PCA Agent**” means a person who has executed a Protocol Covered Agreement on behalf of one or more PCA Principals.

“**PCA Principal**” means a person who is or may become a principal to one or more Swaps under a Protocol Covered Agreement and who is identified as such in column 1 of the PCA Principal Answer Sheet.

“**PCA Principal Answer Sheet**” means a spreadsheet substantially in the form of Annex A to this Questionnaire.

“**Portfolio Data**” has the meaning ascribed to such term in the DF Supplement.

“**Protocol Agreement**” means the ISDA March 2013 DF Protocol Agreement published on March 22, 2013 by the International Swaps and Derivatives Association, Inc.

“**Protocol Covered Agreement**” means (i) an ISDA March 2013 DF Protocol Master Agreement or (ii) any other written agreement between two parties, with at least one of such parties being a CFTC Swap Entity, that (A) is in existence on the Implementation Date applicable to such parties and (B) governs the terms and conditions of one or more Swaps that each such party has or may enter into as principal.

“**Risk Valuations**” has the meaning ascribed to such term in the DF Supplement.

“**SDR**” means a “swap data repository,” as defined in Section 1a(48) of the CEA and the CFTC Regulations.

“**Swap**” means a “swap” as defined in Section 1a(47) of the CEA and regulations thereunder; *provided that* a Commodity Trade Option is not a Swap for purposes hereof. The term “Swap” also includes any foreign exchange swaps and foreign exchange forwards that are exempted from regulation as “swaps” by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the CEA. For the avoidance of doubt, the term “Swap” does not include a swap that has been cleared by a DCO.

Capitalized terms used but not otherwise defined in this Questionnaire shall have the meanings assigned to such terms in the Protocol Agreement.

Part II: PCA Principal Information and Status Representations

Part II of this Questionnaire consists of questions that must be answered by, or on behalf of, each PCA Principal. Answers to the questions should be provided in the PCA Principal Answer Sheet except as otherwise indicated.

1. **LEI/CICI³**

To answer this question, complete column 2 of the relevant row of the PCA Principal Answer Sheet by inserting the PCA Principal's LEI/CICI:

What is PCA Principal's LEI/CICI?

2. **CFTC Swap Entity**

The term "CFTC Swap Entity" is used in the Protocol Agreement to signify PCA Principals that are, or expect shortly to be, registered as a swap dealer or major swap participant with the CFTC. In the DF Supplement, the agreements that apply to a "CFTC Swap Entity" are only appropriate for a registered swap dealer or major swap participant and the agreements applicable to "Counterparty" or "CP" are only appropriate for parties who are counterparties to a registered swap dealer or major swap participant. The Protocol Agreement provides that the obligations of matched PCA Principals under the DF Supplement are conditioned upon at least one of the matched PCA Principals actually being registered with the CFTC as a swap dealer or major swap participant, so that PCA Principals may be designated as CFTC Swap Entities prior to registration and have relevant obligations take effect once registration is complete.

*Each party executing a Questionnaire must indicate whether the relevant PCA Principal will be a CFTC Swap Entity for purposes of DF Supplement terms incorporated in Protocol Covered Agreements. Designation as a CFTC Swap Entity in this Questionnaire is not a representation by the PCA Principal that it is a "swap dealer" or a "major swap participant," as such terms are defined in the CEA and applicable CFTC regulations, or that it is registered as such. **However, parties who do not in good faith believe they will register as a swap dealer or major swap participant should not be designated as a CFTC Swap Entity for purposes of DF Supplement terms incorporated in Protocol Covered Agreements.** Under the DF Supplement, a matched party that is not initially a CFTC Swap Entity may subsequently change its status to CFTC Swap Entity by providing written notice to its counterparty that it has become registered with the CFTC as a swap dealer or major swap participant.*

A "Yes" response to this question will be an election for PCA Principal to be a CFTC Swap Entity for purposes of DF Supplement terms incorporated in Protocol Covered Agreements.

To answer this question, complete column 3 of the relevant row of the PCA Principal Answer Sheet by inserting a "Yes" or a "No," as appropriate:

Is PCA Principal a CFTC Swap Entity?

³ CFTC Regulation 45.6.

3. **Financial Entity**⁴

The term “financial entity” is used for various purposes throughout the CEA and CFTC Regulations, including, among others, for purposes of determining who must enter into “swap trading relationship documentation” satisfying various requirements and the deadlines for execution of confirmations under CFTC Regulation 23.501. Each party executing a Questionnaire must therefore indicate whether the relevant PCA Principal is a Financial Entity to the best of its knowledge.

To answer this question, complete column 4 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate. Respondents should note that participants in the ISDA August 2012 DF Protocol were also asked in the related “Questionnaire” to indicate whether they are “financial entities” as defined in Section 2(h)(7)(C)(i) of the CEA and the CFTC Regulations. Information provided herein will be deemed an update to information provided in the prior Questionnaire, if any.

To the best of its knowledge, is PCA Principal a Financial Entity?

4. **Financial Company**⁵

Pursuant to CFTC Regulation 23.504(b)(5)(i)-(ii), swap trading relationship documentation must include a statement for each party indicating whether it is a Financial Company. Such a statement will be incorporated into Matched PCAs for PCA Principal as “March 2013 DF Supplement Information” by answering this question.

To answer this question, complete column 5 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Is PCA Principal a Financial Company?

5. **Insured Depository Institution**⁶

Pursuant to CFTC Regulation 23.504(b)(5)(i)-(ii), swap trading relationship documentation must include a statement for each party indicating whether it is an Insured Depository Institution. Such a statement will be incorporated into Matched PCAs for PCA Principal as “March 2013 DF Supplement Information” by answering this question.

To answer this question, complete column 6 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

⁴ See, e.g., CFTC Regulation 23.501 and 23.504(b)(4).

⁵ CFTC Regulation 23.504(b)(5)(i)-(ii).

⁶ CFTC Regulation 23.504(b)(5)(i)-(ii).

Is PCA Principal an Insured Depository Institution?

6. E-mail Address for Delivery of Notices

A PCA Principal may specify here an e-mail address for the delivery of notices pursuant to the DF Supplement, other than notices related to Risk Valuations or Portfolio Data:

E-mail: _____

7. E-mail Address for Delivery of Risk Valuations

A PCA Principal may specify here an e-mail address for the delivery of Risk Valuations given pursuant to DF Schedule 3:

E-mail: _____

8. E-mail Address for Delivery of Portfolio Data

A PCA Principal may specify here an e-mail address for the delivery of Portfolio Data delivered pursuant to DF Schedule 4:

E-mail: _____

Part III: PCA Principal Elections

Part III of this Questionnaire consists of questions that must be answered by, or on behalf of, each PCA Principal except as otherwise indicated. Answers to the questions should be provided in the PCA Principal Answer Sheet except as otherwise indicated.

1. Local Business Day

For the purposes of the March 2013 DF Supplement, what constitutes a “Local Business Day” in respect of any party is determined based upon the city (or cities) specified by such party herein or in other documentation agreed by the parties to be “March 2013 DF Supplement Information.” A city (or cities) may be specified for a PCA Principal by answering this question.

To answer this question, complete column 7 of the relevant row of the PCA Principal Answer Sheet by inserting the name(s) of the relevant city (or cities):

Local Business Day city or cities?

2. **DF Schedule 3 Election for Non-Financial Entities**⁷

The following election whether to enter into DF Schedule 3 (Calculation of Risk Valuations and Dispute Resolution) must be completed by, or on behalf of, all PCA Principals that are neither (i) being designated as CFTC Swap Entities nor (ii) Financial Entities. If PCA Principal is being designated as a CFTC Swap Entity or has been identified as a Financial Entity in this Questionnaire, it is automatically deemed to elect DF Schedule 3 (Calculation of Risk Valuations and Dispute Resolution) pursuant to the Protocol Agreement.

DF Schedule 3 provides a set of agreements intended to address the documentation requirements of CFTC Regulation 23.504(b)(4). CFTC Regulation 23.504(b)(4) provides that these requirements apply to all swap trading relationship documentation between swap dealers, major swap participants and Financial Entities, but are not mandatory for swap trading relationship documentation with market participants that are not Financial Entities.

*Either a “Yes” response or a non-response to this question will be an election to supplement the terms of Matched PCAs by incorporating DF Schedule 3 (Calculation of Risk Valuations and Dispute Resolution). A “No” response to this question will be an election **not** to incorporate DF Schedule 3. Protocol Participants should verify that the relevant PCA Principal is not a Financial Entity before responding “No” to this question.*

To answer this question, complete column 8 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Does PCA Principal agree to DF Schedule 3?

3. **DF Schedule 4 Elections**⁸

- (a) *The following election whether to enter into DF Schedule 4 (Portfolio Reconciliation) must be completed by, or on behalf of, all PCA Principals that are not being designated as CFTC Swap Entities. If PCA Principal is being designated as a CFTC Swap Entity in this Questionnaire, it is automatically deemed to elect DF Schedule 4 (Portfolio Reconciliation) pursuant to the Protocol Agreement.*

*A “Yes” response or a non-response to this question will be an election to supplement the terms of Matched PCAs by incorporating DF Schedule 4 (Portfolio Reconciliation). A “No” response to this question will be an election **not** to incorporate DF Schedule 4 (Portfolio Reconciliation).*

⁷ CFTC Regulation 23.504(b)(4).

⁸ CFTC Regulation 23.502

To answer this question, complete column 9 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Does PCA Principal agree to Schedule 4?

- (b) *The following election whether to engage in portfolio reconciliation in accordance with Part II of DF Schedule 4 (One-way Delivery of Portfolio Data) or Part III of DF Schedule 4 (Exchange of Portfolio Data) must be completed by, or on behalf of, all PCA Principals that (i) are not designated as CFTC Swap Entities in this Questionnaire, and (ii) have elected DF Schedule 4 in this Questionnaire. If PCA Principal is being designated as a CFTC Swap Entity and is matched with another PCA Principal designated as a CFTC Swap Entity, Part III of DF Schedule 4 is automatically deemed elected pursuant to the Protocol Agreement.*

Pursuant to CFTC guidance, a party that is not a swap dealer or major swap participant may engage in portfolio reconciliation by either reviewing and confirming portfolio data received from a swap dealer or major swap participant or by exchanging portfolio data with a swap dealer or major swap participant.

A “Review” response or a non-response to this question will be an election to engage in portfolio reconciliation in accordance with Part II of DF Schedule 4 (One-way Delivery of Portfolio Data). An “Exchange” response to this question will be an election to engage in portfolio reconciliation in accordance with Part III of DF Schedule 4 (Exchange of Portfolio Data).

To answer this question, complete column 10 of the relevant row of the PCA Principal Answer Sheet by inserting a “Review” or “Exchange,” as appropriate:

Does PCA Principal agree to review or exchange Portfolio Data?

- (c) *The following election whether to reconcile certain terms of Swaps in accordance with Part V of DF Schedule 4 (Other Portfolio Reconciliation Procedures) must be completed by, or on behalf of, all PCA Principals that (i) are designated as CFTC Swap Entities in this Questionnaire, or (ii) have elected DF Schedule 4 in this Questionnaire.*

PCA Principals that engage in portfolio reconciliations may choose to reconcile relevant terms of Swaps against the data reported by a party to an SDR rather than requiring the direct delivery of the relevant information by the other party or its agent.

*A “Yes” response to this question will be an election to reconcile relevant terms of Swaps in accordance with Part V of DF Schedule 4 (Other Portfolio Reconciliation Procedures). A “No” response or a non-response to this question will be an election **not** to agree to the terms of Part V of DF Schedule 4.*

To answer this question, complete column 11 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Does PCA Principal agree to reconcile against SDR Data?

4. Use of End-User Exception⁹

- (a) The following question may be completed by, or on behalf of, all PCA Principals that are eligible to use the End-User Exception (as defined below).

Section 2(h)(1) of the CEA makes it unlawful, subject to certain exceptions, for any person to engage in a swap that is subject to a mandatory clearing determination unless such swap is submitted for clearing to a registered or exempt derivatives clearing organization. Section 2(h)(7) of the CEA and CFTC Regulation 50.50 provide an exception, available to certain parties, to the mandatory clearing requirement set forth in Section 2(h)(1) of the CEA (the “**End-User Exception**”). In order to use the End-User Exception, a party must, among other things, make an election to do so. This question may be used to notify a counterparty that PCA Principal is making a one-time election to always use the End-User Exception for swaps subject to mandatory clearing unless PCA Principal subsequently notifies its counterparty to the contrary (either with respect to a particular Swap or generally). For the avoidance of doubt, a party’s answer to this question will in no way prejudice its rights to elect to, or not to, use the End-User Exception in respect of any particular Swap.

A “Yes” response to this question provides a notice to a recipient of this Questionnaire that PCA Principal is electing (such election, the “**Standing End-User Exception Election**”) the End-User Exception for each Swap entered into by the PCA Principal under a Matched PCA that is subject to a mandatory clearing determination under Section 2(h) of the CEA, unless PCA Principal has notified the counterparty otherwise in writing prior to the execution of such Swap. A “No” response or a non-response to this question will be an election not to provide such a notice (and has no other effect).

To answer this question, complete column 12 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Standing End-User Exception Election?

- (b) The following question may be completed by, or on behalf of, all PCA Principals that are eligible to use the End-User Exception.

CFTC Regulation 50.50 provides that when a party to a Swap elects to use the End-User Exception (such party an “**Electing Party**”), one of the parties must provide, or cause to be provided, the information listed in CFTC Regulation

⁹ CFTC Regulation 50.50.

50.50 to a registered SDR or, if no registered SDR is available to receive such information, the CFTC. An Electing Party may provide this information directly to a registered SDR or the CFTC through an annual filing pursuant to CFTC Regulation 50.50(b)(2) (an “**Annual Filing**”), or may cause this data to be reported on a trade-by-trade basis (a “**Trade Filing**”).

The ISDA March 2013 DF Supplement provides that an Electing Party is deemed to represent at the time of execution of the relevant Swap that it has either made an Annual Filing or has notified its counterparty that it has not made such an Annual Filing and has provided the counterparty with the information required to make a Trade Filing. The following question may be used by a PCA Principal to notify its counterparty that it will not make an Annual Filing for any swap subject to mandatory clearing (such notification, the “**Standing Opt-Out of Annual Filing**”) unless PCA Principal subsequently notifies its counterparty to the contrary (either with respect to a particular Swap or generally).

To answer this question, complete column 13 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Standing Opt-Out of Annual Filing?

- (c) The following questions may be completed by, or on behalf of, all PCA Principals that are eligible to use the End-User Exception.

The ISDA March 2013 DF Supplement provides that an Electing Party that has notified its counterparty that it has not made an Annual Filing represents that it has provided the counterparty with the information required to make a Trade Filing. The following questions may be used by a PCA Principal to provide such information.

- (i) If the Electing Party is a Financial Entity, CFTC Regulation 50.50 requires that a Trade Filing specify whether the Electing Party is electing the exception in accordance with Section (2)(h)(7)(C)(iii) of the CEA (the “**Finance Affiliate Exception**”)

To answer this question, complete column 14 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Is PCA Principal electing the Finance Affiliate Exception?

- (ii) *If the Electing Party is a Financial Entity, CFTC Regulation 50.50 requires that a Trade Filing specify whether the Electing Party is electing the exception in accordance with Section (2)(h)(7)(D) of the CEA (the “**Hedging Affiliate Exception**”).*

To answer this question, complete column 15 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Is PCA Principal electing the Hedging Affiliate Exception?

- (iii) *If the Electing Party is a Financial Entity, CFTC Regulation 50.50 requires that a Trade Filing specify whether the Electing Party is an entity that has been exempted from the statutory definition of “financial entity” for purposes of the End User Exception under Section 2(h)(7)(C)(ii) of the CEA and CFTC Regulation 50.50(d) (the “**Small Bank Exemption**”).*

To answer this question, complete column 16 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Is PCA Principal exempt under the Small Bank Exemption?

- (iv) *CFTC Regulation 50.50 requires that a Trade Filing specify how an Electing Party generally meets its financial obligations associated with entering into non-cleared swaps.*

To answer this question, complete column 17 of the relevant row of the PCA Principal Answer Sheet by inserting one or more of the subsection letters below, as appropriate:

How does PCA Principal generally meet its financial obligations associated with entering into non-cleared swaps?

- (A) a written credit support agreement;
- (B) pledged or segregated assets (including posting or receiving margin pursuant to a credit support arrangement or otherwise);
- (C) a written third-party guarantee;
- (D) its available financial resources; or
- (E) means other than those described in the foregoing subsections (A) through (D).

- (v) *CFTC Regulation 50.50 requires that a Trade Filing specify whether an Electing Party is an issuer of securities registered under Section 12 of, or is required to file reports under Section 15(d) of, the Securities Exchange Act of 1934 (an “SEC Issuer/Filer”)*

To answer this question, complete column 18 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Is PCA Principal an SEC Issuer/Filer?

- (vi) *If the Electing Party is an SEC Issuer/Filer, CFTC Regulation 50.50 requires that a Trade Filing specify the Electing Party’s SEC Central Index Key number.*

To answer this question, complete column 19 of the relevant row of the PCA Principal Answer Sheet by inserting the PCA Principal’s SEC Central Index Key number:

What is PCA Principal’s SEC Central Index Key number?

- (vii) *If the Electing Party is an SEC Issuer/Filer, CFTC Regulation 50.50 requires that a Trade Filing specify whether an appropriate committee of Electing Party’s board of directors (or equivalent body) reviewed and approved the decision to enter into swaps that are exempt from the requirements of Sections 2(h)(1) and 2(h)(8) of the CEA (an “Election Approval”).*

To answer this question, complete column 20 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate:

Did PCA Principal receive Election Approval?

5. ISDA March 2013 DF Protocol Master Agreement Elections and Information

- (a) *CFTC Regulation 23.504 requires a CFTC Swap Entity to have in place written policies and procedures to ensure that it executes “swap trading relationship documentation” prior to or contemporaneously with entering into a Swap with any counterparty. In order to help ensure that parties have such documentation in place for each Swap, Section 4 of the Protocol Agreement allows each PCA Principal to elect to enter into an “ISDA March 2013 DF Protocol Master Agreement.” Pursuant to the Schedule to the ISDA March 2013 DF Protocol Master Agreement, such agreement would govern Swaps that are (i) not governed by an Existing Swap Agreement and (ii) not intended by the parties to be cleared on a derivatives clearing organization.*

*A “Yes” response to this question is an agreement by PCA Principal to enter into the ISDA March 2013 DF Protocol Master Agreement with each counterparty to whom this Questionnaire has been delivered. A “No” response or a non-response will **not** be an agreement to enter into the ISDA March 2013 DF Protocol Master Agreement with each counterparty to whom this Questionnaire has been delivered.*

To answer this question, complete column 21 of the relevant row of the PCA Principal Answer Sheet by inserting a “Yes” or a “No,” as appropriate.

Does PCA Principal agree to enter into an ISDA March 2013 DF Protocol Master Agreement?

- (b) If PCA Principal has responded “Yes” to the previous question, the notice information of such PCA Principal for the purposes of each ISDA March 2013 DF Protocol Master Agreement is as follows:

Name: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

Electronic Messaging System Details: _____

Specific Instructions: _____

By executing this Questionnaire, the signatory represents as PCA Principal or PCA Agent for specified PCA Principals that (a) all information provided by it in this Questionnaire is true, accurate and complete in every material respect as of the date hereof, and may be relied upon by each counterparty to whom this Questionnaire is delivered, (b) it has elected to supplement its Matched PCAs with the DF Schedules as indicated in this Questionnaire, and (c) if it has answered “Yes” to the question in Part III Section 5(a) of this Questionnaire, it has agreed to enter into the ISDA March 2013 DF Protocol Master Agreement.

[INSERT FULL LEGAL NAME OF PCA PRINCIPAL OR PCA AGENT]¹⁰

By: _____

Name:

Title:

Date:

¹⁰ If you are a PCA Agent acting on behalf of one or more PCA Principals insert the following in the signature block: “, acting on behalf of the clients, investors, funds, accounts and/or other principals listed in the column 1 of the PCA Principal Answer Sheet.”

