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27 May 2014

Ms Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
WASHINGTON, DC 20581

Online via: http://comments.cftc.gov

Dear Ms Jurgens,

Review of Swap Data Recordkeeping and Reporting Requirements (79 Fed. Reg. 16689)

The Australian Bankers' Association (**ABA**) welcomes the opportunity to provide comment to the Commodity Futures Trading Commission regarding its *Review of Swap Data Recordkeeping and Reporting Requirements*.

The ABA supports the submission made by the International Swaps and Derivatives Association. In addition, the ABA would like to highlight a number of key issues, specifically relevant to Australian banks. These issues are detailed in the attached appendix.

Yours sincerely,

Brendon Harper

Appendix

Question 8: SDs and MSP's reporting valuation data for their cleared swaps to SDR's

The ABA would like to highlight and strongly support the International Swaps and Derivatives Association's (**ISDA)** recommendation that Swap Dealers (**SD**) and Major Swap Participants (**MSP)** should not be required by the Swap Data Repositories (**SDR)** rules to provide their own valuation data for cleared swaps as the Derivatives Clearing Organisation (**DCO)** is currently obligated to provide this data. The ABA concurs that the material benefit to the Commodity Futures Trading Commission (**CFTC**) in receiving this data would not outweigh the significant expense and difficulty incurred by SD and MSP to report this data to the DCO's SDR.

The ABA asks that the CFTC considers the ISDA request to extend the relief currently granted under NAL 13-34 to ensure unnecessary work is not undertaken by firms in order to comply by the current expiry of 30 June 2014.

Questions 16 and 17: Bespoke transactions

The ABA agrees with the ISDA responses to the above questions and would like to emphasise the importance of receiving clarity on how these transactions should be reported. Until there is a clear set of reporting requirements on what transactions qualify as a bespoke or exotic product, reporting of these products will continue to be on a best endeavours basis.

Question 22: Creation of USIs

The ABA also agrees with ISDA's response to Question 22 to support only authorised Electronic Communications Networks (**ECN**) to generate Unique Swap Identifiers (**USI**) and provides additional analysis. In support of trade data reporting, certain international regulators and supervisory bodies have highlighted the need for unique transaction identifiers to enable regulators to identify individual transactions. There are significant technological challenges to the implementation of an effective means to generate a USI and communicate it to the counterparty (particularly in prime broker transactions). Key to the trade workflow is an understanding of who has responsibility for assigning the USI – thereby defining the party who will generate the USI and the party (or parties) that will become consumers of the USI. Furthermore, such parties require the necessary infrastructure and processes to support the communication and consumption of the USI, creating significant risks of incorrect pairing and assignment of USI. It is for these reasons that the ABA recommends that the creation of a USI should be limited to certain authorised parties, as is currently the practice within the Dodd-Frank framework.

However, a key consideration of this implementation is the ability to leverage, where possible, central infrastructure in place within the industry. Global regulators and industry have recognised that unique trade identifier generation, communication and matching should occur at the earliest possible point in the trade flow. In the case of centrally executed trades, the trade reference should be generated and communicated at the point of execution on a platform that can generate a trade identifier and ensure its uniqueness.

Within platform trades, there are several sub-categories, including Swap Execution Facilities (**SEF**), Multilateral Trading Facilities (**MTF**) and, generally, ECNs, (with the caveat that the latter may not necessarily have the same capabilities as a SEF). It is the preference of the ABA and its members for the platform to generate the identifier for both parties. Under Dodd-Frank, platform trades will occur on SEF and non-SEF platforms. For transactions which are executed electronically on a registered SEF, the SEF on which the trade is executed is responsible for assigning the USI. If subsequent events occur on the platform which are USI creating, then the platform is also responsible for assignment of USI (such as

block and allocation processing). The SEF assigned USI is then referenced by all parties to the trade at the trade repository for further trade reporting, such as valuation submissions (the SEF also being required to report the transaction directly to the trade repository).

In the case of an ECN or other platforms which do not wish to implement full SEF functionality, that trading venue is not a USI generating party. In such cases centrally executed trades will follow the bilateral trade workflow in the absence of a mandated SEF. The intent of this response is to highlight where the ABA believes it would be beneficial for the USI to be communicated as close to execution as possible, including non-SEF platforms. To deal with the USI requirements in the US and trade identifier requirements globally, the ABA asks that non-SEF trading venues may be able to apply for, and be allocated, a USI namespace without the requirement for the ECN to register as a SEF. The ABA believes this will facilitate exchange of USIs at the point of execution and allow for an efficient manner in creation and communication of the USI, improving global data integrity, quality, timing and accuracy in trade reporting.

Question 49 – Data errors or omissions

The ABA agrees with the ISDA response for transactions where errors or omissions to data have been identified through the confirmation process with the counterparty. However, in the event that an error or omission is identified through the reconciliation process between the SDR and the reporting entities source systems/reporting engine (which at a minimum will be the following business day), the corrected data should be allowed to be submitted as soon as technologically practicable. If the inaccuracy of the data is due to code issues or other technology issues the correction will need to be applied through the entities standard technology release procedures. How quickly this can be applied will depend on the complexity of the identified issue.

No-action relief

The ABA notes that on occasion, changes to requirements in Part 45 relevant to foreign SDs have occurred very close to the date that such requirements were due to be implemented. Some examples of such 'eleventh-hour' regime modifications are:

1. Immediately prior to the CFTC meeting on 12 July 2013 (to consider the cross-border guidance and related exemptive order), foreign SDs were unsure whether swaps with non-US connected entities would be required to be reported under Part 45 after that date.
2. Similarly, it was only the day prior to 21 December 2013 (when NAL 13-75 was released) that foreign Swap Dealers learned that swaps with entities with no US connection would not have to be reported to the CFTC after 21 December 2013.

Obviously it is not possible, in any short amount of time, for a SDs to implement changes to reporting infrastructure to bring into scope a majority of counterparties (which is what entities unconnected to the US represent to certain non-US SDs). It is also not possible to quickly take *out* of scope such entities in response to the relevant CFTC issuance, if preparatory work had been done bringing into scope such entities (which work of course represents significant waste).

The ABA requests that the CFTC provide foreign SDs with more advance notice of changes to the CFTC's Part 45 reporting regime. Months of advance notice would ideally be provided. The next relevant date in respect of which this would be helpful is 1 December 2014. Such a date is, as a result of NAL 13-75, the successor date to those referred to above (i.e. 12 July 2013 and 21 December 2013) in relation to reporting of swaps with entities unconnected to the US.