



# ISDA CLEARING CLASSIFICATION LETTER<sup>1</sup>

Published on July 25, 2016  
by the International Swaps and Derivatives Association, Inc.

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TO<sup>2</sup>: \_\_\_\_\_

The entity named below (the “*Named Entity*”) makes the statements in [Appendix I (*ASIC Clearing Classification*) / Appendix II (*Hong Kong Clearing Classification*)]<sup>3</sup> to provide the recipient of this letter (the “*Recipient*”) with status information needed by the Recipient to determine the application of certain clearing requirements. The statements in this letter are solely for the purposes of such determinations.

The Named Entity will notify the Recipient in writing before or as soon as reasonably practicable following any of the statements made in [Appendix I (*ASIC Clearing Classification*) / Appendix II (*Hong Kong Clearing Classification*)] ceasing to be true. The Recipient may rely on the statements given by the Named Entity in [Appendix I (*ASIC Clearing Classification*) / Appendix II (*Hong Kong Clearing Classification*)] unless and until the Named Entity notifies the Recipient in writing to the contrary.

[If the Recipient receives classification information from the Named Entity in the form of this letter and also in corresponding statements through ISDA Amend and inconsistencies exist between the information received in the two forms, the information provided [in this letter]/[through ISDA Amend] prevails.]<sup>4</sup>

Where this letter is completed and delivered by an agent on behalf of one or more Named Entities, this letter should be treated as if it were a separate letter with respect to each Named Entity listed by the agent.<sup>5</sup>

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<sup>1</sup> While this is headed as a letter, it can of course be sent as an attachment to an email or pasted into the body of an email, or other method of communication in writing.

<sup>2</sup> Insert the name of the Recipient or simply “To whom it may concern”.

<sup>3</sup> This reference can be updated if other Appendices are added regarding entity classification under other clearing regimes.

<sup>4</sup> The Recipient and the Named Entity should consider relevant operational processes when deciding on the form of this statement.

<sup>5</sup> As this is standard form language only, the parties may wish to make further amendments to suit their needs such as, where possible, to address a situation where an agent/manager is signing on behalf of a client/fund but only in respect of the portion of that client’s business transacted by that agent/manager.

Executed and delivered with effect from:

Date: \_\_\_\_\_

Full legal name of the Named Entity:<sup>6</sup> \_\_\_\_\_

LEI/CICI/[Alternative Identifier<sup>7</sup>] of the Named Entity: \_\_\_\_\_

[*Optional*] Affirmation Code of the Named Entity: \_\_\_\_\_

If applicable, full legal name of the agent, acting on behalf of the Named Entity:<sup>8</sup> \_\_\_\_\_

Signature: \_\_\_\_\_

Name of signatory: \_\_\_\_\_

Title of signatory: \_\_\_\_\_

[*Optional*] Name of ultimate parent company: \_\_\_\_\_

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<sup>6</sup> If this letter is being completed by the Named Entity, the Named Entity should insert its full legal name here. If this letter is being completed by an agent on behalf of one or more Named Entities, the agent must clearly identify the full legal name and LEI, CICI or Alternative Identifier (as applicable) of each Named Entity either on this page or on an attached sheet. An agent may only list multiple Named Entities where the elections made in [Appendix I and/or Appendix II] by all such Named Entities are identical. Where an agent wishes to complete this letter on behalf of two or more Named Entities which do not have identical elections in Appendix I and/or Appendix II, the agent should complete separate letters for each group of Named Entities which have identical elections or for each Named Entity. Similarly, if this letter is being delivered by a trustee on behalf of one or more trusts or trust funds, the trustee should amend the signature block to make clear each Named Entity and its identifier and only list multiple Named Entities where the elections made by each Named Entity are identical.

<sup>7</sup> If you would like to include an alternative identifier, please describe the type of identifier provided.

<sup>8</sup> Only insert the name of the agent if this letter is being completed by an agent on behalf of one or more Named Entities. If this letter is being completed by the Named Entity, this line can be left blank, struck through, marked as not applicable or similar.

## APPENDIX II [SHORT FORM]<sup>9</sup>

### HONG KONG CLEARING CLASSIFICATION

The Named Entity makes the statements below to provide the Recipient with status information needed by the Recipient to determine the application of certain requirements under the *Securities and Futures (OTC Derivative Transactions – Clearing and Record Keeping Obligations and Designation of Central Counterparties) Rules* as of the date of this letter (“**Hong Kong Clearing Rules**”), to a Specified OTC Derivative Transaction entered into between the parties in the relevant capacity.

Capitalised or defined terms used in this Appendix that are not otherwise defined have the same meaning as in the Hong Kong Clearing Rules or the Securities and Futures Ordinance (Cap. 571).

**1 As of the date of this letter, are you a Prescribed Person?**

Yes. *Go to question 2.*

No. *Go to question 8.*

**2 If you are a Prescribed Person, what type of Prescribed Person are you under the Hong Kong Clearing Rules?**

Local AFI. *Go to question 3.*

Local AMB. *Go to question 3.*

Local LC. *Go to question 3.*

Overseas AFI. *Go to question 5.*

Overseas AMB. *Go to question 5.*

Overseas LC. *Go to question 5.*

A person of a class or description prescribed as such by subsidiary legislation. *Go to question 8.*

**3 If you are a Local AFI, a Local AMB or a Local LC, have you reached the Clearing Threshold for a Calculation Period (or, if you have previously given an Exit Notice, for a Calculation Period after giving such Exit Notice)?**

Yes. *Go to question 4.*

No. *Go to question 8.*

**4 What is the Prescribed Day for the first Calculation Period (or, if you have previously given an Exit Notice, the first Calculation Period after giving such Exit Notice) in respect of which you have reached the Clearing Threshold?**

1 July 2017.

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<sup>9</sup> Alternate versions of Appendix 1 have been included in this letter – a short form and a long form. Entities using the letter need to choose which of the versions they wish to use. The other version should be deleted as it would not be necessary.

- 1 January 2018.
- 1 July 2018.
- 1 January 2019.
- Other: *[insert date]*.

*Go to question 8.*

5 **If you are an Overseas AFI, an Overseas AMB or an Overseas LC, have you reached the Clearing Threshold for a Calculation Period (or, if you have previously given an Exit Notice, a Calculation Period after giving such Exit Notice)?**

- Yes. *Go to question 6.*
- No. *Go to question 8.*

6 **If your answer to question 5 is yes, what is the Prescribed Day for the first Calculation Period (or, if you have previously given the Exit Notice, the first Calculation Period after giving such notice) in respect of which you have reached such Clearing Threshold?**

- 1 July 2017.
- 1 January 2018.
- 1 July 2018.
- 1 January 2019.
- Other: *[insert date]*.

*Go to question 7.*

7 **If you are an Overseas AFI or Overseas AMB, which of the following statements applies in respect of Specified OTC Derivative Transactions entered into by the Named Entity?**

- Specified OTC Derivative Transactions between the parties will always be recorded in the form of an entry in the Hong Kong books of the Named Entity, unless the Named Entity notifies the Recipient otherwise.
- Specified OTC Derivative Transactions between the parties will never be recorded in the form of an entry in the Hong Kong books of the Named Entity, unless the Named Entity notifies the Recipient otherwise.
- Specified OTC Derivative Transactions between the parties may be recorded in the form of an entry in the Hong Kong books of the Named Entity.
- The Named Entity does not wish to make any of the above statements in this question.

*Go to question 8.*

8 **Are you a Financial Services Provider?**

- Yes.

No.

*No further questions.*

## APPENDIX II [LONG FORM]

### HONG KONG CLEARING CLASSIFICATION

The Named Entity makes the statements below to provide the Recipient with status information needed by the Recipient to determine the application of certain requirements under the *Securities and Futures (OTC Derivative Transactions – Clearing and Record Keeping Obligations and Designation of Central Counterparties) Rules* as of the date of this letter (“**Hong Kong Clearing Rules**”) to a Specified OTC Derivative Transaction entered into between the parties.

Capitalised or defined terms used in this Appendix that are not otherwise defined have the same meaning as in the Hong Kong Clearing Rules or the Securities and Futures Ordinance (Cap. 571).

**1 As of the date of this letter, are you a Prescribed Person?**

Yes.

The Named Entity is a Prescribed Person, being either an Authorized Financial Institution, an Approved Money Broker, a Licensed Corporation or a person of a class or description prescribed as such by subsidiary legislation<sup>10</sup>.

*Go to question 2.*

No. *Go to question 8.*

**2 If you are a Prescribed Person, what type of Prescribed Person are you under the Hong Kong Clearing Rules?**

Local AFI (an Authorized Financial Institution incorporated in Hong Kong). *Go to question 3.*

Local AMB (an Approved Money Broker incorporated in Hong Kong). *Go to question 3.*

Local LC (a Licensed Corporation incorporated in Hong Kong). *Go to question 3.*

Overseas AFI (an Authorized Financial Institution incorporated outside Hong Kong). *Go to question 5.*

Overseas AMB (an Approved Money Broker incorporated outside Hong Kong). *Go to question 5.*

Overseas LC (a Licensed Corporation incorporated outside Hong Kong). *Go to question 5.*

A person of a class or description prescribed as such by subsidiary legislation. *Go to question 8.*

**3 If you are a Local AFI, a Local AMB or a Local LC, have you reached the Clearing Threshold for a Calculation Period (or, if you have previously given an Exit Notice, for a Calculation Period after giving such Exit Notice)?**

Yes.

With respect to a Calculation Period,

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<sup>10</sup> As of the publication date of this appendix, no such additional persons have been specified.

- (i) the Named Entity's Average Total Position equals or exceeds the relevant Clearing Threshold for such Calculation Period. Under the Hong Kong Clearing Rules, the Clearing Threshold is US\$20 billion for all Calculation Periods falling between (and including) 1 September 2016 to (and including) 31 May 2018; or
- (ii) if the Named Entity has previously given an Exit Notice (because its Total Position on the last day of each month in a period of 12 consecutive months was less than US\$14 billion), the Named Entity's Average Total Position equals or exceeds the relevant Clearing Threshold after giving such Exit Notice.

The Average Total Position for a Calculation Period is calculated as the sum of a person's Total Positions (aggregate of notional amounts of every outstanding trade) on the last day of each month within such Calculation Period, divided by the number of months in such Calculation Period.

*Go to question 4.*

No. *Go to question 8.*

4 **What is the Prescribed Day for the first Calculation Period (or, if you have previously given an Exit Notice, the first Calculation Period after giving such Exit Notice) in respect of which you have reached the Clearing Threshold?**

- 1 July 2017.
- 1 January 2018.
- 1 July 2018.
- 1 January 2019.
- Other: [*insert date*].

*Go to question 8.*

5 **If you are an Overseas AFI, an Overseas AMB or an Overseas LC, have you reached the Clearing Threshold for a Calculation Period (or, if you have previously given an Exit Notice, a Calculation Period after giving such Exit Notice)?**

Yes.

With respect to a Calculation Period,

- (i) the Named Entity's Average Local Total Position equals or exceeds the relevant Clearing Threshold for such Calculation Period. Under the Hong Kong Clearing Rules, the Clearing Threshold is US\$20 billion for all Calculation Periods falling between (and including) 1 September 2016 to (and including) 31 May 2018; or
- (ii) if the Named Entity has previously given an Exit Notice (because its Local Total Position on the last day of each month in a period of 12 consecutive months was less than US\$14 billion), the Named Entity's Average Total Position equals or exceeds the relevant Clearing Threshold after giving such Exit Notice.

The Average Local Total Position for a Calculation Period is calculated as the sum of a person's Local Total Positions (Total Position excluding every outstanding trade that is recorded in the

form of an entry in its overseas books) on the last day of each month within such Calculation Period, divided by the number of months in such Calculation Period.

*Go to question 6.*

No. *Go to question 8.*

6 **If your answer to question 5 is yes, what is the Prescribed Day for the first Calculation Period (or, if you have previously given the Exit Notice, the first Calculation Period after giving such notice) in respect of which you have reached such Clearing Threshold?**

1 July 2017.

1 January 2018.

1 July 2018.

1 January 2019.

Other: *[insert date]*.

*Go to question 7.*

7 **If you are an Overseas AFI or Overseas AMB, which of the following statements applies in respect of Specified OTC Derivative Transactions entered into by the Named Entity?**

Specified OTC Derivative Transactions between the parties will always be recorded in the form of an entry in the Hong Kong books of the Named Entity, unless the Named Entity notifies the Recipient otherwise.

Specified OTC Derivative Transactions between the parties will never be recorded in the form of an entry in the Hong Kong books of the Named Entity, unless the Named Entity notifies the Recipient otherwise.

Specified OTC Derivative Transactions between the parties may be recorded in the form of an entry in the Hong Kong books of the Named Entity.

The Named Entity does not wish to make any of the above statements in this question.

*Go to question 8.*

8 **Are you a Financial Services Provider?**

Yes.

The Named Entity is a Financial Services Provider, being a person designated as such (either by name, or by reference to a class or description of persons to which the person belongs, or both) by the Securities and Futures Commission by notice published in the Gazette.

No.

*No further questions.*