



*International Swaps and Derivatives Association, Inc.*

**REGULATORY MARGIN SELF-DISCLOSURE LETTER – AUSTRALIA SUPPLEMENT**

*published on November 29, 2016*

*by the International Swaps and Derivatives Association, Inc.*

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*Various jurisdictions are implementing regulatory margin requirements for uncleared derivatives transactions based on the framework published by the Basel Committee on Banking Supervision and the International Organization of Securities Commissions.<sup>1</sup> Regulatory margin requirements based on the BCBS-IOSCO Framework have been proposed or adopted in (i) Canada, (ii) the European Union, (iii) Japan, (iv) Switzerland, (v) the United States and (vi) Australia, and it is expected that other jurisdictions will propose and adopt similar requirements. This Self-Disclosure Letter is intended to provide market participants with a standard form for providing counterparties with information necessary to determine if and when compliance with one or more of these new regulatory margin regimes will be required. The information provided in this Letter is being provided solely for making such determinations.*

**Capitalized terms used in this Letter are defined in Appendices I-II.**

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<sup>1</sup> See *Margin requirements for non-centrally cleared derivatives* (Mar. 2015) (“BCBS-IOSCO Framework”), available at <https://www.bis.org/bcbs/publ/d317.htm>.

## TABLE OF CONTENTS

<b>1. General Biographical Information .....</b>	<b>4</b>
(a) <i>Principal Information .....</i>	<i>4</i>
(b) <i>Multibranch Entity Information.....</i>	<i>4</i>
(c) <i>Contact Information .....</i>	<i>4</i>
<b>2. Australia Information .....</b>	<b>5</b>
(a) <i>Australia APRA Margin Requirements Entity Status .....</i>	<i>5</i>
(i) APRA Covered Entity .....	5
(ii) APRA Level 2 Group Member.....	5
(iii) APRA Covered Counterparty .....	5
(b) <i>Australia Cross-Border Status .....</i>	<i>6</i>
(i) Eligible Foreign Covered Entity .....	6
(ii) Transactions booked to an Australian branch.....	6
(c) <i>Australia AANA Information.....</i>	<i>6</i>
(i) Australia AANA Group Information.....	6
(ii) 2016 Australia AANA Threshold .....	8

### **Instructions:**

Section 1 of this Self-Disclosure Letter (the “Letter”) requests general information about the market participant on whose behalf this Letter will be delivered (referred to herein as “Principal”). Section 1 is intended to be completed by all users of this Letter.

The remaining section of this Letter requests Australia-specific information. Whether this section should be completed on behalf of Principal when delivering this Letter to another market participant (referred to herein as “Recipient”) will depend on the regulatory status of both Recipient and Principal.

For example, if this Letter is being delivered to a Recipient that is an “APRA covered entity” (as defined in paragraph 3 of Australian Prudential Standard CPS 226 *Margining and risk mitigation for non-centrally cleared derivatives*), such Recipient will likely need the information requested in the Australia section of this Letter to determine whether and how the Australia APRA Margin Requirements apply to the particular relationship between Principal and Recipient. At the same time, if Principal is itself an APRA covered entity, Recipient will likely need this information for its own purposes, including (if it is regulated in a different jurisdiction) potential application of substituted compliance and other rules.

Thus, when preparing to fill out this Letter for particular Recipients, market participants should consider obtaining instructions from the Recipient ahead of time if it is not clear whether the Recipient needs the Australia section completed. Market participants should

**complete the Australia section of this Letter if Australia is a jurisdiction that they have been informed or otherwise have reason to conclude is a jurisdiction in which the Recipient is generally regulated for purposes of uncleared derivatives margin. In addition, market participants that are subject to direct regulation under the uncleared derivatives margin rules of Australia should complete this Letter. Please note that the regulatory margin requirements of more than one jurisdiction may be applicable to a market participant.**

**If you are unsure of whether any particular section will apply to Principal's relationship with a Recipient, you should contact the applicable Recipient. Market participants may exchange contact information for this purpose by using Section 1(c).**

**1. General Biographical Information**

*Please complete this Section 1 with the biographical information of Principal. Definitions of certain terms used in this Section 1 are set forth in Appendix I to this Letter.*

**(a) Principal Information**

Legal Name: \_\_\_\_\_  
Entity Identifier: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Country: \_\_\_\_\_  
State/Province: \_\_\_\_\_  
Zip/Postal Code: \_\_\_\_\_

**(b) Multibranch Entity Information<sup>2</sup>**

Is Principal a Multibranch Entity?

- Yes
- No

**(c) Contact Information**

*This space may be used to provide contact information to a Recipient who may have questions about information provided by Principal in its Letter or about what information to provide in its corresponding Letter to Principal. This contact information is not required and is solely for purposes of providing an address for Recipient to direct questions regarding this Letter or Principal.*

Name: \_\_\_\_\_  
E-Mail: \_\_\_\_\_  
Phone: \_\_\_\_\_

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<sup>2</sup> It may be necessary to track branches for purposes of establishing when a pair of counterparties is within the scope of margin rules. See, e.g., paragraph 5 of CPS-226.

## 2. Australia Information

*If the Australia APRA Margin Requirements may apply to the relationship between Principal and Recipient (i.e., if either Principal or Recipient is an entity subject to Australia APRA Margin Requirements), please complete each relevant subsection of this Section 2. Definitions of certain terms used in this Section 2 are set forth in Appendix II to this Letter.*

### (a) **Australia APRA Margin Requirements Entity Status**

*Please check one box for each of the questions below. By checking a box, Principal is indicating that its entity status for purposes of Australia APRA Margin Requirements is the status specified next to the box checked.*

#### (i) APRA Covered Entity

Is Principal an APRA Covered Entity?

- Yes
- No

#### (ii) APRA Level 2 Group Member

If Principal is not an APRA Covered Entity, is Principal an APRA Level 2 Group Member?

- Yes
- No

#### (iii) APRA Covered Counterparty

Is Principal an APRA Covered Counterparty?

- Yes
- No

(b) **Australia Cross-Border Status<sup>3</sup>**

*If Principal is an APRA Covered Entity which is an entity incorporated in a country other than Australia and has indicated that it is a Multibranch Entity in Section 1(b), please complete the questions below, as applicable.*

(i) Eligible Foreign Covered Entity

Is Principal an Eligible Foreign Covered Entity?

- Yes  
 No

(ii) Transactions booked to an Australian branch

*If Principal is an Eligible Foreign Covered Entity, please indicate whether Principal will transact in CPS-226 NCC Derivatives with Recipient which are booked in the accounts of an Australian branch. If Principal checks the box next to “No Australian Branch Transactions”, it is indicating that it will not enter into CPS-226 NCC Derivatives with Recipient which are booked in the accounts of one or more of its branches in Australia. If Principal checks the box next to “Australian Branch Transactions”, it is indicating that it may enter into CPS-226 NCC Derivatives with Recipient which are booked in the accounts of one or more of its branches in Australia.*

- No Australian Branch Transactions  
 Australian Branch Transactions

(c) **Australia AANA Information**

*If Principal has been identified as an APRA Covered Entity in Section 2.(a)(i), as being an APRA Level 2 Group Member in Section 2.(a)(ii) or has been identified as an APRA Covered Counterparty in Section 2.(a)(iii), please complete each of the questions below, as applicable.*

(i) Australia AANA Group Information

(1) Is Principal a member of an Australia AANA Group?

- Yes  
 No

(2) If Principal is a member of an Australia AANA Group, please provide the following information for the ultimate parent entity of such Australia AANA Group:

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<sup>3</sup> This section follows the new wording in paragraph 5 of CPS-226. This section applies to a Principal which is an APRA Covered Entity.

Legal Name: \_\_\_\_\_  
Entity Identifier: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Country: \_\_\_\_\_ City: \_\_\_\_\_  
Province/State: \_\_\_\_\_  
Postal Code/Zip Code: \_\_\_\_\_

(ii) 2016 Australia AANA Threshold<sup>4</sup>

*Please check one of the boxes below*

- *Checking the first box below indicates that Principal's Australia AANA for 2016 is not above AUD 3 billion.*
- *Checking the second box below indicates that Principal's Australia AANA for 2016 is above AUD 3 billion but not more than AUD 12 billion.*
- *Checking the third box below indicates that Principal's Australia AANA for 2016 is above AUD 12 billion.*
- *Checking the fourth box below indicates that Principal's Australia AANA information will be separately reported by its Australia Ultimate Parent.*
- *By checking the fifth box below, Principal is indicating that its Australia AANA information will be separately reported by a third party other than its Australia Ultimate Parent; if the fifth box is checked, Principal should also provide appropriate contact information regarding who that third party is.*

- Not above AUD 3 billion Australia AANA
- Above AUD 3 billion but not more than AUD 12 billion Australia AANA
- Above AUD 12 billion Australia AANA
- Australia AANA information will be separately reported by Principal's Australia Ultimate Parent
- Australia AANA information will be separately reported by the following person:

Legal Name: \_\_\_\_\_

Entity Identifier: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Country: \_\_\_\_\_ City: \_\_\_\_\_

Province/State: \_\_\_\_\_

Postal Code/Zip Code: \_\_\_\_\_

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<sup>4</sup> The final CPS 226 does not set an implementation date, phase-in timetable and related reference period. Please note that counterparties may have to exchange additional Australia AANA information when the implementation date and phase-in timetable are published and on an annual basis, for which ISDA will publish a separate form, and ISDA Amend will be built to facilitate, subsequent exchanges of AANA information.

## **Appendix I: Definitions – General Biographical Information**

“***Covered Margin Requirements***” means the Canada OSFI Margin Requirements, the Draft EU Margin Requirements, the CFTC Margin Requirements, the PR Margin Requirements, the SEC Margin Requirements, the Japan Margin Requirements, the FMIA Margin Requirements and the Australia APRA Margin Requirements. Each term used in this definition but not defined in this Letter has the meaning given in the Regulatory Margin Self-Disclosure Letter published by the International Swaps and Derivatives Association, Inc. on June 30, 2016.

“***Entity Identifier***” means an [LEI/GEI/other acceptable identifier].

“***Letter***” or “***Self-Disclosure Letter***” means this Regulatory Margin Self-Disclosure Letter, as published by the International Swaps and Derivatives Association, Inc. on November 29, 2016.

“***Multibranch Entity***” means a bank or other entity that has local branches, offices or agencies in multiple jurisdictions for purposes of any of the Covered Margin Requirements.

“***Principal***” means the market participant whose information is disclosed in this Letter, as identified in Section 1(a).

“***Recipient***” means the derivatives counterparty of Principal to whom this Letter is or will be delivered.

## **Appendix II: Definitions – Australia Information**

“**APRA**” means the Australian Prudential Regulation Authority.

“**APRA Covered Counterparty**” means an entity which is a CPS-226 FI. Notwithstanding the foregoing, APRA Covered Counterparty does not include any entity that is an Excluded Covered Counterparty.

“**APRA Covered Entity**” means any of the following: (i) an authorised deposit-taking institution (ADI) (including a foreign ADI), and a non-operating holding company authorised under the Banking Act (authorised banking NOHC); (ii) a general insurer (including a Category C insurer), a non-operating holding company authorised under the Insurance Act (authorised insurance NOHC) and a parent entity of a Level 2 insurance group; (iii) a life company (including a friendly society and an eligible foreign life insurance company), and a non-operating holding company registered under the Life Insurance Act (registered life NOHC); and (iv) a registrable superannuation entity (RSE). Each of these terms has the meaning which it has for the purpose of the Australia APRA Margin Requirements.

“**APRA Level 2 Group Member**” means a member of a Level 2 Group in respect of which an APRA Covered Entity is the Head of Level 2 Group other than an Excluded Special Purpose Vehicle.

“**Australia AANA**” means an amount in AUD equal to the simple average of the total notional amount of outstanding CPS-226 NCC Derivatives at the end of each month in the Reference Period. The total notional amount for this purpose is the aggregate of all outstanding CPS-226 NCC Derivatives across all entities within an Australia AANA Group, excluding transactions between two counterparties in the same Australia AANA Group (unless otherwise required by APRA) but, for the avoidance of doubt, including physically settled foreign exchange forward transactions and physically settled foreign exchange swaps.

“**Australia AANA Group**” means a group, comprising one or more entities within the meaning of Australian Accounting Standard AASB 10 or equivalent foreign accounting standards that apply to the group’s consolidated accounts.

“**Australia APRA Margin Requirements**” means CPS-226.

“**Australia Ultimate Parent**” means the person identified in Section 2.(c)(i)(2) of this Letter.

“**CPS-226**” means APRA Prudential Standard CPS 226 *Margining and risk mitigation for non-centrally cleared derivatives* published by APRA on 17 October 2016.

“**CPS-226 Derivative**” is any of the following: (i) a derivative (within the meaning of Chapter 7 of the *Corporations Act 2001* (Australia)) or (ii) an arrangement that is a forward, swap or option, or any combination of those things, in relation to one or more commodities; but does not include any arrangement that is of a kind mentioned in subregulation 6(2) of the *Payment Systems and Netting Regulations 2001* (Australia).

**“CPS-226 FI”** means a financial institution and includes, but is not limited to, any institution engaged substantively in one or more of the following activities (domestically or overseas) – banking; leasing; issuing credit cards; portfolio management (including asset management and funds management); management of securitisation schemes; equity and/or debt securities, futures and commodity trading and broking; custodial and safekeeping services; insurance and similar activities that are ancillary to the conduct of these activities. An authorised NOHC, a registered life NOHC, or any overseas equivalent is considered a financial institution. For the avoidance of doubt, hedge funds, trading firms, and foreign deposit-taking institutions are considered to be financial institutions. Each of these terms has the meaning which it has for the purpose of the Australia APRA Margin Requirements.

**“CPS-226 NCC Derivative”** means a CPS-226 Derivative that is not cleared through a central counterparty. This does not include exchange traded derivatives (being a derivative that is transacted directly through an organised, licensed and regulated exchange), securities financing transactions (these are transactions such as repurchase agreements, reverse repurchase agreements and securities lending and borrowing transactions where the value of the transactions depends on the market valuation of securities and the transactions are typically subject to margin agreements) and indirectly cleared derivatives that are intermediated through a clearing member on behalf of a non-member client where the client is subject to the margin requirements of the central counterparty, or where the client provides margin consistent with the central counterparty’s margin requirements.

**“Eligible Foreign Covered Entity”** means a foreign ADI, Category C insurer or EFLIC, each as defined for the purpose of the Australia APRA Margin Requirements.

**“Excluded Covered Counterparty”** means sovereigns, central banks, multilateral development banks, public sector entities and the Bank for International Settlements and Excluded Special Purpose Vehicles.

**“Excluded Special Purpose Vehicle”** means (i) a covered bond special purpose vehicle (as defined in the *Banking Act 1959* (Australia)) that enters into derivative transactions for the sole purpose of hedging; or (ii) a securitisation special purpose vehicle (being an ‘SPV’ as defined in *Prudential Standard APS 120 Securitisation* (APS 120)) in a traditional securitisation (as defined in APS 120) that enters into derivative transactions for the sole purpose of hedging; or (iii) a special purpose vehicle or collective investment vehicle established for the sole purpose of acquiring and holding or investing in real estate or infrastructure assets, that enters into derivative transactions for the sole purpose of hedging.

**“Head of Level 2 Group”** means each of the following: (i) where an ADI that is a member of a Level 2 Group is not a subsidiary of an authorised banking NOHC or another ADI, that ADI; (ii) where an ADI that is a member of a Level 2 Group is a subsidiary of an authorised banking NOHC, that authorised banking NOHC; (iii) the parent entity of a ‘Level 2 insurance group’ as defined in APRA Prudential Standard GPS 001 *Definitions*.

**“Level 2 Group”** means the entities that comprise: (i) ‘Level 2’ as defined in APRA Prudential Standard APS 001 *Definitions*; or (ii) a “Level 2 insurance group” as defined in APRA Prudential Standard GPS 001 *Definitions*.

***“Reference Period”*** means, in respect of the AANA for 2016, March, April and May 2016.