

**MEMO# 29522**

December 3, 2015

## Clearing Deadline Set for Interest Rate Swaps in the EU

[29522]

December 3, 2015

TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 32-15  
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 85-15  
ICI GLOBAL TRADING & MARKETS COMMITTEE No. 60-15  
INTERNATIONAL MEMBERS No. 43-15  
INVESTMENT ADVISER MEMBERS No. 28-15 RE: CLEARING DEADLINE SET FOR INTEREST RATE SWAPS IN THE EU

As previously reported, the European Securities and Markets Authority (“ESMA”) has issued final reports on draft regulatory technical standards (“RTS”) for mandatory clearing of certain classes of interest rate swaps (“IRS”) denominated in U.S. dollars, British pounds, Euro, and Japanese Yen (“Major Currency RTS”). [\[1\]](#) On December 1, 2015, the Major Currency RTS were published in the Official Journal of the EU. [\[2\]](#) Their publication starts a timeline for compliance with the clearing mandate, including frontloading for clearing. [\[3\]](#)

### Phase-in Period

The Major Currency RTS provide for compliance with the clearing obligation to take effect following a phased implementation schedule that depends on the type of counterparty. The schedule considers four categories of counterparties:

- Category 1 – counterparties that, on December 21, 2015, are clearing members for at least one of the classes of IRS subject to the clearing obligation of at least one of the central counterparties (“CCPs”) authorized or recognized before that date to clear at least one of those classes.
- Category 2 – financial counterparties and non-financial counterparty alternative investment funds that are not included in Category 1 and belong to a group whose average aggregate month-end outstanding gross notional amount of non-centrally cleared derivatives for January, February, and March 2016 exceeds EUR 8 billion; [\[4\]](#)
- Category 3 – financial counterparties and non-financial counterparty alternative investment that are not included in Category 1 or Category 2; and
- Category 4 – non-financial counterparties that are not included in Category 1, Category 2, or Category 3.

The Major Currency RTS will enter into force on December 21, 2015, which is 20 days after

their publication in the Official Journal, and the clearing obligation would take effect on the following dates:

- June 21, 2016, for Category 1 entities;
- December 21, 2016 for Category 2 entities;
- June 21, 2017 Category 3 entities; and
- December 21, 2018, for Category 4 entities.

Where a contract is concluded between two counterparties in different categories, the contract is subject to clearing only if the clearing obligation has taken effect for both counterparties.

## **Frontloading**

EMIR imposes an obligation to clear OTC derivatives contracts (relating to a class of OTC derivatives that has been declared subject to the clearing obligation) that are entered into after the notification to ESMA of the authorization of a CCP by the national competent authorities and before the date of application of the clearing obligation. The RTS imposes a frontloading requirement (i.e., a requirement to clear retroactively IRS that were entered into during the period of time between the notification of CCP authorization to ESMA and the start date of the clearing obligation) as follows:

- For financial counterparties in Category 1, frontloading applies to an IRS described in the Major Currency RTS that: (1) has a remaining maturity of at least 6 months and (2) is executed on or after February 21, 2016 (two months after the Major Currency RTS enters into force).
- For financial counterparties in Category 2, frontloading applies to an IRS described in the Major Currency RTS that: (1) has a remaining maturity of at least 6 months and (2) is executed on or after May 21, 2016 (five months after the Major Currency RTS enters into force).
- For other counterparties, no contract will be subject to frontloading.

Jennifer S. Choi  
Associate General Counsel

George M. Gilbert  
Counsel

## **Appendix: Classes of IRS Subject to the Clearing Obligation**

**Table 1: Basis swaps classes**

id

Type

Reference Index

Settlement Currency

Maturity

Settlement Currency Type

Optionality

Notional Type

A.1.1

Basis

Euribor

EUR

28D-50Y

Single currency

No

Constant or variable

A.1.2

Basis

LIBOR

GBP

28D-50Y

Single currency

No

Constant or variable

A.1.3

Basis

LIBOR

JPY

28D-30Y

Single currency

No

Constant or variable

A.1.4

Basis

LIBOR

USD

28D-50Y

Single currency

No

Constant or variable

**Table 2: Fixed-to-float interest rate swaps classes**

id

Type

Reference Index

Settlement Currency

Maturity

Settlement Currency Type

Optionality

Notional Type

A.2.1

Fixed-to-Float

Euribor

EUR

28D-50Y

Single currency

No

Constant or variable

A.2.2

Fixed-to-Float

LIBOR

GBP

28D-50Y

Single currency

No

Constant or variable

A.2.3

Fixed-to-Float

LIBOR

JPY

28D-30Y

Single currency

No

Constant or variable

A.2.4

Fixed-to-Float

LIBOR

USD

28D-50Y

Single currency

No

Constant or variable

**Table 3: Forward rate agreement classes**

id

Type

Reference Index

Settlement Currency

Maturity

Settlement Currency Type

Optionality

Notional Type

A.3.1

FRA

Euribor

EUR

3D-3Y

Single currency

No

Constant or variable

A.3.2

FRA

LIBOR

GBP

3D-3Y

Single currency

No

Constant or variable

A.3.3

FRA

LIBOR

USD

3D-3Y

Single currency

No

Constant or variable

**Table 4: Overnight index swaps classes**

id

Type

Reference Index

Settlement Currency

Maturity

Settlement Currency Type

Optionality

Notional Type

A.4.1

OIS

EONIA

EUR

7D-3Y

Single currency

No

Constant or variable

A.4.2

OIS

FedFunds

USD

7D-3Y

Single currency

No

Constant or variable

A.4.3

OIS

SONIA

GBP

7D-3Y

Single currency

No

Constant or variable

#### **endnotes**

[1] See ICI Memorandum No. 28439 (Oct. 8, 2014), available at [https://www.ici.org/my\\_ici/memorandum/memo28439](https://www.ici.org/my_ici/memorandum/memo28439). The classes of IRS subject to the clearing obligation are listed in the Appendix below.

[2] Commission Delegated Regulation (EU) 2015/2205 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R2205&from=EN>.

[3] ESMA also has issued a final report on draft RTS for mandatory clearing of certain classes of IRS denominated in Norwegian krone, Polish zloty, and Swedish krona (the “Additional Currency RTS”). See ICI Memorandum No. 29514 (Nov. 23, 2015), available at <https://www.iciglobal.org/iciglobal/pubs/memos/memo29514>. The Additional Currency RTS have not yet been endorsed by the European Commission or published in the Official Journal of the EU.

[4] A counterparty will calculate its average aggregate month-end outstanding gross notional amount one time to determine its categorization for the Major Currency RTS and the Additional Currency RTS. The calculation would include all of the group’s non-centrally cleared derivatives, including foreign exchange forwards, swaps and currency swaps.