ISDA MARCH 2013 DF PROTOCOL QUESTIONNAIRE

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

Annotated in red as of June 3, 2013

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SHOULD NOT BE CONSIDERED A GUIDE TO OR AN EXPLANATION OF ALL RELEVANT ISSUES
IN CONNECTION WITH YOUR CONSIDERATION OF THE ISDA MARCH 2013 DF PROTOCOL OR
THE RELATED DOCUMENTS. PARTIES SHOULD CONSULT WITH THEIR LEGAL ADVISERS AND
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RESPONSIBILITY FOR ANY USE TO WHICH ANY OF ITS DOCUMENTATION OR OTHER
DOCUMENTATION MAY BE PUT.

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
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).2

2 This definition generally includes bank holding companies, bank affiliates and companies that are “predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956,” though it excludes companies organized or incorporated outside of the United States. In a recent rulemaking, the Board of Governors of the Federal Reserve System (the “Board”) adopted Appendix A to 12 C.F.R. Part 242 (the “Appendix”), which provides a list of activities that the Board considers, “financial in nature (as defined in Section 4(k) of the Bank Holding Company Act of 1956).” See 78 Fed. Reg. 20755.

This Appendix and the related discussion in the adopting release for the Board’s rules may be useful resources, though readers should be mindful that the Appendix was adopted to interpret “financial in nature” for purposes of Title I of Dodd-Frank, rather than the definition of “financial company” in Title II of Dodd-Frank. In addition, readers should note that (i) the “financial company” definition in Section 201 of Dodd-Frank also includes activities “incidental thereto” which is not discussed in Title I or the recent Board rulemaking, and (ii) the standard for being “predominantly” engaged in financial activities is different for purposes of the financial company definition than for purposes of Title I of Dodd-Frank or the Board’s recent rules, as Section 201(b) of Dodd-Frank provides that a company will not be deemed “predominantly” engaged in financial activities unless
“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.\(^3\)

“Insured Depository Institution” has the meaning ascribed to such term in 12 U.S.C. § 1813.\(^4\)

“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 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.

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3 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. As noted above, the Board’s recently adopted Appendix A to 12 C.F.R. Part 242, provides a list of activities that the Board considers “financial activities” for purposes of Title I of Dodd-Frank. Title I in turn refers to “financial activities” as activities that are “financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956).” See Section 102(a)(6) of Dodd-Frank.

4 12 U.S.C. § 1813 defines insured depositary institutions as banks and savings associations the deposits of which are insured by the FDIC pursuant to the Federal Deposit Insurance Act.
“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/CICI

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

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5 CFTC Regulation 45.6.
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. Financial Entity

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.

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6 See, e.g., CFTC Regulation 23.501 and 23.504(b)(4). The definition of “Financial Entity” used in this Question 3 is set forth above in Part I (Definitions). Note that while the Dodd-Frank Act and a number of CFTC Regulations thereunder use the term “financial entity,” the term has slightly different meanings under different CFTC Regulations. In the first instance, this derives from the statute, where CEA Section 2(h)(7)(C)(i) provides a general definition of the term “financial entity,” but CEA Sections 2(h)(7)(C)(ii) and (iii) and CEA Section 2(h)(7)(D) provide exclusions and exemptions to the general definition. For some purposes the general definition is used, while for other purposes (e.g., for reporting purposes) “financial entity” is used to mean an entity that satisfies the general definition and is not excluded through one of the carve-outs. In addition, CFTC Regulation 23.500 sets forth a slightly different definition of financial entity, which is taken from the general statutory definition, but excludes swap dealers and major swap participants. For purposes of the Questionnaire, the general definition provided in CEA Section 2(h)(7)(C)(i) is used consistent with its function.
To the best of its knowledge, is PCA Principal a Financial Entity?

4. **Financial Company**

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**

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:

Is PCA Principal an Insured Depository Institution?

6. **E-mail Address for Delivery of Notices**

CFTC Regulation 23.504(b)(5)(i)-(ii). The definition of “Financial Company” used in this Question 4 is set forth above in Part I (Definitions). See DF Supplement Sections 2.12-2.13 for the notifications associated with a party’s status as a Financial Company.

CFTC Regulation 23.504(b)(5)(i)-(ii). The definition of “Insured Depository Institution” used in this Question 4 is set forth above in Part I (Definitions). See DF Supplement Sections 2.12-2.13 for the notifications associated with a party’s status as an Insured Depository Institution.

See Protocol Agreement Section 7(c)(v) where the parties agree that delivery of notices (other than Risk Valuations and Portfolio Data) to the e-mail address specified here will be in accordance with the Notice Procedures. Note that a party may provide the same e-mail address here as it did for notices under the August Protocol Questionnaire. A party may also provide a different e-mail address here from the one provided under the August Protocol Questionnaire and such an answer would not amend the address provided under the August Protocol Questionnaire. **ISDA Amend Note**: The version of this Questionnaire that is available via ISDA Amend requires that all PCA Principals provide a response to this question. If a PCA Principal is completing its Questionnaire on ISDA Amend and does not wish to provide an e-mail address for the delivery of notices, other than notices related to Risk Valuations or Portfolio Data, it may specify “None” in the relevant space provided on ISDA Amend.
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**\(^{10}\)

*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**\(^{11}\)

*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.*

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\(^{10}\) See Protocol Agreement Section 7(c)(vi) where the parties agree that delivery of Risk Valuations to the e-mail address specified here will be in accordance with the Notice Procedures. The specification of an e-mail address here does not constitute a request to receive Risk Valuations under Section 3.2 of the DF Supplement. **ISDA Amend Note:** The version of this Questionnaire that is available via ISDA Amend requires that all PCA Principals provide a response to this question. If a PCA Principal is completing its Questionnaire on ISDA Amend and does not wish to provide an e-mail address for the delivery of notices related to Risk Valuations it may specify “None” in the relevant space provided on ISDA Amend.

\(^{11}\) See Protocol Agreement Section 7(c)(vii) where the parties agree that delivery of Portfolio Data to the e-mail address specified here will be in accordance with the Notice Procedures. **ISDA Amend Note:** The version of this Questionnaire that is available via ISDA Amend requires that all PCA Principals provide a response to this question. If a PCA Principal is completing its Questionnaire on ISDA Amend and does not wish to provide an e-mail address for the delivery of notices related to Portfolio Data it may specify “None” in the relevant space provided on ISDA Amend.
1. **Local Business Day**¹²

   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**¹³

   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:

¹² See definition of “Local Business Day” in Schedule 1 of the DF Supplement. This term is used to establish the days that will be considered business days for purposes of daily risk valuations and portfolio reconciliations under Schedules 3 and 4 of the DF Supplement. To avoid confusion, please write out the full name(s) of the relevant city (or cities). For example, to specify New York as the relevant city, write out “New York” not “NY.”

¹³ CFTC Regulation 23.504(b)(4).
3. **DF Schedule 4 Elections**

(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).

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.*

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14 As noted in the instructions, DF Schedule 3 is not mandatory for parties that are not Financial Entities. A non-Financial Entity’s response to this question will be its election whether to enter into Schedule 3 with a matched counterparty under Section 5(a)(i) of the Protocol Agreement. *See also supra* note 6.

15 CFTC Regulation 23.502

16 DF Schedule 4 has been made elective for non-CFTC Swap Entities in this protocol in light of the fact that the CFTC’s portfolio reconciliation rules do not apply to market participants that are not swap dealers or major swap participants. However, CFTC Regulation 23.502 states that swap dealers and major swap participants must have policies and procedures “reasonably designed to ensure” that they engage in portfolio reconciliations with such counterparties as proscribed in the regulation (which further requires a written agreement establishing the terms of such reconciliations). A non-CFTC Swap Entity’s response to this question will be its election under Section 5(a)(ii) of the Protocol Agreement.
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?\textsuperscript{17}

(c) The following election whether to reconcile certain terms of Swaps in accordance with Part V of DF Schedule 4 (Reconciliation Against SDR Data)\textsuperscript{18} 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 (Reconciliation Against SDR Data).\textsuperscript{19} 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?\textsuperscript{20}

4. Use of End-User Exception\textsuperscript{21}

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\textsuperscript{17} In this question, respondents who are agreeing to DF Schedule 4 are asked to choose between the data delivery and reconciliation procedures specified in Part II of the Schedule (by answering “Review”) or Part III of the Schedule (by answering “Exchange”). Parts II and III of DF Schedule 4 are mutually exclusive. A non-CFTC Swap Entity’s response to this question will be its election under Sections 5(b)(ii)-(iii) of the Protocol Agreement. For further detail on the differences between “Review” and “Exchange,” see Parts II and III of DF Schedule 4 and the annotations thereto.

\textsuperscript{18} The name of Part V in parenthesis has been corrected. The version of the Questionnaire published on March 22, 2013 read “Part V of DF Schedule 4 (Other Portfolio Reconciliation Procedures).”

\textsuperscript{19} See id.

\textsuperscript{20} Parties that have agreed to DF Schedule 4 may elect to reconcile against non-valuation portfolio data provided by an SDR regardless of whether they have elected to review data under Part II of the schedule or exchange data under Part III of the schedule. A party’s response to this question will be its election under Section 5(b)(iv) of the Protocol Agreement. See Schedule 4, Part V of the Supplement and annotations thereto for further detail on reconciliation against SDR Data.
(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). 22

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? 23

(b) The following question may be completed by, or on behalf of, all PCA Principals that are eligible to use the End-User Exception. 24

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21 CFTC Regulation 50.50. See DF Supplement Sections 2.9-2.11 for the agreements associated with the end-user exception.

22 Such parties include parties that are not Financial Entities, and parties that are eligible for the Finance Affiliate Exception, the Hedging Affiliate Exception, or the Small Bank Exception. The definition of “Financial Entity” is set forth above in Part I (Definitions), while the definitions and statutory sources for “Finance Affiliate Exception” “Hedging Affiliate Exception” and “Small Bank Exception” are set out below in sections (c)(i), (ii), and (iii) of this Question. ISDA Amend Note: The version of this Questionnaire that is available via ISDA Amend requires that all PCA Principals, not only those that are eligible to use the End-User Exception, provide a response to this question. PCA Principals who are not eligible should answer “No.”

23 A party may use this question to satisfy the notice requirement regarding such party’s election to use the End-User Exception in Section 2.9 of the DF Supplement.

24 ISDA Amend Note: The version of this Questionnaire that is available via ISDA Amend requires that all PCA Principals, not only those that are eligible to use the End-User Exception, provide a response to this question. A
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 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?

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”).

PCA Principal’s answer to this question will have no effect or meaning unless PCA Principal is an Electing Party.

25 In order to provide all of the information required to make a Trade Filing, an Electing Party must complete the questions in Part III, Q 4(c).

26 A party may use this question to satisfy the notice requirement regarding Annual Filings in Section 2.9(b)(1) of the DF Supplement.

27 See Section 2(h)(7)(C)(iii) of the CEA. The Finance Affiliate Exception is available exclusively to certain companies whose primary business is to finance the purchase or lease of products manufactured by an affiliate.
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);

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28 See Section 2(h)(7)(C)(D) of the CEA. The Hedging Affiliate Exception is available exclusively to parties who are affiliates of another entity that is eligible to use the End User Exception and who use swaps to hedge or mitigate commercial risk of the eligible affiliate.

29 See Section 2(h)(7)(C)(ii) of the CEA and CFTC Regulation 50.50(d). The Small Bank Exemption is available exclusively to banks and similar institutions who meet the criteria specified in CFTC Regulation 50.50.
(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?30

(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?31

(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”).

30 ISDA Amend Note: In the version of this Questionnaire that is available via ISDA Amend this question is located on a PCA Principal’s ISDA Information page.

The CFTC has interpreted the meaning of “issuer of securities” in this context in the same manner as the SEC did in its proposal for implementing the end-user exception to mandatory clearing of security-based swaps, and so the phrase has been interpreted to cover entities that are “controlled” by issuers of securities. See 77 Fed. Reg. 42560, 42570 (July 19, 2012) (citing 75 Fed. Reg. 79992, 79996 & n. 34 (Dec. 21, 2010)) (“[A] counterparty invoking the end-user clearing exception is considered by the [SEC] to be an issuer of securities registered under Exchange Act Section 12 or required to file reports pursuant to Exchange Act Section 15(d) if it is controlled by a person that is an issuer of securities registered under Exchange Act Section 12 or required to file reports pursuant to Exchange Act Section 15(d).”) (emphasis added).

31 ISDA Amend Note: In the version of this Questionnaire that is available via ISDA Amend this question is located on a PCA Principal’s ISDA Information page.
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?\(^{32}\)

5. ISDA March 2013 DF Protocol Master Agreement Elections and Information\(^{33}\)

(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?\(^{34}\)

\(^{32}\) ISDA Amend Note: In the version of this Questionnaire that is available via ISDA Amend this question is located on a PCA Principal’s ISDA Information page.

\(^{33}\) The ISDA March 2013 DF Protocol Master Agreement is an agreement in the form of the 2002 ISDA Master Agreement with a special scope provision and a very minimalistic Schedule. The purpose of the agreement is to provide written terms for non-cleared swaps that are not otherwise executed under full swap trading relationship documentation. See Protocol Agreement Section 4.

\(^{34}\) For further detail on the use and purpose of the ISDA March 2013 DF Protocol Master Agreement (“Protocol Master”) please see Section 4 of the Protocol Agreement and the annotations thereto. It is stressed that if a party has an existing written agreement under which Swaps are traded, entering into the Protocol Master will not affect such existing agreement or result in Swaps that would otherwise be subject to such existing agreement becoming subject to the Protocol Master. The Protocol Master will only govern a Swap between two adhering parties who elect the Protocol Master if it is not otherwise subject to an existing written swap agreement that provides terms governing the payment obligations of the parties.
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]  

By:  __________________________________________  
Name:  
Title:  
Date:  

35 The Parties agree, see Section 7(c)(iii) of the Protocol Agreement, that all of the information and representations provided herein is “March 2013 DF Supplement Information.” Under the DF Supplement, a party makes various representations about its March 2013 DF Supplement Information, and agrees to update such information and representations. See Sections 2.1 and 2.3 of the DF Supplement. 

36 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.”