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Dear Sirs,

Requests for relief in relation to OTC derivative reporting obligations in respect of "Delta One Warrants", and additional entries in the Securities and Futures (Stock Markets, Futures Markets and Clearing Houses) Notice

The International Swaps and Derivatives Association, Inc.[1] ("**ISDA**") appreciates the opportunity to request, on behalf of its membership and the wider industry, relief from reporting obligations under the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules ("**Rules**") in respect of warrants with a strike price of close to zero which can be exercised before or on the expiry date ("**Delta One Warrants**"). ISDA also appreciates the opportunity to request that additional stock or futures markets and/or their related CCPs be added to the Securities and Futures (Stock Markets, Futures Markets and Clearing Houses) Notice ("**Notice**").

ISDA is actively engaged with providing input on regulatory proposals in the United States, Canada, the European Union and across the Asia-Pacific region. Our requests in this letter are derived from this international experience and dialogue, in addition to consultation with ISDA members operating in the Asia-Pacific region. We hope to assist the Hong Kong Monetary Authority ("**HKMA**") and the SFC in continuing to maintain a mandatory reporting regime for

[1] Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 68 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on ISDA's web site: www.isda.org.

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Hong Kong which achieves the intended policy objectives and is in alignment with the mandatory reporting regimes being introduced in comparable leading financial centres.

This letter sets out our comments in relation to the matters set out above. Where required, we have taken account of the information that is required to support the applications for relief within. While our members have sought to form a consensus on the issues raised in this letter, there may be certain points on which individual members may have formulated their own views, and certain members may therefore provide their comments to the HKMA and the SFC independently.

Request for Relief – Delta One Warrants

We are concerned that the definition of "OTC derivative product" in the SFO may have the effect of capturing a wider set of products than are typically considered to be OTC derivatives as the industry and the laws in other jurisdictions contemplate. A particular product that may be unintentionally captured is that known as a "Delta One Warrant" or "Zero-strike Call Warrant". This is a warrant that has a strike price that is set at zero or very close to zero and can be American style or European style. Its delta (option) value is normally 1 since the option is deep in the money at the time of issuance and remains that way unless the price of the underlying drops to near zero. Such warrants are distinguished from standard call warrants, whose deltas are between 0 and 1 during their life.

A zero or near-zero strike warrant is typically issued at a price which largely reflects the market price or level of the underlying asset(s) and the cost of carry, such that it is largely economically equivalent to the holder buying, or otherwise investing in, the underlying asset(s) (which could be a stock, a basket of stocks or an index), and the risk and reward profiles do not differ fundamentally. The holder may request to exercise or re-sell (as the case may be) the warrant at any time up to and including the expiration date (or on the expiration date in the case of European style warrants), in much the same way that a holder of the underlying may choose to sell the underlying, or interest therein, at any time. On exercising or reselling the warrant, the holder will receive a settlement amount which is calculated by reference to, and largely reflects, the prevailing market price or level of the underlying asset (less certain costs to the issuer of the warrant), which is similar to the holder or investor of the underlying asset receiving the market price or level of the underlying.

The key difference between holding such a warrant and the actual underlying asset is that unlike the latter, the former does not confer on the holder any right as holder of the underlying asset(s) (e.g. a voting right for the holder of a share in the case of a single-share warrant), nor does it confer any right to cash dividend payouts. Such warrants simply replicate the price fluctuations in the underlying asset(s) until the exercise date, and usually exist in order for clients to gain synthetic exposure to assets in closed or difficult-to-access markets.

Delta One Warrants are usually issued on very standard terms or with very standard features (in order to replicate a long position in the underlying), and there is usually no negotiation on product terms between the issuer and the investor, even though the product may be initially

issued and sold to one investor only (note that in the event that a number of investors have interest in the same underlying, the product may be issued and sold to multiple investors on essentially the same terms). As such, we submit this product is different from a bilateral OTC derivative contract, for which terms are usually negotiated by, and tailored for, the parties.

We believe that Delta One Warrants should be distinguished from other one-to-one warrants and OTC derivative products for the following reasons:

- A Delta One Warrant behaves exactly like its underlying asset or assets, as the case may be, during the warrant's life. It has no "optionality" characteristic. For example, a 1% rise in the underlying asset price should result in a 1% rise in the call warrant price, and vice-versa;

- Due to its zero-to low-strike feature, Delta One Warrants will always expire in-the-money;

- Delta One Warrants are fully funded and not leveraged;

- Delta One Warrants are purchased and can be transferred on a unilateral basis without the knowledge of the issuer. Hence, if the purchaser of the warrant further sells the warrant to another person, the issuer could have no knowledge of this and would not be in a position to report this lifecycle event. This is different to a bilateral OTC derivative transaction, where a party to the transaction may not subsequently transfer out, other than through a formal novation with the agreement of the other party.

If Delta One Warrants were required to be reported, due to the fact that there is no specific unique product identifier ("**UPI**") for Delta One Warrants, Hong Kong Trade Repository ("**HKTR**") data may be skewed by virtue of Delta One Warrants being grouped together with all other OTC equity derivative transactions. As Delta One Warrants do not pose systemic risk in the way that OTC derivative products do, HKTR data may give an inflated view of systemic risk, as there would be no meaningful way to distinguish Delta One Warrants from OTC derivative transactions in the existing data fields reported under the Equity Other template.

As far as our members are aware, Delta One Warrants are typically classified as securities in other jurisdictions and are not required to be reported pursuant to any G20 OTC derivative reporting regime of any jurisdiction at present. There is limited reporting of certain types of warrants and p-notes to the U.K. Financial Conduct Authority ("**FCA**") pursuant to the Markets in Financial Instruments Directive ("**MIFID**") (which is set to be expanded in scope and data fields by MIFID II), however MIFID requires reporting of multiple financial products that are traded on regulated financial markets or trading facilities, which we believe is not the objective of the Hong Kong OTC derivatives mandatory reporting regime.

The equivalent reporting requirement to Hong Kong in the EU would be that of the European Markets Infrastructure Regulation ("**EMIR**"), which does not require the reporting of warrants. We note that there is little overlap between the data fields required under FCA reporting and

those required under EMIR reporting. To develop a reporting capability for Delta One Warrants specifically for Hong Kong would result in significant cost to the industry, which we submit would be disproportionate to the zero systemic risk that these products represent.

We understand that the SFC and HKMA may be amenable to recommending to the Financial Secretary that his powers be used under section 392(1)(b)(vii) of the Securities and Futures Ordinance (Cap. 571) ("**SFO**") to prescribe that Delta One Warrants are not to be regarded as "OTC derivative products" (as defined in the SFO). We have included some suggested language for the prescription for consideration below, which we would be very happy to discuss further:

"Access products in the form of zero-strike or close to zero strike warrants and linked to any underlying asset(s)."

Request for Prescription of Additional Markets and Clearing Houses in the Notice

We have included in Appendix 1 a list of additional markets and clearing houses that we propose to be added to the Notice. Our members submit that the proposed additional markets and clearing houses comply with the requirements set out in paragraph 131 of the *Consultation Conclusions and Further Consultation on the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules* ("**Consultation Paper**") published by the HKMA and SFC on 28 November 2014.[2] We also note that some markets and clearing houses have undergone name changes, which we have also reflected in the list.

Our understanding is that the list will be updated pursuant to Section 392A of the SFO, which provides that the Financial Secretary may do so by publishing a notice in the Gazette. If further information is required in relation to any of the entries, please do not hesitate to contact us and we can provide you with the necessary additional details.

Members note that where a listed derivative is not excluded from the definition of "OTC derivative product" as a result of any delay in including the relevant market and/or clearing house on the list, it may not be possible to report the listed derivative, as the reporting fields required to be reported to the HKTR are designed for OTC derivative transactions.

Definition for "listed derivatives"

The industry understands that the definition of "OTC derivative product" is hardwired in the legislation, but nevertheless we would request the HKMA and the SFC to continue to monitor potential issues arising from using a static 'list' approach. In particular, our members highlight that comparable jurisdictions may have used a different approach to exclude listed derivatives from mandatory reporting.

We remain of the view that the more appropriate manner to exclude listed derivatives from being unintentionally captured by the mandatory reporting regime in Hong Kong would be to

[2] http://www.hkma.gov.hk/media/eng/doc/key-information/press-release/2014/20141128e4a23.pdf

provide a definition of "listed derivatives" which is excluded from the definition of “OTC derivative product”. For example, a "derivatives contract" in Singapore is specifically defined in the Securities and Futures Act as excluding a "futures contract", and this approach could be adopted in Hong Kong as the SFO also contains a definition of "futures contract". We would welcome further discussions with yourselves in order to assist in crafting a definition which would be suitable for the Hong Kong regime.

Yours faithfully

For the International Swaps and Derivatives Association, Inc.

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APPENDIX 1

This Appendix sets out the additional markets and clearing houses to be recommended to the Financial Secretary to prescribe under Section 392A of the SFO.

Name of the market and its operator	**Details of the clearing house**	**Details of the jurisdiction(s) in which the market/clearing house is established and operates**	**Details of the regulatory status of the market/clearing house in each applicable jurisdiction**	**The regulatory/agency that oversees the activities of the market/clearing house**
	Clearstream Banking, Societe Anonyme	Clearstream Banking S.A. is headquartered in Luxembourg but operates in 56 domestic (EU) markets.	Clearstream Banking S.A. is regulated as a Central Securities Depository and a licensed credit institution in Luxembourg. This is comparable to a regulatory status of recognized clearing house under the SFO. In addition, it is applying to the Commission de Surveillance du Secteur Financier (CSSF) and Banque Centrale Du Luxembourg (BCL) to be licensed as an International Central Securities Depository (ICSD) under the new regime pursuant to the European Central Securities Depositories Regulation. All CSDs in EU will need to undergo the same licensing process. In addition, Clearstream's ICSD is applying to the local regulators for authorisation of the Bridge between the two ICSDs, Clearstream and Euroclear Bank. The	Clearstream Banking S.A. is regulated as a securities settlement system by the BCL and as a licensed credit institution by the CSSF, which is a member of IOSCO.

Name of the market and its operator	Details of the clearing house	Details of the jurisdiction(s) in which the market/clearing house is established and operates	Details of the regulatory status of the market/clearing house in each applicable jurisdiction	The regulatory/agency that oversees the activities of the market/clearing house
			Bridge is an electronic platform that facilitates the efficient settlement of securities transactions between counterparties in Clearstream and Euroclear. Applications are expected in Q3 2017 with authorisation expected six months thereafter.	
	Euroclear Bank S.A./N.V.	Belgium and Poland	Euroclear Bank is regulated as a Central Securities Depository for financial instruments by the National Bank of Belgium and the Financial Services and Markets Authority. This is comparable to a regulatory status of recognized clearing house under the SFO. Euroclear Bank will also be applying for a licence under the European Central Securities Depositories Regulation.	Euroclear Bank is regulated by the National Bank of Belgium and the Financial Services and Markets Authority, which is a member of IOSCO.
Hanoi Stock Exchange	The Vietnam Securities Depository	Vietnam	Hanoi Stock Exchange is a Regulated secondary securities trading center. The Vietnam Securities Depository is a regulated depository. Both are under the supervision of the State Securities Commission (SSC) pursuant to the Law	Hanoi Stock Exchange and the Vietnam Securities Depository are regulated by the SSC, which is a member of IOSCO.

Name of the market and its operator	Details of the clearing house	Details of the jurisdiction(s) in which the market/clearing house is established and operates	Details of the regulatory status of the market/clearing house in each applicable jurisdiction	The regulatory/agency that oversees the activities of the market/clearing house
			of Securities. The SSC is the statutory body responsible for the development and regulation of the securities markets in Vietnam. The SSC is under the control of the Ministry of Finance (MOF).	
HoChiMinh Stock Exchange	The Vietnam Securities Depository	Vietnam	HoChiMinh Stock Exchange is an administrative agency of the State Securities Commission (SSC) and is owned and regulated by the Ministry of Finance of Vietnam (MOF). The Vietnam Securities Depository is a regulated depository. Both are under the supervision of the SSC pursuant to the Law of Securities. The SSC is the statutory body responsible for the development and regulation of the securities markets in Vietnam. The SSC is under the control of the MOF.	HoChiMinh Stock Exchange is an administrative agency of the SSC. The Vietnam Securities Depository is also regulated by the SSC, which is a member of IOSCO.
The Irish Stock Exchange Plc	Eurex Clearing AG (already prescribed in the Notice)	Irish Stock Exchange PLC is a Regulated Market and Multilateral Trading	Irish Stock Exchange PLC is regulated by the Central Bank of Ireland as a Regulated Market (RM) and Multilateral Trading Facility (MTF) provider pursuant to the European Communities	Irish Stock Exchange PLC is regulated by the Central Bank of Ireland as an RM and MTF provider pursuant to the European Communities (Markets in Financial

Name of the market and its operator	Details of the clearing house	Details of the jurisdiction(s) in which the market/clearing house is established and operates	Details of the regulatory status of the market/clearing house in each applicable jurisdiction	The regulatory/agency that oversees the activities of the market/clearing house
		Facility (MTF) provider in Ireland.	(Markets in Financial Instruments) Regulations 2007. This is comparable to a regulatory status of recognized exchange company under the SFO.	Instruments) Regulations 2007. The Central Bank of Ireland is a member of IOSCO.
Miami International Securities Exchange, LLC	The Options Clearing Corporation	United States of America	A self-regulatory organization supervised by the Financial Industry Regulatory Authority (FINRA) and the Securities and Exchange Commission (SEC).	FINRA and the SEC.
Pakistan Stock Exchange (formerly Karachi Stock Exchange)	National Clearing Company of Pakistan Limited	Pakistan	Pakistan Stock Exchange is registered as a stock exchange under the section 5 of the Securities Ordinance. This is governed by the Stock Exchanges (Corporatization, Demutualization and Integration) (Amendment) Act, 2015. The National Clearing Company of Pakistan Limited is registered under rule 4 of the Clearing Houses (Registration and Regulation) Rules, 2005 as a clearing house. The National Clearing Company of Pakistan Limited comes under the Clearing House Licensing Operations Regulations 2016.	Pakistan Stock Exchange and the National Clearing Company of Pakistan Limited are regulated by the Securities and Exchange Commission of Pakistan, which is a member of IOSCO.

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Name of the market and its operator	Details of the clearing house	Details of the jurisdiction(s) in which the market/clearing house is established and operates	Details of the regulatory status of the market/clearing house in each applicable jurisdiction	The regulatory/agency that oversees the activities of the market/clearing house
	Shanghai Clearing House	People's Republic of China	Shanghai Clearing House (SHCH) is regulated by the People's Bank of China. SHCH is recognized by the People's Bank of China (PBOC) as the Qualified Central Counterparty (QCCP) for Chinese commercial bonds. This is comparable to the regulatory status of a recognized clearing house under the SFO in that SHCH is an interbank clearinghouse that was set up for the clearing and settlement of financial products regulated by the PBOC.	Shanghai Clearing House (SHCH) is regulated by the PBOC.
Taipei Exchange	Please note, this is a reflection of the name change from "GreTai Securities Market" to "Taipei Exchange", and thus the previously-provided information remains the same.			
Taiwan Stock Exchange Corporation	Taiwan Stock Exchange Corporation	Taiwan Stock Exchange Corporation operates in Taiwan (Republic of China).	Taiwan Stock Exchange Corporation is regulated as a stock exchange and clearing house by the Financial Supervisory Commission (Taiwan) pursuant to the ROC Securities and Exchange Law. This is comparable to a regulatory status of recognized exchange company and recognized clearing house under the SFO. It is also a self-regulated	Taiwan Stock Exchange Corporation is regulated by the Financial Supervisory Commission (Taiwan), which is a member of IOSCO.

Name of the market and its operator	Details of the clearing house	Details of the jurisdiction(s) in which the market/clearing house is established and operates	Details of the regulatory status of the market/clearing house in each applicable jurisdiction	The regulatory/agency that oversees the activities of the market/clearing house
			organisation that oversees the securities transactions and trading activities that take place on and the participants that conduct business on it.	