

To:	Adherents to the ISDA Derivatives/FX PB Business Conduct Allocation Protocol
From:	Foreign Exchange Committee and Financial Markets Lawyers Group
Date:	May 8, 2013
Re:	PB Protocol PB Notice to ED Market Practice

In the interest of facilitating the provision of Prime Broker (“PB”) Notices to Executing Dealers (“ED”) pursuant to paragraphs (b)(3) and (b)(8) of the Annex to the ISDA Derivatives/FX Prime Brokerage Business Conduct Allocation Protocol (the “PB Protocol”) in a consistent format, the Foreign Exchange Committee (the “FXC”) and the Financial Markets Lawyers Group (the “FMLG”)¹ recommend the attached Form of Prime Broker Notice to Executing Dealer as a market practice (the “Market Practice”).

¹ This Market Practice is being issued by the FXC and the FMLG to facilitate implementation of the PB Protocol. Although the FXC and the FMLG are sponsored by the Federal Reserve Bank of New York, this Market Practice is not endorsed by and does not necessarily reflect the views of the Federal Reserve Bank of New York or the Federal Reserve System. This Market Practice does not purport to be legal advice with respect to a particular transaction or situation, nor does it prevent swap dealers from using other forms of notice. If legal advice or other expert assistance is required, the services of a qualified professional should be obtained.

Form of PB Notice to ED¹
[PB Letterhead]

[Date]

Dear Sir/Madam:

Reference is made to the (i) [Master Give-Up Agreement] dated [date] (as such may be amended from time to time) in which [Prime Broker] (the “PB”) acts as the prime broker and [Executing Dealer] (the “ED”) acts as the executing dealer, and (ii) ISDA Derivatives/FX Prime Brokerage Business Conduct Allocation Protocol (“ISDA PB Protocol”) to which both the PB and ED are or expect to become “Adhering Parties” (as defined in the ISDA PB Protocol).

In accordance with paragraphs (b)(3) and (b)(8) of the Annex to the ISDA PB Protocol (the “Annex”), we hereby notify you that we designate the PB counterparties or classes of PB counterparties specified below as Covered PB counterparties and, with respect to each such counterparty or class, the relevant information for purposes of paragraph (b)(8) of the Annex is as follows:

Covered PB counterparty/Class of Covered PB counterparties ²	Agreed in writing to (x) oral disclosure of pre-trade mid and basic METs and (y) disclosure for multiple swaps as described in CFTC Rule 23.402(f)? ³	Agreed in writing to non-disclosure of pre-trade mid in accordance with relief provided in the following CFTC Letters? ⁴		
		No. 12-42	No. 12-58	Additional relief
1. [E.g. - name of investment manager]	[Yes][No]	[Yes][No]	[Yes][No]	[Yes][No]

¹ This Form of PB Notice to ED (the “Form”) was developed by the Foreign Exchange Committee (FXC) and the Financial Markets Lawyers Group (FMLG). While the FXC and FMLG are sponsored by the Federal Reserve Bank of New York, this Form is not endorsed by and does not necessarily reflect the views of the Federal Reserve Bank of New York or the Federal Reserve System. Furthermore, this Form does not purport to be legal advice with respect to a particular transaction or situation, nor does it prevent swap dealers from using other forms of notice. If legal advice or other expert assistance is required, the services of a qualified professional should be obtained.

² A PB may specify in this column those entities named in a designation notice and which the ED recognizes as distinct for purposes of applying the PB’s exposure or product scope limits. For example, a PB may specify a PB counterparty that transacts in its own name as principal, or may specify a class of PB counterparties by identifying, for example: (i) the investment manager’s name only, (ii) the investment manager acting on behalf of named fund(s) or account(s), or (iii) investment manager acting on behalf of unnamed principals but subject to a particular designation notice.

Executing dealers should be aware that in accordance with paragraph (b)(3) of the Annex, a prime broker’s designation of Covered PB counterparties is based on the PB’s consideration of its own compliance obligations under the CFTC’s external business conduct standards (“EBC”). The PB’s identification of Covered PB counterparties is controlling for purposes of the Annex, notwithstanding that an ED may have determined that its bilateral transactions with particular counterparties are not subject to EBC.

³ See paragraph (b)(8)(a) of the Annex. See Section 2.12 of ISDA August 2012 DF Supplement.

⁴ See paragraph (b)(8)(b) of the Annex and Section 2(a)-(c) of Addendum II to ISDA August 2012 DF Protocol Questionnaire. The column “Additional Relief” is intended to indicate an affirmative response to Section 2(c) of Addendum II.

2.				
3....				

Please feel free to contact [_____] if you have any questions or comments.⁵

Sincerely,

[Prime Broker]

⁵ As a facilitating practice, prime brokers may consider furnishing the following optional information to executing dealers (subject to any confidentiality restrictions that may apply), either in this notice or in a subsequent communication: CICI, LEI or fund identifiers for Covered PB counterparties; a contact email address for notifications to a Covered PB counterparty or class thereof.