



**ASIC**

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#### RIGHTS OF REVIEW

Persons affected by certain decisions made by ASIC under the *Corporations Act 2001* and the other legislation administered by ASIC may have rights of review. ASIC has published Regulatory Guide 57 *Notification of rights of review* (RG57) and Information Sheet *ASIC decisions – your rights* (INFO 9) to assist you to determine whether you have a right of review. You can obtain a copy of these documents from the ASIC Digest, the ASIC website at [www.asic.gov.au](http://www.asic.gov.au) or from the Administrative Law Co-ordinator in the ASIC office with which you have been dealing.

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13/1173

**Australian Securities and Investments Commission  
Corporations Act—Paragraph 907D(2)(a)—Exemption**

**Enabling legislation**

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 907D(2)(a) of the *Corporations Act 2001 (Act)*.

**Title**

2. This instrument is ASIC Instrument [13/1173].

**Commencement**

3. This instrument commences on 1 October 2013.

**Exemption 1 (Non-CFTC Swaps)**

4. Commonwealth Bank of Australia (ACN 123 123 124) (the *Bank*) does not have to comply with:
  - (a) paragraphs 2.2.1(1)(a) and (c) of the *ASIC Derivative Transaction Rules (Reporting) 2013 (Rules)* to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt (Non-CFTC) Derivative*) referred to in column A of Table 1, during the corresponding period set out in column B of Table 1; and
  - (b) paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt (Non-CFTC) Derivative as at 1 October 2013, by the applicable Position Reporting Date.
5. It is a condition of the exemption set out in paragraph 4 that the Bank must report in accordance with the Rules:
  - (a) information about each of its Reportable Transactions in the Exempt (Non-CFTC) Derivative starting from no later than the corresponding date (*Revised Reporting Date*) set out in column C of Table 1; and
  - (b) the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt (Non-CFTC) Derivative as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt (Non-CFTC) Derivative, to a Licensed Repository by or on 1 October 2014.

**Table 1**

A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swap that is a Single-Name CDS	From 1 October 2013 to 22 December 2013 (inclusive)	23 December 2013
Non-CFTC Swaps other than Single-Name CDS and Equity Derivatives	From 1 October 2013 to 30 June 2014 (inclusive)	1 July 2014

A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swaps that are Equity Derivatives	From 1 October 2013 to 30 September 2014 (inclusive)	1 October 2014

### Exemption 2 (Reporting through middleware providers)

6. The Bank does not have to comply with:
- paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt Derivative (Middleware)*) referred to in column A of Table 2, during the corresponding period set out in column B of Table 2; and
  - paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt Derivative (Middleware) as at 1 October 2013, by the applicable Position Reporting Date.
7. The exemption in paragraph 6 applies in the case where:
- the counterparty to the Exempt Derivative (Middleware) is a Non-US Person; and
  - the Bank intends to report its Reportable Transactions in the Exempt Derivative (Middleware) to a Trade Repository through the corresponding Confirmation Platform set out in column C of Table 2, from the corresponding date (*Revised Reporting Date*) set out in column D of Table 2.
8. It is a condition of the exemption set out in paragraph 6 that the Bank:
- must report in accordance with the Rules:
    - information about each of its Reportable Transactions in the Exempt Derivative (Middleware) starting from no later than the Revised Reporting Date; and
    - the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt Derivative (Middleware) as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt Derivative (Middleware), to a Licensed Repository by or on 1 October 2014; and
  - must use all reasonable endeavours to ensure the Confirmation Platform continues the development work necessary to facilitate compliance by the Bank with the condition in paragraph (a).

**Table 2**

A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
An Interest Rate (Vanilla) Derivative	From 1 October 2013 to 26 January 2014 (inclusive)	MarkitWire	27 January 2014
An Interest Rate (Exotic) Derivative	From 1 October 2013 to 2 March 2014 (inclusive)	MarkitWire	3 March 2014



A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
A Credit Derivative	From 1 October 2013 to 22 December 2013 (inclusive)	DSMatch	23 December 2013
An Equity Derivative	From 1 October 2013 to 4 May 2014 (inclusive)	MarkitWire	5 May 2014

#### Exemption 2A (Branch transactions)

9. The Bank does not have to comply with:
- (a) paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt Derivative (Branch Transaction)*) that is a Foreign Exchange Derivative entered into by a branch of the Bank located in India or Vietnam, during the period from 1 October 2013 to 30 September 2014 (inclusive); and
  - (b) paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt Derivative (Branch Transaction) as at 1 October 2013, by the applicable Position Reporting Date.
10. It is a condition of the exemption set out in paragraph 9 that the Bank must:
- (a) report in accordance with the Rules:
    - (i) information about each of its Reportable Transactions in the Exempt Derivative (Branch Transaction) starting from 1 October 2014; and
    - (ii) the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt Derivative (Branch Transaction) as at 1 October 2014, to a Licensed Repository on 1 October 2014; and
  - (b) report to ASIC, in writing, the total gross notional outstanding value of all Reportable Transactions in Exempt Derivatives (Branch Transactions) during the period from:
    - (i) 1 October 2013 to 31 December 2013 (inclusive), by 31 January 2014;
    - (ii) 1 January 2014 to 31 March 2014 (inclusive), by 30 April 2014;
    - (iii) 1 April 2014 to 30 June 2014 (inclusive), by 31 July 2014; and
    - (iv) 1 July 2014 to 30 September 2014 (inclusive), by 31 October 2014.

#### Exemption 3 (Exchange-traded derivatives)

11. From 1 October 2013 to 2 March 2015 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report a Reportable Transaction or Reportable Position in relation to a Derivative where:
- (a) the Derivative is able to be traded (within the meaning of section 761A of the Act) on a Relevant Financial Market; and

(b) the entry into of the arrangement that is the Derivative takes place on the Relevant Financial Market.

12. For the purposes of the exemption in paragraph 11, and subject to paragraph 13, each of the following financial markets is a *Relevant Financial Market*:

- (a) BSE Limited (Bombay Stock Exchange);
- (b) Borsa Istanbul;
- (c) Bursa Malaysia;
- (d) CEGH Gas Exchange of Vienna Stock Exchange;
- (e) Chicago Mercantile Exchange;
- (f) China Financial Futures Exchange;
- (g) Dalian Commodities Exchange;
- (h) Dubai Gold & Commodities Exchange;
- (i) Dubai Mercantile Exchange;
- (j) EPEX Spot SE;
- (k) European Energy Exchange;
- (l) European Exchange;
- (m) HUPX Ltd Hungarian Power Exchange;
- (n) ICE Endex;
- (o) Jakarta Futures Exchange;
- (p) Johannesburg Stock Exchange;
- (q) Korea Exchange;
- (r) LCH Enclear - OTC Emissions;
- (s) LCH Enclear - OTC Freight FCM;
- (t) LCH Enclear - OTC Freight;
- (u) LCH Enclear - Precious Metals;
- (v) Mexican Derivatives Exchange;
- (w) Minneapolis Grain Exchange;
- (x) Moscow Stock Exchange;
- (y) NASDAQ OMX Armenia;
- (z) NASDAQ OMX Iceland;
- (aa) National Stock Exchange of India;
- (bb) New York Board of Trade;
- (cc) New Zealand Exchange;
- (dd) Nodal Exchange;
- (ee) NYSE Arca Europe;
- (ff) Power Exchange Central Europe;
- (gg) Powernext;
- (hh) South African Futures Exchange (SAFEX);
- (ii) Taiwan Futures Exchange;
- (jj) The Stock Exchange of Thailand;
- (kk) Tokyo Commodity Exchange; and
- (ll) Tokyo Financial Exchange.

13. A financial market is not a Relevant Financial Market for the purposes of paragraphs 11 and 12 if ASIC determines that the financial market is a Regulated Foreign Market for the purposes of subrule 1.2.4(2) of the Rules and such determination has not been withdrawn.

**Exemption 4 (Privacy – Foreign privacy restrictions)**



14. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is of the reasonable view that the Bank would breach a law or regulation of a Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository;
  - (b) the Bank has a written opinion of external legal counsel that supports the view referred to in paragraph (a); and
  - (c) the Bank is reasonably satisfied that the law or regulation the subject of the written legal opinion referred to in paragraph (b) has not changed in any relevant respect since the date the opinion was issued.
15. It is a condition of the exemption in paragraph 14 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) as soon as reasonably practicable after the Bank becomes reasonably satisfied that the Bank would no longer breach the law or regulation of the Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired; and
  - (c) the Bank must, on request by ASIC and as soon as reasonably practicable following such request, give ASIC a copy of the written legal opinion referred to in paragraph 14(b) in respect of the Relevant Foreign Jurisdiction.

**Exemption 5 (Privacy – Counterparty consents and notices)**

16. For the period specified in paragraph 17, the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is required to:
    - (i) obtain the express consent (*Consent*) of the counterparty (*Relevant Counterparty*) to which the Identifying Information relates before it reports the Identifying Information to the Trade Repository; or
    - (ii) give the Relevant Counterparty a notice (*Notice*) before it reports the Identifying Information to the Trade Repository;
  - (b) if the Bank does not obtain the Consent or give the Notice before it reports the Identifying Information to the Trade Repository, the Bank may breach:
    - (i) a duty of confidence owed by the Bank to the Relevant Counterparty which is actionable at law by the Relevant Counterparty;

- (ii) a contractual duty owed by the Bank to the Relevant Counterparty; or
- (iii) a provision of a law or regulation of a foreign jurisdiction that applies to the Bank in its dealings with the Relevant Counterparty; and
- (c) the Bank has not obtained the Consent of the Relevant Counterparty, or has not given the Relevant Counterparty the Notice (as applicable).

17. The exemption in paragraph 16 applies from 1 October 2013 to the earlier of 1 April 2014 and the date the Bank obtains the Consent of the Relevant Counterparty, or gives the Relevant Counterparty the Notice (as applicable).

18. It is a condition of the exemption in paragraph 16 that:

- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
- (b) the Bank must use all reasonable endeavours to obtain the Consent from, or give the Notice to, the Relevant Counterparty, as soon as reasonably practicable; and
- (c) as soon as reasonably practicable after the Relevant Counterparty gives the Consent, or is given the Notice, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired.

#### **Exemption 6 (Intra-day modification reporting)**

19. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction that is a modification of an OTC Derivative (*Relevant OTC Derivative*) on a day (the *Relevant Day*), to a Trade Repository by no later than the end of the next Business Day following the Relevant Day.

20. It is a condition of the exemption in paragraph 19 that the Bank report, for the Relevant OTC Derivative, information (*State Data*) about the Relevant OTC Derivative that is the same as, or substantially equivalent to, the Derivative Transaction Information set out in Part S2.1 of Schedule 2 of the Rules, and reports the State Data to a Trade Repository:

- (a) as at the end of the Relevant Day, by no later than the end of the next Business Day following the Relevant Day; and
- (b) otherwise in accordance with the Rules as if the State Data was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).

21. The Bank is not required to comply with the condition in paragraph 20 to the extent that condition requires the Bank to report:

- (a) the Derivative Transaction Information in Items 30–32 (mark-to-market, mark-to-model, or other valuation), Items 40–44 (collateral) and Items 51–52 (barrier type



and value) in Table S2.1(1) of the Rules, or substantially equivalent information;  
and

- (b) Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a 'universal transaction identifier' or a 'single transaction identifier', subject to the Bank reporting a Trade Identifier within the meaning of paragraph 25 of this instrument.

#### **Exemption 7 (Position reporting)**

- 22. The Bank does not have to comply with paragraph 2.2.1(1)(b) of the Rules and the conditions in paragraphs 5(b), 8(a)(ii) and 10(a)(ii) of this instrument, to the extent that paragraph or those conditions require the Bank to report, for a Reportable Position, the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules to a Licensed Repository by or on 1 October 2014.
- 23. It is a condition of the exemption in paragraph 22 that the Bank report, for the Reportable Position, information (***Substantially Equivalent Information***) that is substantially equivalent to the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, and reports the Substantially Equivalent Information:
  - (a) to a Licensed Repository by or on 1 October 2014; and
  - (b) otherwise in accordance with the Rules as if the Substantially Equivalent Information was information reported under paragraph 2.2.1(1)(b) of the Rules.

#### **Exemption 8 (Trade identifiers)**

- 24. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report, for a Reportable Transaction, Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a 'universal transaction identifier' or a 'single transaction identifier'.
- 25. It is a condition of the exemption in paragraph 24 that the Bank report, for the Reportable Transaction:
  - (a) the trade identifier created by the Swap Execution Facility on which the Reportable Transaction was executed (if applicable);
  - (b) the trade identifier created by the provider of any of the Confirmation Platforms on which the Reportable Transaction was confirmed (if applicable); or
  - (c) if the information in paragraphs (a) and (b) is not available, the internal trade identifier used by the Reporting Counterparty,(each, a ***Trade Identifier***) and reports the Trade Identifier otherwise in accordance with the Rules as if the Trade Identifier was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).

#### **Exemptions 1 to 8 – Other conditions (Record-keeping)**

- 26. It is condition of this instrument that the Bank must:
  - (a) keep records that enable the Bank to demonstrate it has complied with the conditions in paragraphs 5, 8, 10, 15, 18, 20, 23 and 25 of this instrument;



- (b) keep the records referred to in paragraph (a) for a period of at least five years from the date the record is made or amended; and
- (c) on request by ASIC, provide ASIC with records or other information relating to compliance with or determining whether there has been compliance with the conditions in paragraphs 5, 8, 10, 15, 18, 20, 23 and 25 of this instrument, within the time specified in the request or if no time is specified, within a reasonable time.

27. A request by ASIC under paragraph 26(c) must be in writing and give the Bank a reasonable time to comply.

#### **Exemptions 1 to 8 – Interaction between exemptions**

28. Each exemption in this instrument operates on its terms and does not limit the operation of any other exemption in this instrument.

#### **Interpretation**

29. In this instrument:

*ASIC Taxonomy* means the Derivative asset classes and products to which the Rules apply, as set out in Table 2 of the Appendix (Derivative asset classes and products) to ASIC Regulatory Guide 251 *Derivative transaction reporting* (RG 251).

*CEA* means the *Commodity Exchange Act 1936* (US).

*CFTC Swap* means a ‘swap’ as defined in section 1a(47) of the CEA and includes:

- (a) an ‘FX forward’ as defined in section 1a(24) of the CEA; and
- (b) an ‘FX swap’ as defined in the section 1a(25) of the CEA.

*Confirmation Platform* means an electronic trade confirmation platform and includes, without limitation, MarkitWire, DSMatch, ICE Link and ICE eConfirm.

*Credit Derivative* means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Credit derivatives”.

*DSMatch* means the electronic trade confirmation platform provided by MarkitSERV and known as “DSMatch”.

*Equity Derivative* means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Equity derivatives”.

*Foreign Exchange Derivative* means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Foreign exchange derivatives”.

*ICE eConfirm* means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as “ICE eConfirm”.

*ICE Link* means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as “ICE Link”.

**Identifying Information** means Derivative Trade Data referred to in the following table, or substantially equivalent information:

Table in Rules	Items in Table
Table S2.1(1) (Derivative Transaction Information - Common data)	7, 8, 10 and 11
Table S2.1(3) (Derivative Transaction Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.1(5) (Derivative Transaction Information - Interest rate derivative data)	6, 7, 8, 9, 10 and 11
Table S2.2(1) (Derivative Position Information - Common data)	6, 7, 8 and 9
Table S2.2(3) (Derivative Position Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.2(5) (Derivative Position Information - Interest rate derivative data)	5, 6, 7, 8, 9 and 10

**Interest Rate (Exotic) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, where the “Base Product” corresponds to “Exotic”.

**Interest Rate (Vanilla) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, other than an Interest Rate (Exotic) Derivative.

**ISDA Taxonomy** means the standardised taxonomy for Derivatives developed by the International Swaps and Derivatives Association (ISDA).

Note: See ISDA, *OTC taxonomies*, [www2.isda.org/identifiers-and-otc-taxonomies/](http://www2.isda.org/identifiers-and-otc-taxonomies/).

**MarkitSERV** means MarkitSERV LLC.

**MarkitWire** means the electronic trade confirmation platform provided by MarkitSERV and known as “MarkitWire”.

**Non-CFTC Swap** means an OTC Derivative that is not a CFTC Swap.

**Non-U.S. person** means any person that is not a “U.S. person” within the meaning of the “Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations” issued by the Commodity Futures Trading Commission on 12 July 2013 in respect of the cross-border application of the swaps provisions of Title VII of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

**Relevant Foreign Jurisdiction** means each of the following foreign jurisdictions:

- (a) Algeria;
- (b) Argentina;



- (c) Austria;
- (d) Bahrain
- (e) Belgium;
- (f) France;
- (g) Hungary;
- (h) India;
- (i) Indonesia;
- (j) Luxembourg;
- (k) Pakistan;
- (l) People's Republic of China;
- (m) Samoa;
- (n) Singapore;
- (o) South Korea;
- (p) Switzerland; and
- (q) Taiwan.

**Reportable Position** has the meaning given by the Rules and in paragraphs 22 and 23 of this instrument includes an outstanding position in an:

- (a) Exempt (Non-CFTC) Derivative referred to in the condition in paragraph 5(b) of this instrument;
- (b) Exempt Derivative (Middleware) referred to in the condition in paragraph 8(a)(ii) of this instrument; and
- (c) Exempt Derivative (Branch Transaction) referred to in the condition in paragraph 10(a)(ii) of this instrument.


**Single-Name CDS** means an OTC Derivative referred to in the ASIC Taxonomy that is in the "Asset class" of "Credit derivatives" and with the "Products that must reported" description of "Single name".

**Swap Execution Facility** means a 'swap execution facility' as defined in section 1a(50) of the CEA.

**Trade Repository** means a Licensed Repository or Prescribed Repository.

30. In this instrument, unless otherwise specified, capitalised terms have the meaning given by the Rules.

Dated this 30<sup>th</sup> day of September 2013



Signed by Oliver Harvey  
as a delegate of the Australian Securities and Investments Commission

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**Australian Securities and Investments Commission  
Corporations Act—Paragraph 907D(2)(a)—Exemption**

**Enabling legislation**

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 907D(2)(a) of the *Corporations Act 2001 (Act)*.

**Title**

2. This instrument is ASIC Instrument [13/1175].

**Commencement**

3. This instrument commences on 1 October 2013.

**Exemption 1 (Non-CFTC Swaps)**

4. Australia and New Zealand Banking Group Limited (ACN 005 357 522) (the *Bank*) does not have to comply with:
  - (a) paragraphs 2.2.1(1)(a) and (c) of the *ASIC Derivative Transaction Rules (Reporting) 2013 (Rules)* to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt (Non-CFTC) Derivative*) referred to in column A of Table 1, during the corresponding period set out in column B of Table 1; and
  - (b) paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt (Non-CFTC) Derivative as at 1 October 2013, by the applicable Position Reporting Date.
5. It is a condition of the exemption set out in paragraph 4 that the Bank must report in accordance with the Rules:
  - (a) information about each of its Reportable Transactions in the Exempt (Non-CFTC) Derivative starting from no later than the corresponding date (*Revised Reporting Date*) set out in column C of Table 1; and
  - (b) the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt (Non-CFTC) Derivative as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt (Non-CFTC) Derivative, to a Licensed Repository by or on 1 October 2014.

**Table 1**

A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swap that is a Single-Name CDS	From 1 October 2013 to 22 December 2013 (inclusive)	23 December 2013
Non-CFTC Swaps other than Single-Name CDS and Equity Derivatives	From 1 October 2013 to 30 June 2014 (inclusive)	1 July 2014



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A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swaps that are Equity Derivatives	From 1 October 2013 to 30 September 2014 (inclusive)	1 October 2014

### Exemption 2 (Reporting through middleware providers)

6. The Bank does not have to comply with:
  - (a) paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt Derivative (Middleware)*) referred to in column A of Table 2, during the corresponding period set out in column B of Table 2; and
  - (b) paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt Derivative (Middleware) as at 1 October 2013, by the applicable Position Reporting Date.
7. The exemption in paragraph 6 applies in the case where:
  - (a) the counterparty to the Exempt Derivative (Middleware) is a Non-US Person; and
  - (b) the Bank intends to report its Reportable Transactions in the Exempt Derivative (Middleware) to a Trade Repository through the corresponding Confirmation Platform set out in column C of Table 2, from the corresponding date (*Revised Reporting Date*) set out in column D of Table 2.
8. It is a condition of the exemption set out in paragraph 6 that the Bank:
  - (a) must report in accordance with the Rules:
    - (i) information about each of its Reportable Transactions in the Exempt Derivative (Middleware) starting from no later than the Revised Reporting Date; and
    - (ii) the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt Derivative (Middleware) as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt Derivative (Middleware), to a Licensed Repository by or on 1 October 2014; and
  - (b) must use all reasonable endeavours to ensure the Confirmation Platform continues the development work necessary to facilitate compliance by the Bank with the condition in paragraph (a).

**Table 2**

A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
An Interest Rate (Vanilla) Derivative	From 1 October 2013 to 26 January 2014 (inclusive)	MarkitWire	27 January 2014
An Interest Rate (Exotic) Derivative	From 1 October 2013 to 2 March 2014 (inclusive)	MarkitWire	3 March 2014

A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
A Credit Derivative	From 1 October 2013 to 22 December 2013 (inclusive)	DSMatch	23 December 2013
An Equity Derivative	From 1 October 2013 to 4 May 2014 (inclusive)	MarkitWire	5 May 2014

### Exemption 2A (FNS)

9. The Bank does not have to comply with:
- paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction in a Foreign Exchange Derivative (*Exempt Derivative (FNS)*) during the period from 1 October 2013 to 28 February 2014 (inclusive); and
  - paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt Derivative (FNS) as at 1 October 2013, by the applicable Position Reporting Date.
10. The exemption in paragraph 9 applies in the case where
- the counterparty to the Exempt Derivative (FNS) is a Non-US Person; and
  - the Exempt Derivative (FNS) is processed through the Bank's 'Australian Financial Network Service' (*FNS*) trade processing system.
11. It is a condition of the exemption in paragraph 9 that the Bank must:
- report in accordance with the Rules:
    - information about each of its Reportable Transactions in the Exempt Derivative (FNS) starting from no later than 1 March 2014; and
    - the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt Derivative (FNS) as at 1 March 2014, or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt Derivative (FNS), to a Licensed Repository by 1 October 2014; and
  - report to ASIC, in writing:
    - the total gross notional outstanding value of all Reportable Transactions processed through FNS as at the end of each calendar month commencing on 31 October 2013 and ending on 28 February 2014 (*a Reporting Month*); and
    - the total number of Reportable Transactions processed through FNS during each Reporting Month,
 in each case, by the end of the calendar month following the Reporting Month.

### Exemption 3 (Exchange-traded derivatives)



12. From 1 October 2013 to 2 March 2015 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report a Reportable Transaction or Reportable Position in relation to a Derivative where:
- (a) the Derivative is able to be traded (within the meaning of section 761A of the Act) on a Relevant Financial Market; and
  - (b) the entry into of the arrangement that is the Derivative takes place on the Relevant Financial Market.
13. For the purposes of the exemption in paragraph 12, and subject to paragraph 14, each of the following financial markets is a **Relevant Financial Market**:
- (a) BSE Limited (Bombay Stock Exchange);
  - (b) Borsa Istanbul;
  - (c) Bursa Malaysia;
  - (d) CEGH Gas Exchange of Vienna Stock Exchange;
  - (e) Chicago Mercantile Exchange;
  - (f) China Financial Futures Exchange;
  - (g) Dalian Commodities Exchange;
  - (h) Dubai Gold & Commodities Exchange;
  - (i) Dubai Mercantile Exchange;
  - (j) EPEX Spot SE;
  - (k) European Energy Exchange;
  - (l) European Exchange;
  - (m) HUPX Ltd Hungarian Power Exchange;
  - (n) ICE Index;
  - (o) Jakarta Futures Exchange;
  - (p) Johannesburg Stock Exchange;
  - (q) Korea Exchange;
  - (r) LCH Enclear - OTC Emissions;
  - (s) LCH Enclear - OTC Freight FCM;
  - (t) LCH Enclear - OTC Freight;
  - (u) LCH Enclear - Precious Metals;
  - (v) Mexican Derivatives Exchange;
  - (w) Minneapolis Grain Exchange;
  - (x) Moscow Stock Exchange;
  - (y) NASDAQ OMX Armenia;
  - (z) NASDAQ OMX Iceland;
  - (aa) National Stock Exchange of India;
  - (bb) New York Board of Trade;
  - (cc) New Zealand Exchange;
  - (dd) Nodal Exchange;
  - (ee) NYSE Arca Europe;
  - (ff) Power Exchange Central Europe;
  - (gg) Powernext;
  - (hh) South African Futures Exchange (SAFEX);
  - (ii) Taiwan Futures Exchange;
  - (jj) The Stock Exchange of Thailand;
  - (kk) Tokyo Commodity Exchange; and
  - (ll) Tokyo Financial Exchange.

14. A financial market is not a Relevant Financial Market for the purposes of paragraphs 12 and 13 if ASIC determines that the financial market is a Regulated Foreign Market for the purposes of subrule 1.2.4(2) of the Rules and such determination has not been withdrawn.

**Exemption 4 (Privacy - Foreign privacy restrictions)**

15. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is of the reasonable view that the Bank would breach a law or regulation of a Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository;
  - (b) the Bank has a written opinion of external legal counsel that supports the view referred to in paragraph (a); and
  - (c) the Bank is reasonably satisfied that the law or regulation the subject of the written legal opinion referred to in paragraph (b) has not changed in any relevant respect since the date the opinion was issued.
16. It is a condition of the exemption in paragraph 15 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) as soon as reasonably practicable after the Bank becomes reasonably satisfied that the Bank would no longer breach the law or regulation of the Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired; and
  - (c) the Bank must, on request by ASIC and as soon as reasonably practicable following such request, give ASIC a copy of the written legal opinion referred to in paragraph 15(b) in respect of the Relevant Foreign Jurisdiction.

**Exemption 5 (Privacy - Counterparty consents and notices)**

17. For the period specified in paragraph 18, the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is required to:
    - (i) obtain the express consent (*Consent*) of the counterparty (*Relevant Counterparty*) to which the Identifying Information relates before it reports the Identifying Information to the Trade Repository; or



- (ii) give the Relevant Counterparty a notice (*Notice*) before it reports the Identifying Information to the Trade Repository;
  - (b) if the Bank does not obtain the Consent or give the Notice before it reports the Identifying Information to the Trade Repository, the Bank may breach:
    - (i) a duty of confidence owed by the Bank to the Relevant Counterparty which is actionable at law by the Relevant Counterparty;
    - (ii) a contractual duty owed by the Bank to the Relevant Counterparty; or
    - (iii) a provision of a law or regulation of a foreign jurisdiction that applies to the Bank in its dealings with the Relevant Counterparty; and
  - (c) the Bank has not obtained the Consent of the Relevant Counterparty, or has not given the Relevant Counterparty the Notice (as applicable).
18. The exemption in paragraph 17 applies from 1 October 2013 to the earlier of 1 April 2014 and the date the Bank obtains the Consent of the Relevant Counterparty, or gives the Relevant Counterparty the Notice (as applicable).
19. It is a condition of the exemption in paragraph 17 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) the Bank must use all reasonable endeavours to obtain the Consent from, or give the Notice to, the Relevant Counterparty, as soon as reasonably practicable; and
  - (c) as soon as reasonably practicable after the Relevant Counterparty gives the Consent, or is given the Notice, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired.

**Exemption 6 (Intra-day modification reporting)**

20. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction that is a modification of an OTC Derivative (*Relevant OTC Derivative*) on a day (the *Relevant Day*), to a Trade Repository by no later than the end of the next Business Day following the Relevant Day.
21. It is a condition of the exemption in paragraph 20 that the Bank report, for the Relevant OTC Derivative, information (*State Data*) about the Relevant OTC Derivative that is the same as, or substantially equivalent to, the Derivative Transaction Information set out in Part S2.1 of Schedule 2 of the Rules, and reports the State Data to a Trade Repository:
- (a) as at the end of the Relevant Day, by no later than the end of the next Business Day following the Relevant Day; and



- (b) otherwise in accordance with the Rules as if the State Data was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).
22. The Bank is not required to comply with the condition in paragraph 21 to the extent that condition requires the Bank to report:
- (a) the Derivative Transaction Information in Items 30–32 (mark-to-market, mark-to-model, or other valuation), Items 40–44 (collateral) and Items 51–52 (barrier type and value) in Table S2.1(1) of the Rules, or substantially equivalent information; and
  - (b) Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a ‘universal transaction identifier’ or a ‘single transaction identifier’, subject to the Bank reporting a Trade Identifier within the meaning of paragraph 26 of this instrument.

#### **Exemption 7 (Position reporting)**

23. The Bank does not have to comply with paragraph 2.2.1(1)(b) of the Rules and the conditions in paragraphs 5(b), 8(a)(ii) and 11(a)(ii) of this instrument, to the extent that paragraph or those conditions require the Bank to report, for a Reportable Position, the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules to a Licensed Repository by or on 1 October 2014.
24. It is a condition of the exemption in paragraph 23 that the Bank report, for the Reportable Position, information (*Substantially Equivalent Information*) that is substantially equivalent to the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, and reports the Substantially Equivalent Information:
- (a) to a Licensed Repository by or on 1 October 2014; and
  - (b) otherwise in accordance with the Rules as if the Substantially Equivalent Information was information reported under paragraph 2.2.1(1)(b) of the Rules.

#### **Exemption 8 (Trade identifiers)**

25. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report, for a Reportable Transaction, Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a ‘universal transaction identifier’ or a ‘single transaction identifier’.
26. It is a condition of the exemption in paragraph 25 that the Bank report, for the Reportable Transaction:
- (a) the trade identifier created by the Swap Execution Facility on which the Reportable Transaction was executed (if applicable);
  - (b) the trade identifier created by the provider of any of the Confirmation Platforms on which the Reportable Transaction was confirmed (if applicable); or
  - (c) if the information in paragraphs (a) and (b) is not available, the internal trade identifier used by the Reporting Counterparty,

(each, a *Trade Identifier*) and reports the Trade Identifier otherwise in accordance with the Rules as if the Trade Identifier was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).

#### **Exemptions 1 to 8 – Other conditions (Record-keeping)**

27. It is condition of this instrument that the Bank must:
- (a) keep records that enable the Bank to demonstrate it has complied with the conditions in paragraphs 5, 8, 11, 16, 19, 21, 24 and 26 of this instrument;
  - (b) keep the records referred to in paragraph (a) for a period of at least five years from the date the record is made or amended; and
  - (c) on request by ASIC, provide ASIC with records or other information relating to compliance with or determining whether there has been compliance with the conditions in paragraphs 5, 8, 11, 16, 19, 21, 24 and 26 of this instrument, within the time specified in the request or if no time is specified, within a reasonable time.
28. A request by ASIC under paragraph 27(c) must be in writing and give the Bank a reasonable time to comply.

#### **Exemptions 1 to 8 – Interaction between exemptions**

29. Each exemption in this instrument operates on its terms and does not limit the operation of any other exemption in this instrument.

#### **Interpretation**

30. In this instrument:

*ASIC Taxonomy* means the Derivative asset classes and products to which the Rules apply, as set out in Table 2 of the Appendix (Derivative asset classes and products) to ASIC Regulatory Guide 251 *Derivative transaction reporting* (RG 251).

*CEA* means the *Commodity Exchange Act 1936* (US).

*CFTC Swap* means a ‘swap’ as defined in section 1a(47) of the CEA and includes:

- (a) an ‘FX forward’ as defined in section 1a(24) of the CEA; and
- (b) an ‘FX swap’ as defined in the section 1a(25) of the CEA.

*Confirmation Platform* means an electronic trade confirmation platform and includes, without limitation, MarkitWire, DSMatch, ICE Link and ICE eConfirm.

*Credit Derivative* means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Credit derivatives”.

*DSMatch* means the electronic trade confirmation platform provided by MarkitSERV and known as “DSMatch”.

*Equity Derivative* means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Equity derivatives”.



**Foreign Exchange Derivative** means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Foreign exchange derivatives”.

**ICE eConfirm** means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as “ICE eConfirm”.

**ICE Link** means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as “ICE Link”.

**Identifying Information** means Derivative Trade Data referred to in the following table, or substantially equivalent information:

Table in Rules	Items of Table in Rules
Table S2.1(1) (Derivative Transaction Information - Common data)	7, 8, 10 and 11
Table S2.1(3) (Derivative Transaction Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.1(5) (Derivative Transaction Information - Interest rate derivative data)	6, 7, 8, 9, 10 and 11
Table S2.2(1) (Derivative Position Information - Common data)	6, 7, 8 and 9
Table S2.2(3) (Derivative Position Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.2(5) (Derivative Position Information - Interest rate derivative data)	5, 6, 7, 8, 9 and 10

**Interest Rate (Exotic) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, where the “Base Product” corresponds to “Exotic”.

**Interest Rate (Vanilla) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, other than an Interest Rate (Exotic) Derivative.

**ISDA Taxonomy** means the standardised taxonomy for Derivatives developed by the International Swaps and Derivatives Association (ISDA).

Note: See ISDA, *OTC taxonomies*, [www2.isda.org/identifiers-and-otc-taxonomies/](http://www2.isda.org/identifiers-and-otc-taxonomies/).

**MarkitSERV** means MarkitSERV LLC.

**MarkitWire** means the electronic trade confirmation platform provided by MarkitSERV and known as “MarkitWire”.

**Non-CFTC Swap** means an OTC Derivative that is not a CFTC Swap.



**Non-U.S. person** means any person that is not a “U.S. person” within the meaning of the “Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations” issued by the Commodity Futures Trading Commission on 12 July 2013 in respect of the cross-border application of the swaps provisions of Title VII of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

**Relevant Foreign Jurisdiction** means each of the following foreign jurisdictions:

- (a) Algeria;
- (b) Argentina;
- (c) Austria;
- (d) Bahrain;
- (e) Belgium;
- (f) France;
- (g) Hungary;
- (h) India;
- (i) Indonesia;
- (j) Luxembourg;
- (k) Pakistan;
- (l) People’s Republic of China;
- (m) Samoa;
- (n) Singapore;
- (o) South Korea;
- (p) Switzerland; and
- (q) Taiwan.

**Reportable Position** has the meaning given by the Rules and in paragraphs 23 and 24 of this instrument includes an outstanding position in an:

- (a) Exempt (Non-CFTC) Derivative referred to in the condition in paragraph 5(b) of this instrument;
- (b) Exempt Derivative (Middleware) referred to in the condition in paragraph 8(a)(ii) of this instrument; and
- (c) Exempt Derivative (FNS) referred to in the condition in paragraph 11(a)(ii) of this instrument.

**Single-Name CDS** means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Credit derivatives” and with the “Products that must reported” description of “Single name”.

**Swap Execution Facility** means a ‘swap execution facility’ as defined in section 1a(50) of the CEA.

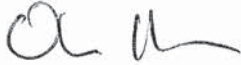
**Trade Repository** means a Licensed Repository or Prescribed Repository.

31. In this instrument, unless otherwise specified, capitalised terms have the meaning given by the Rules.

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Dated this 30th day of September 2013



Signed by Oliver Harvey  
as a delegate of the Australian Securities and Investments Commission

13/1176

**Australian Securities and Investments Commission  
Corporations Act—Paragraph 907D(2)(a)—Exemption**

**Enabling legislation**

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 907D(2)(a) of the *Corporations Act 2001 (Act)*.

**Title**

2. This instrument is ASIC Instrument [13/1176].

**Commencement**

3. This instrument commences on 1 October 2013.

**Exemption 1 (Non-CFTC Swaps)**

4. National Australia Bank Limited (ACN 004 044 937) (the *Bank*) does not have to comply with:
  - (a) paragraphs 2.2.1(1)(a) and (c) of the *ASIC Derivative Transaction Rules (Reporting) 2013 (Rules)* to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt (Non-CFTC) Derivative*) referred to in column A of Table 1, during the corresponding period set out in column B of Table 1; and
  - (b) paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt (Non-CFTC) Derivative as at 1 October 2013, by the applicable Position Reporting Date.
5. It is a condition of the exemption set out in paragraph 4 that the Bank must report in accordance with the Rules:
  - (a) information about each of its Reportable Transactions in the Exempt (Non-CFTC) Derivative starting from no later than the corresponding date (*Revised Reporting Date*) set out in column C of Table 1; and
  - (b) the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt (Non-CFTC) Derivative as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt (Non-CFTC) Derivative, to a Licensed Repository by or on 1 October 2014.

**Table 1**

A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swap that is a Single-Name CDS	From 1 October 2013 to 22 December 2013 (inclusive)	23 December 2013
Non-CFTC Swaps other than Single-Name CDS and Equity Derivatives	From 1 October 2013 to 30 June 2014 (inclusive)	1 July 2014



A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swaps that are Equity Derivatives	From 1 October 2013 to 30 September 2014 (inclusive)	1 October 2014

### Exemption 2 (Reporting through middleware provider)

6. The Bank does not have to comply with:
- paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt Derivative (Middleware)*) referred to in column A of Table 2, during the corresponding period set out in column B of Table 2; and
  - paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt Derivative (Middleware) as at 1 October 2013, by the applicable Position Reporting Date.
7. The exemption in paragraph 6 applies in the case where:
- the counterparty to the Exempt Derivative (Middleware) is a Non-US Person; and
  - the Bank intends to report its Reportable Transactions in the Exempt Derivative (Middleware) to a Trade Repository through the corresponding Confirmation Platform set out in column C of Table 2, from the corresponding date (*Revised Reporting Date*) set out in column D of Table 2.
8. It is a condition of the exemption set out in paragraph 6 that the Bank:
- must report in accordance with the Rules:
    - information about each of its Reportable Transactions in the Exempt Derivative (Middleware) starting from no later than the Revised Reporting Date; and
    - the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt Derivative (Middleware) as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt Derivative (Middleware), to a Licensed Repository by or on 1 October 2014; and
  - must use all reasonable endeavours to ensure the Confirmation Platform continues the development work necessary to facilitate compliance by the Bank with the condition in paragraph (a).

**Table 2**

A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
An Interest Rate (Vanilla) Derivative	From 1 October 2013 to 26 January 2014 (inclusive)	MarkitWire	27 January 2014
An Interest Rate (Exotic) Derivative	From 1 October 2013 to 2 March 2014 (inclusive)	MarkitWire	3 March 2014

A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
A Credit Derivative	From 1 October 2013 to 22 December 2013 (inclusive)	DSMatch	23 December 2013
An Equity Derivative	From 1 October 2013 to 4 May 2014 (inclusive)	MarkitWire	5 May 2014
A Credit Derivative	From 1 October 2013 to 30 March 2014 (inclusive)	ICE Link	31 March 2014

### Exemption 3 (Exchange-traded derivatives)

9. From 1 October 2013 to 2 March 2015 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report a Reportable Transaction or Reportable Position in relation to a Derivative where:
- the Derivative is able to be traded (within the meaning of section 761A of the Act) on a Relevant Financial Market; and
  - the entry into of the arrangement that is the Derivative takes place on the Relevant Financial Market.
10. For the purposes of the exemption in paragraph 9, and subject to paragraph 11, each of the following financial markets is a **Relevant Financial Market**:
- BSE Limited (Bombay Stock Exchange);
  - Borsa Istanbul;
  - Bursa Malaysia;
  - CEGH Gas Exchange of Vienna Stock Exchange;
  - Chicago Mercantile Exchange;
  - China Financial Futures Exchange;
  - Dalian Commodities Exchange;
  - Dubai Gold & Commodities Exchange;
  - Dubai Mercantile Exchange;
  - EPEX Spot SE;
  - European Energy Exchange;
  - European Exchange;
  - HUPX Ltd Hungarian Power Exchange;
  - ICE Endex;
  - Jakarta Futures Exchange;
  - Johannesberg Stock Exchange;
  - Korea Exchange;
  - LCH Enclear - OTC Emissions;
  - LCH Enclear - OTC Freight FCM;
  - LCH Enclear - OTC Freight;
  - LCH Enclear - Precious Metals;
  - Mexican Derivatives Exchange;
  - Minneapolis Grain Exchange;
  - Moscow Stock Exchange;
  - NASDAQ OMX Armenia;
  - NASDAQ OMX Iceland;



- (aa) National Stock Exchange of India;
- (bb) New York Board of Trade;
- (cc) New Zealand Exchange;
- (dd) Nodal Exchange;
- (ee) NYSE Arca Europe;
- (ff) Power Exchange Central Europe;
- (gg) Powernext;
- (hh) South African Futures Exchange (SAFEX);
- (ii) Taiwan Futures Exchange;
- (jj) The Stock Exchange of Thailand;
- (kk) Tokyo Commodity Exchange; and
- (ll) Tokyo Financial Exchange.

11. A financial market is not a Relevant Financial Market for the purposes of paragraphs 9 and 10 if ASIC determines that the financial market is a Regulated Foreign Market for the purposes of subrule 1.2.4(2) of the Rules and such determination has not been withdrawn.

**Exemption 4 (Privacy – Foreign privacy restrictions)**

12. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is of the reasonable view that the Bank would breach a law or regulation of a Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository;
  - (b) the Bank has a written opinion of external legal counsel that supports the view referred to in paragraph (a); and
  - (c) the Bank is reasonably satisfied that the law or regulation the subject of the written legal opinion referred to in paragraph (b) has not changed in any relevant respect since the date the opinion was issued.
13. It is a condition of the exemption in paragraph 12 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) as soon as reasonably practicable after the Bank becomes reasonably satisfied that the Bank would no longer breach the law or regulation of the Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired; and
  - (c) the Bank must, on request by ASIC and as soon as reasonably practicable following such request, give ASIC a copy of the written legal opinion referred to in paragraph 12(b) in respect of the Relevant Foreign Jurisdiction.



**Exemption 5 (Privacy – Counterparty consents and notices)**

14. For the period specified in paragraph 15, the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is required to:
    - (i) obtain the express consent (*Consent*) of the counterparty (*Relevant Counterparty*) to which the Identifying Information relates before it reports the Identifying Information to the Trade Repository; or
    - (ii) give the Relevant Counterparty a notice (*Notice*) before it reports the Identifying Information to the Trade Repository;
  - (b) if the Bank does not obtain the Consent or give the Notice before it reports the Identifying Information to the Trade Repository, the Bank may breach:
    - (i) a duty of confidence owed by the Bank to the Relevant Counterparty which is actionable at law by the Relevant Counterparty;
    - (ii) a contractual duty owed by the Bank to the Relevant Counterparty; or
    - (iii) a provision of a law or regulation of a foreign jurisdiction that applies to the Bank in its dealings with the Relevant Counterparty; and
  - (c) the Bank has not obtained the Consent of the Relevant Counterparty, or has not given the Relevant Counterparty the Notice (as applicable).
15. The exemption in paragraph 14 applies from 1 October 2013 to the earlier of 1 April 2014 and the date the Bank obtains the Consent of the Relevant Counterparty, or gives the Relevant Counterparty the Notice (as applicable).
16. It is a condition of the exemption in paragraph 14 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) the Bank must use all reasonable endeavours to obtain the Consent from, or give the Notice to, the Relevant Counterparty, as soon as reasonably practicable; and
  - (c) as soon as reasonably practicable after the Relevant Counterparty gives the Consent, or is given the Notice, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired.

**Exemption 6 (Intra-day modification reporting)**

17. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction that is a modification of an OTC Derivative (*Relevant OTC Derivative*) on a day (the

*Relevant Day*), to a Trade Repository by no later than the end of the next Business Day following the Relevant Day.

18. It is a condition of the exemption in paragraph 17 that the Bank report, for the Relevant OTC Derivative, information (*State Data*) about the Relevant OTC Derivative that is the same as, or substantially equivalent to, the Derivative Transaction Information set out in Part S2.1 of Schedule 2 of the Rules, and reports the State Data to a Trade Repository:
  - (a) as at the end of the Relevant Day, by no later than the end of the next Business Day following the Relevant Day; and
  - (b) otherwise in accordance with the Rules as if the State Data was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).
19. The Bank is not required to comply with the condition in paragraph 18 to the extent that condition requires the Bank to report:
  - (a) the Derivative Transaction Information in Items 30–32 (mark-to-market, mark-to-model, or other valuation), Items 40–44 (collateral) and Items 51–52 (barrier type and value) in Table S2.1(1) of the Rules, or substantially equivalent information; and
  - (b) Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a ‘universal transaction identifier’ or a ‘single transaction identifier’, subject to the Bank reporting a Trade Identifier within the meaning of paragraph 23 of this instrument.

#### **Exemption 7 (Position reporting)**

20. The Bank does not have to comply with paragraph 2.2.1(1)(b) of the Rules and the conditions in paragraph 5(b) and paragraph 8(a)(ii) of this instrument, to the extent that paragraph or those conditions require the Bank to report, for a Reportable Position, the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules to a Licensed Repository by or on 1 October 2014.
21. It is a condition of the exemption in paragraph 20 that the Bank report, for the Reportable Position, information (*Substantially Equivalent Information*) that is substantially equivalent to the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, and reports the Substantially Equivalent Information:
  - (a) to a Licensed Repository by or on 1 October 2014; and
  - (b) otherwise in accordance with the Rules as if the Substantially Equivalent Information was information reported under paragraph 2.2.1(1)(b) of the Rules.

#### **Exemption 8 (Trade identifier)**

22. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report, for a Reportable Transaction, Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a ‘universal transaction identifier’ or a ‘single transaction identifier’.



23. It is a condition of the exemption in paragraph 22 that the Bank report, for the Reportable Transaction:
- (a) the trade identifier created by the Swap Execution Facility on which the Reportable Transaction was executed (if applicable);
  - (b) the trade identifier created by the provider of any of the Confirmation Platforms on which the Reportable Transaction was confirmed (if applicable); or
  - (c) if the information in paragraphs (a) and (b) is not available, the internal trade identifier used by the Reporting Counterparty,
- (each, a *Trade Identifier*) and reports the Trade Identifier otherwise in accordance with the Rules as if the Trade Identifier was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).

#### Exemptions 1 to 8 – Other conditions (Record-keeping)

24. It is condition of this instrument that the Bank must:
- (a) keep records that enable the Bank to demonstrate it has complied with the conditions in paragraphs 5, 8, 13, 16, 18, 21 and 23 of this instrument;
  - (b) keep the records referred to in paragraph (a) for a period of at least five years from the date the record is made or amended; and
  - (c) on request by ASIC, provide ASIC with records or other information relating to compliance with or determining whether there has been compliance with the conditions in paragraphs 5, 8, 13, 16, 18, 21 and 23 of this instrument, within the time specified in the request or if no time is specified, within a reasonable time.
25. A request by ASIC under paragraph 24(c) must be in writing and give the Bank a reasonable time to comply.

#### Exemptions 1 to 8 – Interaction between exemptions

26. Each exemption in this instrument operates on its terms and does not limit the operation of any other exemption in this instrument.

#### Interpretation

27. In this instrument:

*ASIC Taxonomy* means the Derivative asset classes and products to which the Rules apply, as set out in Table 2 of the Appendix (Derivative asset classes and products) to ASIC Regulatory Guide 251 *Derivative transaction reporting* (RG 251).

*CEA* means the *Commodity Exchange Act 1936* (US).

*CFTC Swap* means a 'swap' as defined in section 1a(47) of the CEA and includes:

- (a) an 'FX forward' as defined in section 1a(24) of the CEA; and
- (b) an 'FX swap' as defined in the section 1a(25) of the CEA.

*Confirmation Platform* means an electronic trade confirmation platform and includes, without limitation, MarkitWire, DSMatch, ICE Link and ICE eConfirm.



**Credit Derivative** means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Credit derivatives”.

**DSMatch** means the electronic trade confirmation platform provided by MarkitSERV and known as “DSMatch”.

**Equity Derivative** means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Equity derivatives”.

**ICE eConfirm** means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as “ICE eConfirm”.

**ICE Link** means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as “ICE Link”.

**Identifying Information** means Derivative Trade Data referred to in the following table, or substantially equivalent information:

Table in Rules	Items in Table
Table S2.1(1) (Derivative Transaction Information - Common data)	7, 8, 10 and 11
Table S2.1(3) (Derivative Transaction Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.1(5) (Derivative Transaction Information - Interest rate derivative data)	6, 7, 8, 9, 10 and 11
Table S2.2(1) (Derivative Position Information – Common data)	6, 7, 8 and 9
Table S2.2(3) (Derivative Position Information – Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.2(5) (Derivative Position Information - Interest rate derivative data)	5, 6, 7, 8, 9 and 10

**Interest Rate (Exotic) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, where the “Base Product” corresponds to “Exotic”.

**Interest Rate (Vanilla) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, other than an Interest Rate (Exotic) Derivative.

**ISDA Taxonomy** means the standardised taxonomy for Derivatives developed by the International Swaps and Derivatives Association (ISDA).

Note: See ISDA, *OTC taxonomies*, [www2.isda.org/identifiers-and-otc-taxonomies/](http://www2.isda.org/identifiers-and-otc-taxonomies/).

**MarkitSERV** means MarkitSERV LLC.

**MarkitWire** means the electronic trade confirmation platform provided by MarkitSERV and known as “MarkitWire”.

**Non-CFTC Swap** means an OTC Derivative that is not a CFTC Swap.

**Non-U.S. person** means any person that is not a “U.S. person” within the meaning of the “Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations” issued by the Commodity Futures Trading Commission on 12 July 2013 in respect of the cross-border application of the swaps provisions of Title VII of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

**Relevant Foreign Jurisdiction** means each of the following foreign jurisdictions:

- (a) Algeria;
- (b) Argentina;
- (c) Austria;
- (d) Bahrain;
- (e) Belgium;
- (f) France;
- (g) Hungary;
- (h) India;
- (i) Indonesia;
- (j) Luxembourg;
- (k) Pakistan;
- (l) People’s Republic of China;
- (m) Samoa;
- (n) Singapore;
- (o) South Korea;
- (p) Switzerland; and
- (q) Taiwan.

**Reportable Position** has the meaning given by the Rules and in paragraphs 20 and 21 of this instrument includes an outstanding position in an:

- (a) Exempt (Non-CFTC) Derivative referred to in the condition in paragraph 5(b) of this instrument; and
- (b) Exempt Derivative (Middleware) referred to in the condition in paragraph 8(a)(ii) of this instrument.

**Single-Name CDS** means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Credit derivatives” and with the “Products that must reported” description of “Single name”.

**Swap Execution Facility** means a ‘swap execution facility’ as defined in section 1a(50) of the CEA.

**Trade Repository** means a Licensed Repository or Prescribed Repository.

28. In this instrument, unless otherwise specified, capitalised terms have the meaning given by the Rules.

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13-1176

Dated this 30<sup>th</sup> day of September 2013

Handwritten signature of Oliver Harvey in black ink.

Signed by Oliver Harvey

as a delegate of the Australian Securities and Investments Commission



13/1177

**Australian Securities and Investments Commission  
Corporations Act—Paragraph 907D(2)(a)—Exemption**

**Enabling legislation**

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 907D(2)(a) of the *Corporations Act 2001 (Act)*.

**Title**

2. This instrument is ASIC Instrument [13/1177].

**Commencement**

3. This instrument commences on 1 October 2013.

**Exemption 1 (Non-CFTC Swaps)**

4. Westpac Banking Corporation (ACN 007 457 141) (the **Bank**) does not have to comply with:
  - (a) paragraphs 2.2.1(1)(a) and (c) of the *ASIC Derivative Transaction Rules (Reporting) 2013 (Rules)* to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (**Exempt (Non-CFTC) Derivative**) referred to in column A of Table 1, during the corresponding period set out in column B of Table 1; and
  - (b) paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt (Non-CFTC) Derivative as at 1 October 2013, by the applicable Position Reporting Date.
5. It is a condition of the exemption set out in paragraph 4 that the Bank must report in accordance with the Rules:
  - (a) information about each of its Reportable Transactions in the Exempt (Non-CFTC) Derivative starting from no later than the corresponding date (**Revised Reporting Date**) set out in column C of Table 1; and
  - (b) the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt (Non-CFTC) Derivative as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt (Non-CFTC) Derivative, to a Licensed Repository by or on 1 October 2014.

**Table 1**

A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swap that is a Single-Name CDS	From 1 October 2013 to 22 December 2013 (inclusive)	23 December 2013
Non-CFTC Swaps other than Single-Name CDS and Equity Derivatives	From 1 October 2013 to 30 June 2014 (inclusive)	1 July 2014

A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swaps that are Equity Derivatives	From 1 October 2013 to 30 September 2014 (inclusive)	1 October 2014

### Exemption 2 (Reporting through middleware provider)

6. The Bank does not have to comply with:
- paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt Derivative (Middleware)*) referred to in column A of Table 2, during the corresponding period set out in column B of Table 2; and
  - paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt Derivative (Middleware) as at 1 October 2013, by the applicable Position Reporting Date.
7. The exemption in paragraph 6 applies in the case where:
- the counterparty to the Exempt Derivative (Middleware) is a Non-US Person; and
  - the Bank intends to report its Reportable Transactions in the Exempt Derivative (Middleware) to a Trade Repository through the corresponding Confirmation Platform set out in column C of Table 2, from the corresponding date (*Revised Reporting Date*) set out in column D of Table 2.
8. It is a condition of the exemption set out in paragraph 6 that the Bank:
- must report in accordance with the Rules:
    - information about each of its Reportable Transactions in the Exempt Derivative (Middleware) starting from no later than the Revised Reporting Date; and
    - the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt Derivative (Middleware) as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt Derivative (Middleware), to a Licensed Repository by or on 1 October 2014; and
  - must use all reasonable endeavours to ensure the Confirmation Platform continues the development work necessary to facilitate compliance by the Bank with the condition in paragraph (a).

**Table 2**

A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
An Interest Rate (Vanilla) Derivative	From 1 October 2013 to 26 January 2014 (inclusive)	MarkitWire	27 January 2014
An Interest Rate (Exotic) Derivative	From 1 October 2013 to 2 March 2014 (inclusive)	MarkitWire	3 March 2014



A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
A Credit Derivative	From 1 October 2013 to 22 December 2013 (inclusive)	DSMatch	23 December 2013
An Equity Derivative	From 1 October 2013 to 4 May 2014 (inclusive)	MarkitWire	5 May 2014
A Credit Derivative	From 1 October 2013 to 30 March 2014 (inclusive)	ICE Link	31 March 2014

### Exemption 2A (Carbon)

9. The Bank does not have to comply with:
- paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction in a Exempt Derivative (Carbon) during the period from 1 October 2013 to 1 December 2013 (inclusive); and
  - paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt Derivative (Carbon) as at 1 October 2013, by the applicable Position Reporting Date.
10. The exemption in paragraph 9 applies in the case where the counterparty to the Exempt Derivative (Carbon) is a Non-US Person.
11. It is a condition of the exemption in paragraph 9 that the Bank must report in accordance with the Rules:
- information about each of its Reportable Transactions in the Exempt Derivative (Carbon) starting from 2 December 2013; and
  - the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt Derivative (Carbon) as at 2 December 2013, to a Licensed Repository by 1 October 2014.

### Exemption 3 (Exchange-traded derivatives)

12. From 1 October 2013 to 2 March 2015 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report a Reportable Transaction or Reportable Position in relation to a Derivative where:
- the Derivative is able to be traded (within the meaning of section 761A of the Act) on a Relevant Financial Market; and
  - the entry into of the arrangement that is the Derivative takes place on the Relevant Financial Market.
13. For the purposes of the exemption in paragraph 12, and subject to paragraph 14, each of the following financial markets is a **Relevant Financial Market**:
- BSE Limited (Bombay Stock Exchange);



- (b) Borsa Istanbul;
- (c) Bursa Malaysia;
- (d) CEGH Gas Exchange of Vienna Stock Exchange;
- (e) Chicago Mercantile Exchange;
- (f) China Financial Futures Exchange;
- (g) Dalian Commodities Exchange;
- (h) Dubai Gold & Commodities Exchange;
- (i) Dubai Mercantile Exchange;
- (j) EPEX Spot SE;
- (k) European Energy Exchange;
- (l) European Exchange;
- (m) HUPX Ltd Hungarian Power Exchange;
- (n) ICE Endex;
- (o) Jakarta Futures Exchange;
- (p) Johannesburg Stock Exchange;
- (q) Korea Exchange;
- (r) LCH Enclear - OTC Emissions;
- (s) LCH Enclear - OTC Freight FCM;
- (t) LCH Enclear - OTC Freight;
- (u) LCH Enclear - Precious Metals;
- (v) Mexican Derivatives Exchange;
- (w) Minneapolis Grain Exchange;
- (x) Moscow Stock Exchange;
- (y) NASDAQ OMX Armenia;
- (z) NASDAQ OMX Iceland;
- (aa) National Stock Exchange of India;
- (bb) New York Board of Trade;
- (cc) New Zealand Exchange;
- (dd) Nodal Exchange;
- (ee) NYSE Arca Europe;
- (ff) Power Exchange Central Europe;
- (gg) Powernext;
- (hh) South African Futures Exchange (SAFEX);
- (ii) Taiwan Futures Exchange;
- (jj) The Stock Exchange of Thailand;
- (kk) Tokyo Commodity Exchange; and
- (ll) Tokyo Financial Exchange.

14. A financial market is not a Relevant Financial Market for the purposes of paragraphs 12 and 13 if ASIC determines that the financial market is a Regulated Foreign Market for the purposes of subrule 1.2.4(2) of the Rules and such determination has not been withdrawn.

**Exemption 4 (Privacy – Foreign privacy restrictions)**

15. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:

- (a) the Bank is of the reasonable view that the Bank would breach a law or regulation of a Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository;
  - (b) the Bank has a written opinion of external legal counsel that supports the view referred to in paragraph (a); and
  - (c) the Bank is reasonably satisfied that the law or regulation the subject of the written legal opinion referred to in paragraph (b) has not changed in any relevant respect since the date the opinion was issued.
16. It is a condition of the exemption in paragraph 15 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) as soon as reasonably practicable after the Bank becomes reasonably satisfied that the Bank would no longer breach the law or regulation of the Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired; and
  - (c) the Bank must, on request by ASIC and as soon as reasonably practicable following such request, give ASIC a copy of the written legal opinion referred to in paragraph 15(b) in respect of the Relevant Foreign Jurisdiction.

**Exemption 5 (Privacy – Counterparty consents and notices)**

17. For the period specified in paragraph 18, the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is required to:
    - (i) obtain the express consent (*Consent*) of the counterparty (*Relevant Counterparty*) to which the Identifying Information relates before it reports the Identifying Information to the Trade Repository; or
    - (ii) give the Relevant Counterparty a notice (*Notice*) before it reports the Identifying Information to the Trade Repository;
  - (b) if the Bank does not obtain the Consent or give the Notice before it reports the Identifying Information to the Trade Repository, the Bank may breach:
    - (i) a duty of confidence owed by the Bank to the Relevant Counterparty which is actionable at law by the Relevant Counterparty;
    - (ii) a contractual duty owed by the Bank to the Relevant Counterparty; or
    - (iii) a provision of a law or regulation of a foreign jurisdiction that applies to the Bank in its dealings with the Relevant Counterparty; and



- (c) the Bank has not obtained the Consent of the Relevant Counterparty, or has not given the Relevant Counterparty the Notice (as applicable).
18. The exemption in paragraph 17 applies from 1 October 2013 to the earlier of 1 April 2014 and the date the Bank obtains the Consent of the Relevant Counterparty, or gives the Relevant Counterparty the Notice (as applicable).
19. It is a condition of the exemption in paragraph 17 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) the Bank must use all reasonable endeavours to obtain the Consent from, or give the Notice to, the Relevant Counterparty, as soon as reasonably practicable; and
  - (c) as soon as reasonably practicable after the Relevant Counterparty gives the Consent, or is given the Notice, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired.

**Exemption 6 (Intra-day modification reporting)**

20. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction that is a modification of an OTC Derivative (*Relevant OTC Derivative*) on a day (the *Relevant Day*), to a Trade Repository by no later than the end of the next Business Day following the Relevant Day.
21. It is a condition of the exemption in paragraph 20 that the Bank report, for the Relevant OTC Derivative, information (*State Data*) about the Relevant OTC Derivative that is the same as, or substantially equivalent to, the Derivative Transaction Information set out in Part S2.1 of Schedule 2 of the Rules, and reports the State Data to a Trade Repository:
- (a) as at the end of the Relevant Day, by no later than the end of the next Business Day following the Relevant Day; and
  - (b) otherwise in accordance with the Rules as if the State Data was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).
22. The Bank is not required to comply with the condition in paragraph 21 to the extent that condition requires the Bank to report:
- (a) the Derivative Transaction Information in Items 30–32 (mark-to-market, mark-to-model, or other valuation), Items 40–44 (collateral) and Items 51–52 (barrier type and value) in Table S2.1(1) of the Rules, or substantially equivalent information; and
  - (b) Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a ‘universal transaction identifier’ or a ‘single transaction identifier’,



subject to the Bank reporting a Trade Identifier within the meaning of paragraph 26 of this instrument.

**Exemption 7 (Position reporting)**

23. The Bank does not have to comply with paragraph 2.2.1(1)(b) of the Rules and the conditions in paragraphs 5(b), 8(a)(ii) and 11(b) of this instrument, to the extent that paragraph or those conditions require the Bank to report, for a Reportable Position, the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules to a Licensed Repository by or on 1 October 2014.
24. It is a condition of the exemption in paragraph 23 that the Bank report, for the Reportable Position, information (*Substantially Equivalent Information*) that is substantially equivalent to the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, and reports the Substantially Equivalent Information:
- (a) to a Licensed Repository by or on 1 October 2014; and
  - (b) otherwise in accordance with the Rules as if the Substantially Equivalent Information was information reported under paragraph 2.2.1(1)(b) of the Rules.

**Exemption 8 (Trade identifiers)**

25. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report, for a Reportable Transaction, Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a 'universal transaction identifier' or a 'single transaction identifier'.
26. It is a condition of the exemption in paragraph 25 that the Bank report, for the Reportable Transaction:
- (a) the trade identifier created by the Swap Execution Facility on which the Reportable Transaction was executed (if applicable);
  - (b) the trade identifier created by the provider of any of the Confirmation Platforms on which the Reportable Transaction was confirmed (if applicable); or
  - (c) if the information in paragraphs (a) and (b) is not available, the internal trade identifier used by the Reporting Counterparty,
- (each, a *Trade Identifier*) and reports the Trade Identifier otherwise in accordance with the Rules as if the Trade Identifier was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).

**Exemptions 1 to 8 – Other conditions (Record-keeping)**

27. It is condition of this instrument that the Bank must:
- (a) keep records that enable the Bank to demonstrate it has complied with the conditions in paragraphs 5, 8, 11, 16, 19, 21, 24 and 26 of this instrument;
  - (b) keep the records referred to in paragraph (a) for a period of at least five years from the date the record is made or amended; and
  - (c) on request by ASIC, provide ASIC with records or other information relating to compliance with or determining whether there has been compliance with the

conditions in paragraphs 5, 8, 11, 16, 19, 21, 24 and 26 of this instrument, within the time specified in the request or if no time is specified, within a reasonable time.

28. A request by ASIC under paragraph 27(c) must be in writing and give the Bank a reasonable time to comply.

#### **Exemptions 1 to 8 – Interaction between exemptions**

29. Each exemption in this instrument operates on its terms and does not limit the operation of any other exemption in this instrument.

#### **Interpretation**

30. In this instrument:

*ASIC Taxonomy* means the Derivative asset classes and products to which the Rules apply, as set out in Table 2 of the Appendix (Derivative asset classes and products) to ASIC Regulatory Guide 251 *Derivative transaction reporting* (RG 251).

*CEA* means the *Commodity Exchange Act 1936* (US).

*CFTC Swap* means a ‘swap’ as defined in section 1a(47) of the CEA and includes:

- (a) an ‘FX forward’ as defined in section 1a(24) of the CEA; and
- (b) an ‘FX swap’ as defined in the section 1a(25) of the CEA.

*Confirmation Platform* means an electronic trade confirmation platform and includes, without limitation, MarkitWire, DSMatch, ICE Link and ICE eConfirm.

*Credit Derivative* means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Credit derivatives”.

*DSMatch* means the electronic trade confirmation platform provided by MarkitSERV and known as “DSMatch”.

*Equity Derivative* means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Equity derivatives”.

*Exempt Derivative (Carbon)* means an OTC Derivative where the underlying is one of the following:

- (a) CER - Certified Emission Reduction;
- (b) ERU - Emission Reduction Unit;
- (c) EUA - EU Allowance;
- (d) RMU - Removal Unit;
- (e) NZU - NZ Unit;
- (f) PAAU - PFSI Assigned Amount Unit;
- (g) ACU - Australian Carbon Unit;
- (h) ACCU - Australian Carbon Credit Unit;

- (i) LGC - Large-scale Generation Certificate; or
- (j) STC - Small-scale Technology Certificate.

**ICE eConfirm** means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as “ICE eConfirm”.

**ICE Link** means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as “ICE Link”.

**Identifying Information** means Derivative Trade Data referred to in the following table, or substantially equivalent information:

Table in Rules	Items in Table
Table S2.1(1) (Derivative Transaction Information - Common data)	7, 8, 10 and 11
Table S2.1(3) (Derivative Transaction Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.1(5) (Derivative Transaction Information - Interest rate derivative data)	6, 7, 8, 9, 10 and 11
Table S2.2(1) (Derivative Position Information - Common data)	6, 7, 8 and 9
Table S2.2(3) (Derivative Position Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.2(5) (Derivative Position Information - Interest rate derivative data)	5, 6, 7, 8, 9 and 10

**Interest Rate (Exotic) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, where the “Base Product” corresponds to “Exotic”.

**Interest Rate (Vanilla) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, other than an Interest Rate (Exotic) Derivative.

**ISDA Taxonomy** means the standardised taxonomy for Derivatives developed by the International Swaps and Derivatives Association (ISDA).

Note: See ISDA, *OTC taxonomies*, [www2.isda.org/identifiers-and-otc-taxonomies/](http://www2.isda.org/identifiers-and-otc-taxonomies/).

**MarkitSERV** means MarkitSERV LLC.

**MarkitWire** means the electronic trade confirmation platform provided by MarkitSERV and known as “MarkitWire”.

**Non-CFTC Swap** means an OTC Derivative that is not a CFTC Swap.



**Non-U.S. person** means any person that is not a “U.S. person” within the meaning of the “Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations” issued by the Commodity Futures Trading Commission on 12 July 2013 in respect of the cross-border application of the swaps provisions of Title VII of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

**Relevant Foreign Jurisdiction** means each of the following foreign jurisdictions:

- (a) Algeria;
- (b) Argentina;
- (c) Austria;
- (d) Bahrain;
- (e) Belgium;
- (f) France;
- (g) Hungary;
- (h) India;
- (i) Indonesia;
- (j) Luxembourg;
- (k) Pakistan;
- (l) People’s Republic of China;
- (m) Samoa;
- (n) Singapore;
- (o) South Korea;
- (p) Switzerland; and
- (q) Taiwan.

**Reportable Position** has the meaning given by the Rules and in paragraphs 23 and 24 of this instrument includes an outstanding position in an:

- (a) Exempt (Non-CFTC) Derivative referred to in the condition in paragraph 5(b) of this instrument;
- (b) Exempt Derivative (Middleware) referred to in the condition in paragraph 8(a)(ii) of this instrument; and
- (c) Exempt Derivative (Carbon) referred to in the condition in paragraph 11(b) of this instrument.

**Single-Name CDS** means an OTC Derivative referred to in the ASIC Taxonomy that is in the “Asset class” of “Credit derivatives” and with the “Products that must reported” description of “Single name”.

**Swap Execution Facility** means a ‘swap execution facility’ as defined in section 1a(50) of the CEA.

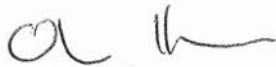
**Trade Repository** means a Licensed Repository or Prescribed Repository.

31. In this instrument, unless otherwise specified, capitalised terms have the meaning given by the Rules.

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13 - 1177

Dated this 30<sup>th</sup> day of September 2013



Signed by Oliver Harvey  
as a delegate of the Australian Securities and Investments Commission

13/1178

**Australian Securities and Investments Commission  
Corporations Act—Paragraph 907D(2)(a)—Exemption**

**Enabling legislation**

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 907D(2)(a) of the *Corporations Act 2001 (Act)*.

**Title**

2. This instrument is ASIC Instrument [13/1178].

**Commencement**

3. This instrument commences on 1 October 2013.

**Exemption 1 (Non-CFTC Swaps)**

4. Macquarie Bank Limited (ACN 008 583 542) (the *Bank*) does not have to comply with:
  - (a) paragraphs 2.2.1(1)(a) and (c) of the *ASIC Derivative Transaction Rules (Reporting) 2013 (Rules)* to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt (Non-CFTC) Derivative*) referred to in column A of Table 1, during the corresponding period set out in column B of Table 1; and
  - (b) paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt (Non-CFTC) Derivative as at 1 October 2013, by the applicable Position Reporting Date.
5. It is a condition of the exemption set out in paragraph 4 that the Bank must report in accordance with the Rules:
  - (a) information about each of its Reportable Transactions in the Exempt (Non-CFTC) Derivative starting from no later than the corresponding date (*Revised Reporting Date*) set out in column C of Table 1; and
  - (b) the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt (Non-CFTC) Derivative as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt (Non-CFTC) Derivative, to a Licensed Repository by or on 1 October 2014.

**Table 1**

A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swap that is a Single-Name CDS	From 1 October 2013 to 22 December 2013 (inclusive)	23 December 2013
Non-CFTC Swaps other than Single-Name CDS and Equity Derivatives	From 1 October 2013 to 30 June 2014 (inclusive)	1 July 2014



A. Exempt (Non-CFTC) Derivative	B. Period of exemption	C. Revised Reporting Date
Non-CFTC Swaps that are Equity Derivatives	From 1 October 2013 to 30 September 2014 (inclusive)	1 October 2014

### Exemption 2 (Reporting through middleware provider)

6. The Bank does not have to comply with:
- paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction in an OTC Derivative (*Exempt Derivative (Middleware)*) referred to in column A of Table 2, during the corresponding period set out in column B of Table 2; and
  - paragraph 2.2.1(1)(b) of the Rules to the extent that paragraph requires the Bank to report information about a Reportable Position in an Exempt Derivative (Middleware) as at 1 October 2013, by the applicable Position Reporting Date.
7. The exemption in paragraph 6 applies in the case where:
- the counterparty to the Exempt Derivative (Middleware) is a Non-US Person; and
  - the Bank intends to report its Reportable Transactions in the Exempt Derivative (Middleware) to a Trade Repository through the corresponding Confirmation Platform set out in column C of Table 2, from the corresponding date (*Revised Reporting Date*) set out in column D of Table 2.
8. It is a condition of the exemption set out in paragraph 6 that the Bank:
- must report in accordance with the Rules:
    - information about each of its Reportable Transactions in the Exempt Derivative (Middleware) starting from no later than the Revised Reporting Date; and
    - the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, about each of its outstanding positions in the Exempt Derivative (Middleware) as at the Revised Reporting Date or such earlier date as the Bank starts to report its Reportable Transactions in the Exempt Derivative (Middleware), to a Licensed Repository by or on 1 October 2014; and
  - must use all reasonable endeavours to ensure the Confirmation Platform continues the development work necessary to facilitate compliance by the Bank with the condition in paragraph (a).

**Table 2**

A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
An Interest Rate (Vanilla) Derivative	From 1 October 2013 to 26 January 2014 (inclusive)	MarkitWire	27 January 2014
An Interest Rate (Exotic) Derivative	From 1 October 2013 to 2 March 2014 (inclusive)	MarkitWire	3 March 2014

A. Exempt Derivative (Middleware)	B. Period of exemption	C. Confirmation Platform	D. Revised Reporting Date
A Credit Derivative	From 1 October 2013 to 22 December 2013 (inclusive)	DSMatch	23 December 2013
An Equity Derivative	From 1 October 2013 to 4 May 2014 (inclusive)	MarkitWire	5 May 2014
An ICE Commodity Derivative	From 1 October 2013 to 30 March 2014 (inclusive)	ICE eConfirm	31 March 2014
A Credit Derivative	From 1 October 2013 to 30 March 2014 (inclusive)	ICE Link	31 March 2014

### Exemption 3 (Exchange-traded derivatives)

9. From 1 October 2013 to 2 March 2015 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report a Reportable Transaction or Reportable Position in relation to a Derivative where:
- the Derivative is able to be traded (within the meaning of section 761A of the Act) on a Relevant Financial Market; and
  - the entry into of the arrangement that is the Derivative takes place on the Relevant Financial Market.
10. For the purposes of the exemption in paragraph 9, and subject to paragraph 11, each of the following financial markets is a **Relevant Financial Market**:
- BSE Limited (Bombay Stock Exchange);
  - Borsa Istanbul;
  - Bursa Malaysia;
  - CEGH Gas Exchange of Vienna Stock Exchange;
  - Chicago Mercantile Exchange;
  - China Financial Futures Exchange;
  - Dalian Commodities Exchange;
  - Dubai Gold & Commodities Exchange;
  - Dubai Mercantile Exchange;
  - EPEX Spot SE;
  - European Energy Exchange;
  - European Exchange;
  - HUPX Ltd Hungarian Power Exchange;
  - ICE Endex;
  - Jakarta Futures Exchange;
  - Johannesberg Stock Exchange;
  - Korea Exchange;
  - LCH Enclear - OTC Emissions;
  - LCH Enclear - OTC Freight FCM;
  - LCH Enclear - OTC Freight;
  - LCH Enclear - Precious Metals;
  - Mexican Derivatives Exchange;
  - Minneapolis Grain Exchange;
  - Moscow Stock Exchange;



- (y) NASDAQ OMX Armenia;
- (z) NASDAQ OMX Iceland;
- (aa) National Stock Exchange of India;
- (bb) New York Board of Trade;
- (cc) New Zealand Exchange;
- (dd) Nodal Exchange;
- (ee) NYSE Arca Europe;
- (ff) Power Exchange Central Europe;
- (gg) Powernext;
- (hh) South African Futures Exchange (SAFEX);
- (ii) Taiwan Futures Exchange;
- (jj) The Stock Exchange of Thailand;
- (kk) Tokyo Commodity Exchange; and
- (ll) Tokyo Financial Exchange.

11. A financial market is not a Relevant Financial Market for the purposes of paragraphs 9 and 10 if ASIC determines that the financial market is a Regulated Foreign Market for the purposes of subrule 1.2.4(2) of the Rules and such determination has not been withdrawn.

**Exemption 4 (Privacy – Foreign privacy restrictions)**

12. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is of the reasonable view that the Bank would breach a law or regulation of a Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository;
  - (b) the Bank has a written opinion of external legal counsel that supports the view referred to in paragraph (a); and
  - (c) the Bank is reasonably satisfied that the law or regulation the subject of the written legal opinion referred to in paragraph (b) has not changed in any relevant respect since the date the opinion was issued.
13. It is a condition of the exemption in paragraph 12 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) as soon as reasonably practicable after the Bank becomes reasonably satisfied that the Bank would no longer breach the law or regulation of the Relevant Foreign Jurisdiction if the Bank reported the Identifying Information to the Trade Repository, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired; and



- (c) the Bank must, on request by ASIC and as soon as reasonably practicable following such request, give ASIC a copy of the written legal opinion referred to in paragraph 12(b) in respect of the Relevant Foreign Jurisdiction.

**Exemption 5 (Privacy – Counterparty consents and notices)**

14. For the period specified in paragraph 15, the Bank does not have to comply with Rule 2.2.1 of the Rules to the extent that Rule requires the Bank to report Identifying Information in relation to a Reportable Transaction or Reportable Position to a Trade Repository, where at the time the Identifying Information is required to be reported:
- (a) the Bank is required to:
    - (i) obtain the express consent (*Consent*) of the counterparty (*Relevant Counterparty*) to which the Identifying Information relates before it reports the Identifying Information to the Trade Repository; or
    - (ii) give the Relevant Counterparty a notice (*Notice*) before it reports the Identifying Information to the Trade Repository;
  - (b) if the Bank does not obtain the Consent or give the Notice before it reports the Identifying Information to the Trade Repository, the Bank may breach:
    - (i) a duty of confidence owed by the Bank to the Relevant Counterparty which is actionable at law by the Relevant Counterparty;
    - (ii) a contractual duty owed by the Bank to the Relevant Counterparty; or
    - (iii) a provision of a law or regulation of a foreign jurisdiction that applies to the Bank in its dealings with the Relevant Counterparty; and
  - (c) the Bank has not obtained the Consent of the Relevant Counterparty, or has not given the Relevant Counterparty the Notice (as applicable).
15. The exemption in paragraph 14 applies from 1 October 2013 to the earlier of 1 April 2014 and the date the Bank obtains the Consent of the Relevant Counterparty, or gives the Relevant Counterparty the Notice (as applicable).
16. It is a condition of the exemption in paragraph 14 that:
- (a) the Bank reports all Derivative Transaction Information in relation to the Reportable Transaction or all Derivative Position Information in relation to the Reportable Position (as applicable) other than the Identifying Information, in accordance with the Rules;
  - (b) the Bank must use all reasonable endeavours to obtain the Consent from, or give the Notice to, the Relevant Counterparty, as soon as reasonably practicable; and
  - (c) as soon as reasonably practicable after the Relevant Counterparty gives the Consent, or is given the Notice, the Bank must use all reasonable endeavours to report the Identifying Information to the Trade Repository to which the Reportable Transaction or Reportable Position was reported, unless the OTC Derivative the subject of the Reportable Transaction or Reportable Position has been terminated or has expired.

**Exemption 6 (Intra-day modification reporting)**

17. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report information about a Reportable Transaction that is a modification of an OTC Derivative (*Relevant OTC Derivative*) on a day (the *Relevant Day*), to a Trade Repository by no later than the end of the next Business Day following the Relevant Day.
18. It is a condition of the exemption in paragraph 17 that the Bank report, for the Relevant OTC Derivative, information (*State Data*) about the Relevant OTC Derivative that is the same as, or substantially equivalent to, the Derivative Transaction Information set out in Part S2.1 of Schedule 2 of the Rules, and reports the State Data to a Trade Repository:
- (a) as at the end of the Relevant Day, by no later than the end of the next Business Day following the Relevant Day; and
  - (b) otherwise in accordance with the Rules as if the State Data was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).
19. The Bank is not required to comply with the condition in paragraph 18 to the extent that condition requires the Bank to report:
- (a) the Derivative Transaction Information in Items 30–32 (mark-to-market, mark-to-model, or other valuation), Items 40–44 (collateral) and Items 51–52 (barrier type and value) in Table S2.1(1) of the Rules, or substantially equivalent information; and
  - (b) Derivative Transaction Information referred to in Item 1 of Table S2.1(1) of the Rules that is a ‘universal transaction identifier’ or a ‘single transaction identifier’, subject to the Bank reporting a Trade Identifier within the meaning of paragraph 23 of this instrument.

#### **Exemption 7 (Position reporting)**

20. The Bank does not have to comply with paragraph 2.2.1(1)(b) of the Rules and the conditions in paragraph 5(b) and paragraph 8(a)(ii) of this instrument, to the extent that paragraph or those conditions require the Bank to report, for a Reportable Position, the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules to a Licensed Repository by or on 1 October 2014.
21. It is a condition of the exemption in paragraph 20 that the Bank report, for the Reportable Position, information (*Substantially Equivalent Information*) that is substantially equivalent to the Derivative Position Information set out in Part S2.2 of Schedule 2 of the Rules, and reports the Substantially Equivalent Information:
- (a) to a Licensed Repository by or on 1 October 2014; and
  - (b) otherwise in accordance with the Rules as if the Substantially Equivalent Information was information reported under paragraph 2.2.1(1)(b) of the Rules.

#### **Exemption 8 (Trade identifiers)**

22. From 1 October 2013 to 30 September 2014 (inclusive), the Bank does not have to comply with paragraphs 2.2.1(1)(a) and (c) of the Rules to the extent those paragraphs require the Bank to report, for a Reportable Transaction, Derivative Transaction



Information referred to in Item 1 of Table S2.1(1) of the Rules that is a 'universal transaction identifier' or a 'single transaction identifier'.

23. It is a condition of the exemption in paragraph 22 that the Bank report, for the Reportable Transaction:
- (a) the trade identifier created by the Swap Execution Facility on which the Reportable Transaction was executed (if applicable);
  - (b) the trade identifier created by the provider of any of the Confirmation Platforms on which the Reportable Transaction was confirmed (if applicable); or
  - (c) if the information in paragraphs (a) and (b) is not available, the internal trade identifier used by the Reporting Counterparty,
- (each, a *Trade Identifier*) and reports the Trade Identifier otherwise in accordance with the Rules as if the Trade Identifier was information reported under paragraph 2.2.1(1)(a) or (c) of the Rules (as applicable).

#### Exemptions 1 to 8 – Other conditions (Record-keeping)

24. It is condition of this instrument that the Bank must:
- (a) keep records that enable the Bank to demonstrate it has complied with the conditions in paragraphs 5, 8, 13, 16, 18, 21 and 23 of this instrument;
  - (b) keep the records referred to in paragraph (a) for a period of at least five years from the date the record is made or amended; and
  - (c) on request by ASIC, provide ASIC with records or other information relating to compliance with or determining whether there has been compliance with the conditions in paragraphs 5, 8, 13, 16, 18, 21 and 23 of this instrument, within the time specified in the request or if no time is specified, within a reasonable time.
25. A request by ASIC under paragraph 24(c) must be in writing and give the Bank a reasonable time to comply.

#### Exemptions 1 to 8 – Interaction between exemptions

26. Each exemption in this instrument operates on its terms and does not limit the operation of any other exemption in this instrument.

#### Interpretation

27. In this instrument:

*ASIC Taxonomy* means the Derivative asset classes and products to which the Rules apply, as set out in Table 2 of the Appendix (Derivative asset classes and products) to ASIC Regulatory Guide 251 *Derivative transaction reporting* (RG 251).

*CEA* means the *Commodity Exchange Act 1936* (US).

*CFTC Swap* means a 'swap' as defined in section 1a(47) of the CEA and includes:

- (a) an 'FX forward' as defined in section 1a(24) of the CEA; and
- (b) an 'FX swap' as defined in the section 1a(25) of the CEA.



**Confirmation Platform** means an electronic trade confirmation platform and includes, (without limitation), MarkitWire, DSMatch, ICE Link and ICE eConfirm.

**ICE Commodity Derivative** means a Derivative set out in the following Table reported through ICE eConfirm to ICE Trade Vault:

Market ID	Market Name
1	Financial Oil
2	Financial Natural Gas
3	Physical Natural Gas
4	Physical Power
5	Financial Power
16	Financial Natural Gas Liquids
17	UK Financial Natural Gas
18	UK Financial Power
20	Financial Coal
23	Continental Financial Natural Gas
24	Continental Financial Power

**Credit Derivative** means an OTC Derivative referred to in the ASIC Taxonomy that is in the "Asset class" of "Credit derivatives".

**DSMatch** means the electronic trade confirmation platform provided by MarkitSERV and known as "DSMatch".

**Equity Derivative** means an OTC Derivative referred to in the ASIC Taxonomy that is in the "Asset class" of "Equity derivatives".

**ICE eConfirm** means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as "ICE eConfirm".

**ICE Link** means the electronic trade confirmation platform provided by IntercontinentalExchange, Inc and known as "ICE Link".

**Identifying Information** means Derivative Trade Data referred to in the following table, or substantially equivalent information:

Table in Rules	Items in Table
Table S2.1(1) (Derivative Transaction Information - Common data)	7, 8, 10 and 11

Table in Rules	Items in Table
Table S2.1(3) (Derivative Transaction Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.1(5) (Derivative Transaction Information - Interest rate derivative data)	6, 7, 8, 9, 10 and 11
Table S2.2(1) (Derivative Position Information - Common data)	6, 7, 8 and 9
Table S2.2(3) (Derivative Position Information - Equity derivative and credit derivative data)	1, 2, 3 and 4
Table S2.2(5) (Derivative Position Information - Interest rate derivative data)	5, 6, 7, 8, 9 and 10

**Interest Rate (Exotic) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, where the “Base Product” corresponds to “Exotic”.

**Interest Rate (Vanilla) Derivative** means an OTC Derivative within the “Interest Rate” asset class in the ISDA Taxonomy, other than an Interest Rate (Exotic) Derivative.

**ISDA Taxonomy** means the standardised taxonomy for Derivatives developed by the International Swaps and Derivatives Association (ISDA).

Note: See ISDA, *OTC taxonomies*, [www2.isda.org/identifiers-and-otc-taxonomies/](http://www2.isda.org/identifiers-and-otc-taxonomies/).

**MarkitSERV** means MarkitSERV LLC.

**MarkitWire** means the electronic trade confirmation platform provided by MarkitSERV and known as “MarkitWire”.

**Non-CFTC Swap** means an OTC Derivative that is not a CFTC Swap.

**Non-U.S. person** means any person that is not a “U.S. person” within the meaning of the “Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations” issued by the Commodity Futures Trading Commission on 12 July 2013 in respect of the cross-border application of the swaps provisions of Title VII of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

**Relevant Foreign Jurisdiction** means each of the following foreign jurisdictions:

- (a) Algeria;
- (b) Argentina;
- (c) Austria;
- (d) Bahrain;
- (e) Belgium;
- (f) France;
- (g) Hungary;
- (h) Indonesia;

- (i) India;
- (j) Luxembourg;
- (k) Pakistan;
- (l) People's Republic of China;
- (m) Samoa;
- (n) Singapore;
- (o) South Korea;
- (p) Switzerland; and
- (q) Taiwan.

**Reportable Position** has the meaning given by the Rules and in paragraphs 20 and 21 of this instrument includes an outstanding position in an:

- (a) Exempt (Non-CFTC) Derivative referred to in the condition in paragraph 5(b) of this instrument; and
- (b) Exempt Derivative (Middleware) referred to in the condition in paragraph 8(a)(ii) of this instrument.

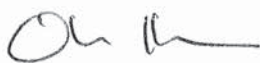
**Single-Name CDS** means an OTC Derivative referred to in the ASIC Taxonomy that is in the "Asset class" of "Credit derivatives" and with the "Products that must reported" description of "Single name".

**Swap Execution Facility** means a 'swap execution facility' as defined in section 1a(50) of the CEA.

**Trade Repository** means a Licensed Repository or Prescribed Repository.

28. In this instrument, unless otherwise specified, capitalised terms have the meaning given by the Rules.

Dated this 30<sup>th</sup> day of September 2013



Signed by Oliver Harvey  
as a delegate of the Australian Securities and Investments Commission