

Joint FIA and ISDA response to the Quarterly FCA Consultation No.16 (CP17/6) on proposed changes to the Market Conduct sourcebook relating to ESMA guidelines on commodity derivatives

28 April 2017

The Futures Industry Association (“FIA”) and the International Swaps and Derivatives Association (“ISDA”), are pleased to provide comments to the FCA’s Consultation Paper on Changes to the UK Market Conduct Sourcebook relating to ESMA guidelines on commodity derivatives, in particular on information expected or required to be disclosed on commodity derivatives markets or related spot markets under the Market Abuse Regulation (ESMA/2016/1480) (the “ESMA Guidelines”). We appreciate the FCA’s desire to engage with participants from within the commodity derivatives markets in order to update the Market Conduct Sourcebook. We remain available to discuss this response in more detail.

Q3.1 Do you have any comments or suggestions relating to our proposed signposts to the ESMA guidelines in MAR 1.2.19AG and MAR 1.3.24G?

We agree with the FCA’s proposals to include two signposts within 1.2.19AG and 1.3.24G of the FCA Market Conduct Sourcebook in relation to the ESMA Guidelines.

Our one concern is that the signposts under 1.2.19AG and 1.3.24G state “Issuers should be aware [of the ESMA Guidelines]”, whereas the ESMA Guidelines do not refer to an issuer. Instead, ESMA states in Art 1 of the ESMA Guidelines that they apply to Competent Authorities and market participants, which comprise investors, financial intermediaries, operators of trading venues and persons professionally executing transactions in commodity derivatives.

We understand the purpose of the proposed changes to the FCA’s Market Conduct Sourcebook is to mirror the ESMA Guidelines, which apply to all market participants. Therefore, we suggest the reference to issuers is removed so that 1.2.19AG and 1.3.24G read:

“[Persons should be aware that] ESMA has issued guidelines under article 7(5) of the Market Abuse Regulation which relate to the definition of inside information in the context of commodity derivatives. The guidelines are available at <https://www.esma.europa.eu/document/mar-guidelines-commodity-derivatives>.”

Q3.1 Do you have any other comments or suggestions regarding our changes to align the Handbook with the commodity derivative guidelines?

We have no further comments.

Do you have any comments or suggestions on our proposed amendments to MAR 1.3.21G and MAR 1.3.23G?

We agree with the proposed amendments.



About ISDA

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

About FIA

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in London, Singapore and Washington, D.C. FIA's membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from more than 48 countries as well as technology vendors, lawyers and other professionals serving the industry. More information is available on our website: www.fia.org.