

IGDL Market Regulation Advisory Notice

From	<i>ICAP Global Derivatives Ltd. ("IGDL")</i>
To	<i>All IGDL Market Participants</i>
Subject	<i>Breakage Agreements Prohibited</i>
Rule References	<i>204(k), 204(h)</i>
Notice Date	<i>6 February 2015</i>
Notice Number	<i>IGDL-2015-1</i>

As a reminder, IGDL Rule 204(k) prohibits breakage agreements for transactions in Cleared Contracts. Intentionally submitting a Bid/Offer, Request for Quote, or Pre-Arranged Cross with a breakage agreement for execution on IGDL for a swap that is intended to be cleared is a violation of IGDL Rule 204(k).

As discussed in IGDL Rule 204(h) and CFTC Staff guidance (see below), a swap that is intended to be cleared but is rejected for clearing by the Derivatives Clearing Organization is void *ab initio*. As such, the CFTC has determined that breakage agreements between market participants are unnecessary and a violation of impartial access to SEFs.

IGDL Facility Rulebook¹

Rule 204 (k) Breakage Agreements Prohibited.

"Participants and Customers are prohibited from requiring a Breakage Agreement from any other Participant or Customer as a condition of trading with that other Participant or Customer."

CFTC Guidance²

Restrictions Relating to Intended-To-Be-Cleared Swaps, Footnote 3, November 14, 2013

"The Divisions understand that some SEFs are permitting the enforcement of legacy breakage agreements, while others are incorporating breakage provisions into their rulebooks. The Divisions clarify that all such agreements and provisions as applied to [Intended-To-Be-Cleared] swaps are inconsistent with the CEA and the Commission's regulations."

Staff Guidance on Swaps Straight-Through Processing, September 26, 2013

"...This combination of rarity and minimal financial exposure to the parties obviates the need to have so-called 'breakage agreements' between market participants. The imposition of such agreements would be an impairment to impartial access to SEFs.

Accordingly, the Divisions expect DCMs and SEFs to have rules stating that trades that are rejected from clearing are void *ab initio*. Further, DCMs, SEFs, FCMs, and swap dealers should not require breakage agreements as a condition for access to trading on a SEF or DCM."

Contact

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¹ The IGDL rule references are from IGDL Facility Rulebook Version 1.8 (October 2014). The most recent version of the IGDL rulebook can be found at: <http://www.icap.com/what-we-do/global-broking/sef.aspx>

² The CFTC guidance is from two CFTC staff guidance letters published in 2013. The full letters can be found at: <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/stpguidance.pdf>
<http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/dmostaffguidance111413.pdf>