



August 21, 2013

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Inter-American Development Bank Comment on the Proposed Rules and Proposed Interpretations Entitled “Cross-Border Security-Based Swap Activities; Re-Proposal of Regulation SBSR and Certain Rules and Forms Relating to the Registration of Security-Based Swap Dealers and Major Security-Based Swap Participants” – Release No. 34-69490 – File Numbers S7-02-13, S7-34-10 and S7-40-11¹

Dear Ms. Murphy:

The Inter-American Development Bank (the “IDB” or the “Bank”) respectfully submits this comment letter to the Securities and Exchange Commission (the “Commission”) regarding implementation of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”). Specifically, this comment letter regards the above-referenced release (the “Cross-Border Release”). Reference is made to the comment letter dated August 21, 2013 on the Cross-Border Release submitted by the International Bank for Reconstruction and Development (the “IBRD”) and the International Finance Corporation (the “IFC”) to the Commission on behalf of all multilateral development institutions in which the United States is a member, among which the IDB is included (collectively, the “MDBs”).

We take this opportunity to endorse the comment letter of the IBRD and IFC on the Cross-Border Release, particularly with respect to their petition that (i) the Commission explicitly confirm that the MDBs will not be required to register as Security-Based Swap Dealers or Major Security-Based Swap Participants, or to clear security-based swaps, (ii) the proposed rules set forth in the Cross-Border Release be further clarified to ensure that the MDBs are not considered to be “U.S. persons” and that transactions between the MDBs and non-U.S., non-registrant counterparties are not considered to be “transactions conducted within the United States” for purposes of various requirements, regardless of the fact that some of the MDBs maintain their principal places of business in the United States, and (iii) affiliates of international organizations should be excluded from the definition of “U.S. person” in the proposed rules.

Because the Cross-Border Release raises important issues of policy and principle, the IDB believes that it is important to endorse the IBRD’s and IFC’s comments to the Commission. The IDB uses interest rate and currency swaps to manage market risk in its development operations. Although the IDB does not currently enter into security-based swaps or have affiliates, it may determine in the future that it would need to do so in order to fulfill its important public mandates.² Consequently, the regulatory framework that is established through the Commission’s rulemaking will have significant implications for the business initiatives that the IDB would be able to explore in order to fulfill its public purposes.

¹ 78 Fed. Reg. 30,968 (May 23, 2013).

² The Inter-American Development Bank Group consists of three distinct entities with their own legal status, assets and governance structure: the IDB, the Inter-American Investment Corporation (the “IIC”) and the Multilateral Investment Fund (the “MIF”). Each of the IDB and the IIC are public international organizations. The MIF is a trust fund under the administration of the IDB.

Moreover, the Commodity Futures Trading Commission (“CFTC”) has already determined that the MDBs will not be required to register as Swap Dealers or Major Swap Participants, nor be subject to swap clearing requirements.³ The CFTC also has explicitly recognized the importance of the privileges and immunities accorded to international financial institutions. The IDB shares the IBRD and IFC position that the Commission’s application of Title VII of the Dodd-Frank Act to the MDBs should be consistent with the CFTC’s approach.

We also wish to take this opportunity to provide the Commission with the following information about the IDB: (i) the IDB’s mission and governance, and (ii) the IDB’s privileges and immunities and the recognition of the same under U.S. law, in each instance for the Commission’s information and consideration.

1. The IDB’s Mission and Governance

The IDB is an international, intergovernmental organization established, owned and controlled by 48 sovereign member countries. The IDB’s mission is to contribute to the acceleration of the process of economic and social development of its regional developing member countries in Latin America and the Caribbean, individually and collectively.

The IDB achieves its mission by making loans and guarantees to governments, and to governmental entities, enterprises and development institutions of its developing member countries, to help meet their development needs. In the case of loans and guarantees to borrowers other than national governments or central banks, the IDB follows the policy of requiring a joint and several guarantee engaging the full faith and credit of the national government. Loans and guarantees may also be made directly to other eligible entities carrying out projects in the territories of developing member countries, including private sector entities or sub-sovereign entities, without a sovereign guarantee and in all sectors, provided they meet the IDB’s lending criteria. The IDB also provides financing to borrowing member countries for non-reimbursable and contingent recovery assistance that is aligned with its overall strategy for the region.

The IDB’s policies identify five sector priorities to work towards achieving its mission:

- Social policy for equity and productivity;
- Infrastructure for competitiveness and social welfare;
- Institutions for growth and social welfare;
- Competitive regional and global international integration; and
- Protection of the environment, response to climate change, promotion of renewable energy and ensuring food security.

As an international, intergovernmental organization, the IDB’s sovereign shareholders manage the institution on a collective governance basis. The United States is the largest IDB shareholder. All the powers of the IDB are vested in a Board of Governors, which consists of one Governor and one Alternate Governor appointed by each member country. The IDB Board of Executive Directors consists of 14 Directors: one appointed by the United States, one appointed by Canada, three elected by the Governors for the non-regional member countries, and the remaining nine elected by the Governors for the regional borrowing member countries. The Board of Executive Directors has been delegated all the powers to oversee the management of the institution except for certain powers reserved to the Governors under the IDB Charter (as defined and referenced below).

³ 77 Fed. Reg. 30,596, 30,693 (May 23, 2012).

2. The IDB's Privileges and Immunities are Recognized under U.S. Law

As with the IBRD, IFC and the other MDBs, the sovereign members of the IDB granted certain privileges and immunities to the IDB in the IDB's constituent treaty, the Agreement Establishing the Inter-American Development Bank (the "IDB Charter").⁴

The IDB Charter includes the following provisions:

- "No action shall be brought against the Bank by members or persons acting for or deriving claims from members." IDB Charter, Article XI, Section 3;
- "Property and assets of the Bank, wheresoever located and by whomsoever held, shall be considered public international property and shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action." IDB Charter, Article XI, Section 4;
- "The Archives of the Bank shall be inviolable." IDB Charter, Article XI, Section 5;
- "To the extent necessary to carry out the purpose and functions of the Bank and to conduct its operations in accordance with this Agreement, all property and other assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature, except as may otherwise be provided in this Agreement." IDB Charter, Article XI, Section 6;
- "The Bank, its property, other assets, income, and the operations and transactions it carries out pursuant to this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from any obligation relating to the payment, withholding or collection of any tax, or duty." IDB Charter, Article XI, Section 9(a); and
- "No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held: (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank, or (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank." IDB Charter, Article XI, Section 9(d).

In addition to embodying these privileges and immunities in the IDB Charter, the IDB's member governments agreed to accept and implement these privileges and immunities in domestic law. Article XI, Section 10 of the IDB Charter provides that "[e]ach member, in accordance with its juridical system, shall take such action as is necessary to make effective in its own territories the principles set forth in this article, and shall inform the Bank of the action which it has taken on the matter."

Under U.S. law, the Inter-American Development Bank Act, codified at 22 U.S.C. § 283g, provides that "the provisions of . . . article XI, sections 2 to 9, both inclusive, of the agreement, shall have full force and effect in the United States, its Territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in, and the establishment of, the Bank."

In addition, the United States has adopted the International Organizations and Immunities Act (22 U.S.C. § 288) and the Foreign Sovereign Immunities Act (28 U.S.C. § 1602), both of which grant additional protections to the MDBs, including the IDB.

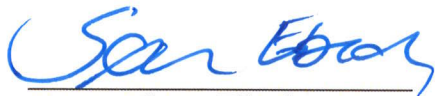
⁴ The IDB Charter is available online at <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=781584>

These statutory enactments reflect the fact that the IDB is an international, intergovernmental organization established and organized under international legal agreements and international law. The IDB is not organized under the laws of the United States or any other country. As with the IBRD and IFC, the IDB maintains its principal place of business in Washington, D.C., but this does not alter its legal character as an international, intergovernmental organization. The IDB is not a U.S. person, nor is it a U.S. resident, and, pursuant to the IDB Charter, its development activities are directed outside the United States. As a primary example, in the United States, the securities of the IDB are "exempted securities" under the Securities Act of 1933 and the Securities Act of 1934 pursuant to 22 U.S.C. § 283h.

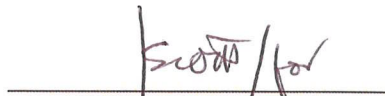
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In accordance with the comments submitted by the IBRD and IFC on the Cross-Border Release, the IDB respectfully requests that the Commission implement Title VII of the Dodd-Frank Act in a manner that (i) respects the privileges and immunities of the MDBs, (ii) does not impair the development effectiveness of the MDBs, and (iii) is consistent with the CFTC's recognition of the special status of the MDBs. The IDB welcomes any opportunity to discuss this comment letter with the Commission as it deems appropriate.

Sincerely yours,



Søren Elbech
Treasurer



Jorge Alers
General Counsel