

MEMORANDUM

TO: File
 FROM: Lindsay Kidwell
 RE: Meeting with Representatives from the International Swaps and Derivatives Association
 DATE: February 18, 2016

On June 9, 2015, Christopher Young of the International Swaps and Derivatives Association (“ISDA”) provided the data below at the request of staff of the Securities and Exchange Commission (“SEC”) regarding market participants that could be considered special entities under the Dodd-Frank Act’s external business conduct requirements:

PCA Type	Running count from year to year			Current
	12/31/2012	12/31/2013	12/31/2014	31-May
Special Entity Not ERISA	378	1,275	1,404	1,439
ERISA Special Entity	821	1,903	2,034	2,059
Swap Dealer	88	127	136	137
Other - none of the others apply	11,393	32,848	36,899	37,918
Total	12,680	36,153	40,473	41,553
SE Not ERISA Details				
Federal Agency	11	40	52	54
Endowment	83	245	258	268
Government Entity	47	317	368	379
Governmental Plan	234	586	649	658
Employee Exempt Plan	10	177	182	187
"Yes" to Special Entity	1,199	3,178	3,438	3,498
Percentage	9%	9%	8%	8%

Any entity that has selected Special Entity Not ERISA or ERISA Special Entity = Yes

On October 6, 2015, representatives of the SEC participated in a conference call with ISDA representatives. The SEC representatives on the call were Lourdes Gonzalez, Joanne Rutkowski, Lindsay Kidwell, Stacy Puente, and Diana Knyazeva. The ISDA representatives on the call were Christopher Young and Yanire Martes. During the call,

the SEC and ISDA representatives discussed issues related to the Commission’s business conduct proposal.

In response to the discussion, Ms. Martes provided additional data via email on October 7, 2015. The text of the email is copied below:

Following up on our conversation yesterday, below please find the ERISA representations under Title I of ERISA and CFTC Regulation 23.401 that are market participants can elect under the ISDA August 2012 DF Protocol:

- PCA Principal is an ERISA Special Entity - CFTC Regulation 23.401(c)(3).
- PCA Principal is a governmental plan, as defined in Section 3 of ERISA - CFTC Regulation 23.401(c)(4)
- PCA Principal is an endowment. (For purposes of this question, an “endowment” includes an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. § 501(c)(3).) - CFTC Regulation 23.401(c)(5)
- PCA Principal is an employee benefit plan defined in Section 3 of ERISA, not otherwise defined as a Special Entity (an “Exempt Plan”) that elects to be a Special Entity pursuant to CFTC Regulation 23.401(c)(6)

I would think this is comprehensive enough to cover all aspects of the statutory (and arguably any ambiguities), but kindly confirm that this is the angle you were inquiring about. We will then confirm other points regarding availability of reports with such granularity and consent for publication of any such information.

Pursuant to further discussions in late October 2015, Ms. Martes provided a spreadsheet, which is attached, that provided further statistical details from ISDA Amend on Special Entities that are designated as being “Not ERISA,” including data regarding (1) type of special entity not ERISA from ISDA August 2012 DF Protocol Questionnaire; and (2) broken down by non-US/US domicile of the entities.

After a telephone conversation with Cindy Oh and Diana Knyazeva of the SEC staff on December 14, 2015 and a follow up email from Cindy Oh on January 15, 2016, Ms. Martes provided the data below on February 2, 2016:

PCA Type	Running count from year to year			
	12/31/2012	12/31/2013	12/31/2014	12/31/2015
Special Entity Not ERISA	378	1,275	1,404	1,453
ERISA Special Entity	821	1,903	2,034	2,182
Swap Dealer	88	127	136	136
Other - none of the others apply	11,393	32,848	36,899	40,845
Total	12,680	36,153	40,473	44,616

SE Not ERISA Details				
Federal Agency	11	40	52	54
Endowment	83	245	258	276
Government Entity	47	317	368	403
Governmental Plan	234	586	649	664
Employee Exempt Plan	10	177	182	162

"Yes" to Special Entity	1,199	3,178	3,438	3,635
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Percentage	9%	9%	8%	8%
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Total: Special Entity Not ERISA on ISDA Amend

Non US	166
US	1,362

Types of SE not ERISA *	Breakdown	Entities
Employee Exemption Plan	EEP	184
	<i>Non US</i>	<i>77</i>
	<i>US</i>	<i>107</i>
Endowments	Endow	271
	<i>Non US</i>	<i>30</i>
	<i>US</i>	<i>241</i>
Federal Agency	FA	14
	<i>Non US</i>	<i>2</i>
	<i>US</i>	<i>12</i>
Government Entity	GE	393
	<i>Non US</i>	<i>27</i>
	<i>US</i>	<i>366</i>
Government Plan	GP	666
	<i>Non US</i>	<i>30</i>
	<i>US</i>	<i>636</i>
	Grand Total	1528

*Based on representations provided by ISDA Amend users to their Swap dealers under Part III section 7 of the ISDA Au
<http://www2.isda.org/functional-areas/protocol-management/protocol/8>

gust 2012 DF Protocol Questionnaire - as of 11/15/2015