

CFTC REPRESENTATION LETTER FOR SWAPS

The CFTC Swap Rules are complex. If you have any doubt or queries with regards to these rules and/or how this representation letter is to be completed, you should seek your own independent advice as BNP Paribas is not providing you with any such advice. The recipient requests information from you for purposes of determining Recipient's requirements for transacting in swaps with the entity you represent (the Named Entity). These activities may be subject to U.S. regulatory requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The Named Entity hereby makes the statements in each of the applicable part to this Representation Letter. Each such statement is intended to provide the Recipient with status information needed by Recipient to determine the application of U.S Swap Dealer regulatory requirements. The statements in this letter are solely for the purposes of such determinations.

(Capitalised terms used in this letter shall have the meaning awarded to them in Annex 1 to this Representation Letter.)

From: [X] (the Named Entity)

Counterparty reference: (account number...etc.)

To: [Name of Banking Entity belonging to BNP PARIBAS Group] (the Recipient)

Preamble:

The Named entity hereby represents that it is a Non U.S. Person and that it has no connection with the U.S, whether accounting, legal and/or financial within the meaning of the CFTC 2013 Cross-Border Guidance and/or of the CFTC Cross – Border 2020 Rules.

AND the Named Entity commits to notify the Recipient if there is a change of circumstances affecting its connection with the US in a timely manner in writing prior to entering into any Swap with the Recipient.

The above representation made in this Representation Letter shall be deemed repeated each time we enter into a Swap with the Named Entity unless we have notified you to the contrary in a timely manner in writing prior to entering into any Swap.

Executed and delivered with effect from:

Date: _____

Full legal name of Named Entity: _____

.....
Signature
Name of signatory:

.....
Signature
Name of signatory:

If the Names Entity has not signed the Representation letter above, it must make the statements in each of the applicable part to the Representation Letter below.



I. U.S. Person

➤ **Instructions :**

Please select one box in I. (A) U.S. Person - CFTC Cross-Border 2020 Rules **AND** one box in I. (B) U.S. Person - CFTC 2013 Cross-Border Guidance.

(A) U.S. Person - CFTC Cross-Border 2020 Rules

We hereby represent that:

- The Named Entity does not fall within any category of U.S. Person - CFTC 2020 Rules.
- The Named Entity falls within one or more categories of U.S. Person - CFTC 2020 Rules.

(B) U.S. Person - CFTC 2013 Cross-Border Guidance

We hereby represent that:

- The Named Entity does not fall within any of the U.S. Person category under the CFTC 2013 Guidance.
- The Name Entity falls within one of the U.S. Person category under the CFTC 2013 Guidance.

➤ **Instructions :**

- If you selected the first box of I. (A) U.S. Person – CFTC 2020 Rules, please select one box in II. (B) Swaps booked through a US Branch of Non-US Banking Organization **AND** one box in II. (C) (1) U.S. Guaranteed - CFTC 2020 Rules.
- If you selected the first box in I. (B) U.S. Person – CFTC 2013 Guidance, please select one box in II. (A) U.S. Affiliate Conduit – CFTC 2013 Guidance **AND** one in II. (B) Swaps booked through a US Branch of Non-US Banking Organization **AND** one box in II. (C) (1) U.S. Guaranteed - CFTC 2020 Rules **AND** one box in II (C) (2) U.S. Guaranteed – CFTC 2013 Rules, thereunder.
- If you selected the second box of I. (A) U.S. Person – CFTC 2020 Rules or I. (B) U.S. Person – CFTC 2013 Guidance, you do not need to answer any of the following statement.

II. U.S. Nexus Person

(A) U.S. Affiliate Conduit – CFTC 2013 Cross-Border Guidance

We hereby represent that:

- The Named Entity is not a U.S. Affiliate Conduit – CFTC 2013 Guidance.
- The Named Entity is a U.S. Affiliate Conduit – CFTC 2013 Guidance.

(B) US Branch of non-US Banking Organization - CFTC Cross – Border 2020 Rules

We hereby represent that:

- The Named Entity does not book any Swap through a US Branch of Non-US Banking Organization to which the Named Entity belongs - CFTC 2020 Rules.
- The Named Entity books some or all Swaps through a US Branch of Non-US Banking Organization to which the Named Entity belongs - CFTC 2020 Rules.



(C) U.S. Guaranteed

(1) U.S. Guaranteed - CFTC 2020 Cross-Border Rules

We hereby represent that:

- The Named Entity is not are a U.S. Guaranteed - CFTC 2020 Rules.
- The Named Entity is a U.S. Guaranteed - CFTC 2020 Rules.

(2) U.S. Guaranteed – CFTC 2013 Cross-Border Guidance

We hereby represent that:

- The Named Entity is not a U.S. Guaranteed – CFTC 2013 Guidance.
- The Named Entity is a U.S. Guaranteed – CFTC 2013 Guidance.

➤ **Instructions :**

- If you selected the second box in II. (C) (1) U.S. Guaranteed - CFTC 2020 Rules **AND/OR** the second box in II. (C) (2) U.S. Guaranteed – CFTC 2013 Guidance, please select one box in II. (D) Guarantee provided by one or more U.S. financial entities.
- If you selected the first box in II. (C) (1) U.S. Guaranteed - CFTC 2020 Rules **AND/OR** the first box in II. (C) (2) U.S. Guaranteed – CFTC 2013 Guidance, please select one box in II. (F) Significant Risk Subsidiary.
- If you selected the second box of II. (A) U.S. Affiliate Conduit – CFTC 2013 Cross-Border Guidance, please select one box in II (E) II. Swap Dealer Affiliate **AND** one box in II. (F) Significant Risk Subsidiary.
- If you selected the second box of II. (B) US Branch of non-US Banking Organization - CFTC Cross – Border 2020 Rules, you do not need to answer any of the following statement.

(D) Guarantee provided by one or more U.S. financial entities

Unless we have notified you to the contrary in a timely manner in writing prior to entering into a Swap, we hereby represent that:

- No financial entity, which is a U.S. Person – CFTC 2020 Rules, is providing a guarantee supporting our obligations to you in connection with the relevant Swap.
- One or more financial entities, which is a U.S. Persons – CFTC 2020 Rules is providing a guarantee supporting our obligations to you in connection with the relevant Swap.

➤ **Instructions :**

If you selected the second box in II. (D) Guarantee provided by one or more U.S. financial entities, please select one box in II. (E) Swap Dealer Affiliate thereunder.

(E) Swap Dealer Affiliate

We hereby represent that:

- The Named Entity is not a Swap Dealer Affiliate and does not enter into Swaps below the SD De Minimis Threshold.
- The Named Entity is a Swap Dealer Affiliate and enters into Swaps below the SD De Minimis Threshold.



(F) Significant Risk Subsidiary

We hereby represent that:

- The Named Entity is not a Significant Risk Subsidiary.
- The Named Entity is a Significant Risk Subsidiary.

All above representations made in this Representation Letter shall be deemed repeated each time the Recipient enters into a Swap with the Named Entity unless the Recipient has notified the Named Entity to the contrary in a timely manner in writing prior to entering into any Swap.

Executed and delivered with effect from:

Date: _____

Full legal name of Named Entity: _____

.....
Signature
Name of signatory:

.....
Signature
Name of signatory:

+

+



ANNEX 1 to the CFTC REPRESENTATION LETTER FOR SWAPS
- DEFINITIONS -

« **CFTC** »: Commodity Futures Exchange Commission of the United-States.

« **CFTC 2013 Guidance** » or « **CFTC 2013 Cross-Border Guidance** »: the « *Interpretative Guidance and Policy Statement Regarding Compliance With Certain Swap Regulations* » (78 Fed. Reg. 45292 (26 July 2013)).

« **CFTC 2020 Rules** » or « **CFTC 2020 Cross-Border Rules** » : the adopted CFTC rule: « *Cross-Border Application of the Registration Thresholds and Certain Requirements Applicable to Swap Dealers and Major Swap Participants* » (85 Fed. Reg. 56924 (14 September 2020)).

« **CFTC Swaps Rules** »: the rules, regulations, orders and interpretations adopted or issued by the CFTC, as in effect from time to time, that apply to Swaps and that are promulgated under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act or that are otherwise designated by the CFTC as being subject to the CFTC 2013 Guidance.

« **Non U.S. Person** »: any person who is neither a U.S. Person – CFTC 2013 Guidance nor a U.S. Person – CFTC 2020 Rules.

« **United-States** » or « **U.S.** »: the United-States, its States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and any other territories or possessions of the United States government, or enclave of the United States government, its agencies or instrumentalities.

« **Significant Risk Subsidiary** »: any subsidiary which is a Non U.S. Person and which is controlled, directly indirectly by a U.S. Person and which meets the following conditions:

- i) The three year rolling average of the subsidiary's equity capital is equal to or greater than five percent of the three year rolling average of the ultimate U.S. parent entity's consolidated equity capital, as determined in accordance with U.S. GAAP as of the end of the most recently completed fiscal year; or
- ii) The three year rolling average of the subsidiary's total revenue is equal to or greater than ten percent of the three year rolling average of the ultimate U.S. parent entity's total consolidated revenue, as determined in accordance with U.S. GAAP as of the end of the most recently completed fiscal year; or
- iii) The three year rolling average of the subsidiary's total assets is equal to or greater than ten percent of the three year rolling average of the ultimate U.S. parent entity's total consolidated assets, as determined in accordance with U.S. GAAP as of the end of the most recently completed fiscal year;
AND
- (x) Its ultimate U.S. parent entity has more than \$50 billion in global consolidated assets, as determined in accordance with U.S. GAAP at the end of the most recently completed fiscal year; and
- (y) The Non-U.S. Person is not subject to either:
 - a) consolidated supervision and regulation by the Federal Reserve Board as a subsidiary of a U.S. bank holding company or an intermediate holding company; or
 - b) both (i) capital standards and oversight by the non-U.S. person's home country regulator that are consistent with the Basel Committee on Banking Supervision's "International Regulatory Framework for Banks" ("Basel III") and (ii) margin requirements for uncleared swaps in a



jurisdiction that the Commission has found comparable pursuant to a published comparability determination with respect to uncleared swap margin requirements.

« **Swap** »: Subject to certain exclusions, any derivatives on currencies, interest and monetary rates, exempted securities (such as U.S. Treasuries but not municipal securities and certain foreign government securities), broad-based security indices and non-financial commodities (such as metals, energy, agricultural and environmental commodities). Any products which underlying is a security, a narrow-based equity index or a single loan may be as well Swaps. *See the U.S. regulatory definition is inserted in Paragraph 1a(47) of the Commodity Exchange Act.*

« **Swap Dealer** » ou « **SD** »: any person who is (i) holding itself out as a dealer in swaps or (ii) making a market in Swaps; or (iii) regularly entering into swaps with counterparties as an ordinary course of business for its own account; or (iv) engaging in activity causing itself to be commonly known in the trade as a dealer or market maker in Swaps. *See the U.S. regulatory definition in Paragraph 1a(49) du Commodity Exchange Act.*

« **SD De Minimis Threshold** »: the aggregate gross notional amount of Swaps conducted in connection with Swap dealing activity below which a person not currently registered as a Swap Dealer with the CFTC will not be considered a Swap Dealer in accordance with CFTC Rules.

« **Swap Dealer Affiliate** »: any person who directly or indirectly controls or is controlled, or is under common control with a Swap Dealer.

«**US Branch of Non-US Banking Organization – CFTC 2020 Rules**» : any branch or agency of a non in the U.S. registered banking organization where such branch or agency: (i) is located in the United States; (ii) maintains accounts independently of the home office and other U.S. branches, with the profit or loss accrued at each branch determined as a separate item for each U.S. branch; and (iii) engages in the business of banking and is subject to substantive banking regulation in the state or district where located.

« **U.S. Conduit Affiliate – CFTC 2013 Guidance** »:

- i) any Non U.S. Person which is a majority-owned affiliate of a U.S. Person; or
- ii) any Non U.S. Person which is controlling, controlled by or under common control with a U.S. Person; or
- iii) any Non U.S. Person which financial results are included in the consolidated financial statements of a U.S. Person;

AND

- (iv) any Non U.S. Person which, in the regular course of business, (i) engages in Swaps with a non-U.S. third party(ies) for the purpose of hedging or mitigating risks faced by, or (ii) takes positions on behalf of, its U.S. Person affiliate(s) and enters into offsetting Swaps or other arrangements with its U.S. Person affiliate(s) in order to transfer the risks and benefits of such Swaps with a third party(ies) to its U.S. Person affiliates.

« **U.S. Guaranteed –CFTC 2013 Guidance** »: any Non U.S. Person counterparty that is affiliated with, and whose Swap obligations are guaranteed by a U.S. Person. A guarantee generally includes any agreement or arrangement under which a person commits to provide a financial backstop or funding against potential losses.

« **U.S. Guaranteed – CFTC 2020 Rules** »: any Non U.S. Person which is guaranteed by a U.S. Person on the basis of an arrangement pursuant to which the other party to a swap has rights of recourse against a guarantor, with respect to the Non U.S. Person's obligations under the Swap. For these purposes, a



party to a swap has rights of recourse against a guarantor if the party has a conditional or unconditional legally enforceable right to receive or otherwise collect, in whole or in part, payments from the guarantor with respect to its counterparty's obligations under the swap. In addition, in the case of any arrangement pursuant to which the guarantor has a conditional or unconditional legally enforceable right to receive or otherwise collect, in whole or in part, payments from any other guarantor with respect to the counterparty's obligations under the swap, such arrangement will be deemed a guarantee of the counterparty's obligations under the swap by the other guarantor.

« U.S. Person – CFTC 2013 Guidance »:

- (i) any natural person who is a resident of the U.S.; or
- (ii) any estate of a decedent who was a resident of the U.S. at the time of death; or
- (iii) any corporation, partnership, limited liability company, business or other trust, association, joint-stock company, fund or any form of enterprise similar to any of the foregoing (other than an entity described in prongs (iv) or (v) below) (a "Legal Entity"), in each case that is organized or incorporated under the laws of a state or other jurisdiction in the U.S. or having its principal place of business in the U.S.; or
- (iv) any pension plan for the employees, officers or principals of a Legal Entity, unless the pension plan is primarily for foreign employees of such entity; or
- (v) any trust governed by the laws of a state or other jurisdiction in the U.S., if a court within the U.S. is able to exercise primary supervision over the administration of the trust; or
- (vi) any commodity pool, pooled account, investment fund or other collective investment vehicle that is not described in prong (iii) and that is majority owned by one or more persons described in prong (i), (ii), (iii), (iv), or (v), except any commodity pool, pooled account, investment fund, or other collective investment vehicle that is publicly offered only to Non-U.S. Entities and not offered to U.S. Persons; or
- (vii) any Legal Entity (other than a limited liability company, limited liability partnership or similar entity where all of the owners of the entity have limited liability) that is directly or indirectly majority-owned by one or more persons described in prong (i), (ii), (iii), (iv), or (v) and in which such person(s) bears unlimited responsibility for the obligations and liabilities of the Legal Entity; or
- (viii) any individual account or joint account (discretionary or not) where the beneficial owner (or one of the beneficial owners in the case of a joint account) is a person described in prong (i), (ii), (iii), (iv), (v), (vi), or (vii).

« U.S. Person - CFTC 2020 Rules »:

- (i) any natural person resident in the United States; or
- (ii) any partnership, corporation, trust, investment vehicle, or other legal person organized, incorporated, or established under the laws of the United States or having its principal place of business in the United States; or
- (iii) any account (whether discretionary or non-discretionary) of a U.S. Person; or
- (iv) any estate of a decedent who was a resident of the United States at the time of death.

