

ISDA and AFME Request for an Extension of Relief on Brexit-Related Novation

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On August 27, the International Swaps and Derivatives Association (ISDA) and the Association for Financial Markets in Europe (AFME) (together, the Joint Associations) wrote a letter (Letter) to the European Commission and the European Supervisory Authorities to express gratitude for the mitigation of the impact on both European Union (EU) and United Kingdom (UK) market participants, in anticipation of the UK's departure from the EU.

Commission Delegated Regulations (EU) 2019/564 and Commission Delegated Regulations 2019/565 (together, the Novation RTS) provide that the novation of non-centrally cleared over-the-counter (OTC) derivatives contracts for the sole purpose of replacing a counterparty established in the UK with a counterparty established in a Member State does not trigger margin or clearing obligations, as would normally be required. However, the relief under the Novation RTS is transitional and is only available for a period of 12 months from December 31. The Joint Associations have requested that the relief become applicable as soon as possible and remain available for the original 12 month period. The Joint Associations have also requested to have the Novation RTS extended, to permit relief "where non-centrally cleared OTC derivative contracts are novated for the sole purpose of replacing a counterparty established in the UK, or operating from the UK (emphasis added), with a counterparty established in a Member State." The requested change would enable Non-UK third country firms that have been supporting their business from the UK to novate their contracts to a European entity.

Commencing the relief period under the Novation RTS to be available as soon as possible would ensure that the Novation RTS achieves its intended objective if the transitional period under the withdrawal agreement comes to an end on December 31, without an agreement on the long-term relationship between the UK and EU.

The Letter is available, [here](#).

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