

APAC Monthly Update

March 2014

APAC Monthly Update summarizes important regulatory developments, meetings, committee activities and conferences in the region.

Regulatory Activities

Australia:

On March 24, ISDA participated in a panel discussion on OTC Derivatives Regulatory Reform at the ASIC Annual Forum in Sydney.

China:

On March 17, ISDA met with

- the China Banking Regulatory Commission in Beijing to discuss regulatory reforms regarding OTC derivatives and Key Attributes of Effective Resolution Regimes for Financial Institutions published by FSB in October 2011.
- the People's Bank of China in Beijing to discuss issues relating to mandatory central clearing which is scheduled to commence on July 1, 2014 in respect of local currency interest rate swaps.

On March 18, ISDA met with the China Securities Regulatory Commission to discuss issues relating to the US regulatory reforms on OTC derivatives and netting and collateral enforcement issues under Chinese law.

India:

On March 10, ISDA met with:

- the Department of Payment and Settlement Systems of the Reserve Bank of India to discuss developments relating to Article 25 of EMIR and ESMA recognition of third country central counterparties, the Report of the Implementation Group on OTC Derivatives Market Reforms as well as ongoing developments in the OTC derivatives markets.
- the Department of Banking Operations and Development of the Reserve Bank of India to discuss developments relating to Article 25 of EMIR and ESMA recognition of third country central counterparties, developments on achieving netting consistency, the Guidelines on Management of Intra-Group Transactions and Exposures, the Report of the Implementation Group on OTC Derivatives Market Reforms as well as ongoing developments in the OTC derivatives markets.
- the Internal Debt Management Department of the Reserve Bank of India to discuss the Report of the Implementation Group on OTC Derivatives Market Reforms, developments relating to Article 25 of

EMIR and ESMA recognition of third country central counterparties as well as ongoing developments in the OTC derivatives markets.

- FIMMDA to discuss developments relating to financial benchmarks in India including the Report of the Committee on Financial Benchmarks.

Committee/Working Group Activities

North Asia L&R

On March 25, ISDA held its L&R meeting in Hong Kong. Topics discussed included the ISDA submission to SAFE on Regulations regarding Foreign Exchange Control over Cross-Border Security, Shanghai Stock Exchange new trading rules for QFIIs and RQFIIs, ISDA draft response to the Hong Kong consultation paper on FI resolution regime, HKMA circular on regulatory requirements governing sale of foreign exchange accumulators and non-leveraged RMB-linked deposits by authorised institutions, ISDA letter to KRX on Review of Clearing House Risk Management Procedures, voluntary clearing of OTC derivatives at KRX, ISDA submission on CCIL Consultation Paper on Intra-day Mark to Market margin collection in CCIL's CCP Cleared Segments, ISDA submission on CCIL Consultation Paper on USDINR Segment – Procedure to be adopted for allocation of funds shortage if shortage exceeds available resources, CCIL Consultation Paper on Segregation and Portability Related Changes & Clearing member Structure, Close-Out Netting under Malaysian law, and MAS releases consultation paper on draft regulations to enhance the regulatory framework for unlisted margined derivatives offered to retail investors, King & Wood Mallesons' memorandum on close-out netting enforceability under Chinese law, SAFE consultation on Regulations regarding Foreign Exchange Control over Cross-border Security, PBOC's notice on mandatory central clearing of RMB interest rate swaps, progress on Hong Kong's regulatory reforms in respect of OTC derivatives, draft letter to KRX on review of clearing house risk management procedures, FATCA and ongoing documentation and the FCA's deadline of 30 April 2014 relating to plans on achieving compliance with EMIR portfolio reconciliation, dispute resolution and compression requirements.

The meeting also discussed the announcement in Australia of its Final Terms of reference for the Financial Inquiry System, CCIL's Consultation Paper on Intra-day Mark to Market margin collection in CCIL's CCP Cleared Segments, RBI's Guidelines on Management of Intra-Group Transactions and Exposures, ISDA's submission to the Indonesian regulators on Indonesian Law No. 24, and the publication of the ISDA 2014 Credit Derivatives. ISDA also briefed members on publication of clearing member reliance opinions, advisory note on CFTC IM segregation notice and ISDA responds to Request for Comment on Application of Commission Regulations to Swaps Between Non-U.S. Swap Dealers and Non-U.S. Counterparties Involving Personnel or Agents of the Non-U.S. Swap Dealers Located in the United States.

South Asia L&R

On March 27, ISDA held its L&R meeting in Singapore. A member raised the following topics for discussion with the other members: enforceability of CSAs with Indonesian counterparties and FATCA and Indonesian language requirements.

The meeting also discussed the draft submission on the final terms of reference for the Financial Inquiry System, the proposal paper issued by the Australian Treasury on the G4 IRD clearing mandate, the ISDA submission on the CCIL Consultation Paper on Segregation and Portability related changes and clearing member structure, the ISDA submission on the CCIL Consultation Paper on Intra-Day Mark to Market Margin collection in CCIL's CCP cleared segments and the ISDA submission on the CCIL Consultation Paper on USDINR Segment and the procedure to be adopted for allocation of funds shortage if shortage

exceeds available resources. ISDA provided an update on the recent Mumbai trip as well as the report of the Implementation Group on OTC Derivatives Markets Reforms. ISDA also provided an update on the close-out netting in Malaysia and discussed the MAS consultation paper on draft regulations to enhance the regulatory framework for unlisted margined derivatives offered to retail investors. The meeting also considered the trading rules updated by the Shanghai Stock Exchange for QFIIs and RQFIIs, the ISDA submission to SAFE on Regulations regarding Foreign Exchange Control over-Cross-Border Security and the foreign exchange implementing rules issued by SAFE Shanghai Bureau in the Shanghai Free Trade Zone, ISDA's draft submission to the Hong Kong consultation paper on FI resolution regime, the circular issued by HKMA on regulatory requirements governing sale of foreign exchange accumulators and non-leveraged RMB-linked deposits by authorized institutions, ISDA's letter to KRX on review of clearing house management procedures, KRX's launch of voluntary clearing of OTC derivatives and the plans by the Tax Reform Sub-Committee to levy capital gains tax on derivatives.

The meeting discussed certain global developments including the publication of RTS on contracts having "direct, substantial and foreseeable effect", the publication of updated Q&As by ESMA, the authorization of NASDAQ-OMX as a CCP under EMIR and the extension of temporary no-action relief with respect to swaps trading on MTFs overseen by competent authorities designated by European Member States, the EC response to ESMA's request for clarification of the definition of "derivatives" and the final rule on BHCs and FBOs by the Federal Reserve Bank.. ISDA also provided an update on certain ISDA efforts, including the discontinuation of IDR VWAP (IDR03) and transitioning process, ISDA's publication on the first clearing member reliance opinions and the publication of the ISDA Canadian Representation Letter #1 Trade Reporting and other obligations.

Operations/Market Infrastructure

On March 6, ISDA held its APAC Interest Rates Derivatives Operations Working Group meeting to brief members on the latest regional developments on rates. The group also discussed the addition / amendment of floating rate options/matrices, the confirmation practice, the upcoming changes in certain rate fixings and the recent industry operational practice for China clearing.

On March 20, ISDA held its APAC Equity Derivatives Operations Working Group meeting to discuss the confirmation matching requirements in US and Europe, the practice of executing a confirmation, the documentation practice of certain products and the electronic confirmation migration of a vendor.

On March 4, 10 and 25, ISDA held its AEJ Data and Reporting Compliance – reporting nexus sub-group meeting to discuss the reporting nexus relief requests and the technical challenges of implementation in the region.

On March 6 and 27, ISDA held its AEJ Data and Reporting Compliance – Asia identifiers & delegated reporting sub-group meeting to discuss the application of trade identifiers in Australia, HK and Singapore and the current technological limitations.

On March 31, ISDA held its AEJ Data and Reporting Compliance Working Group meeting to discuss the trade reporting progress in the region. The meeting also addressed the regulatory updates in HK, Singapore and Australia.

Members' / Other Activities

China WG meeting

On March 18, ISDA held its quarterly China working group meeting in Beijing. At the meeting, members discussed the China netting advice from King & Wood Mallesons, ISDA submission to SAFE regarding the draft Regulations on Foreign Exchange Control over Cross-border Security, PBOC notice to banks on central clearing of RMB interest rate swaps, PBOC and CSRC Notice on Carrying out Evaluation of Financial Market Infrastructures and SAFE Notice on Adjusting the Administration of RMB/FX Derivatives Business.

Mumbai Members' Meeting

On March 11, ISDA held its Members Meeting in Mumbai. Topics raised by members and discussed during the meeting included the opinion on CCIL issued by Juris Corp to the clearing members of CCIL as well as the netting rights of clearing members in the CCIL FX Forward Guaranteed Settlement Segment.

Other topics discussed included the report issued by the Implementation Group on OTC Derivatives Market Reforms, CCIL's Consultation Paper on Segregation and Portability related changes and clearing member structure, CCIL's Consultation Paper on Intra-Day Mark to Market Margin collection in CCIL's CCP cleared segments, the Guidelines on Management of Intra-Group Transactions and Exposures issued by RBI, CCIL's Consultation Paper on the USDINR Segment and the procedure to be adopted for allocation of funds shortage if the shortage exceeds available resources, RBI's circular on interim arrangements for banks' exposure to central counterparties, the SEBI (Foreign Portfolio Investors) Regulations 2014, RBI's Report of the Committee on Financial Benchmarks. ISDA also provided updates on the ISDA 2014 Credit Derivatives Definitions and the approval by the U.S. Federal financial regulators of the final draft of the Volcker Rule.

Japan:

On March 6, ISDA joined a panel "International Regulation & CORSS Border Cooperation" at the Thomson Reuters Japanese Regulatory Summit in Tokyo.

Korea:

On March 4, ISDA made a presentation to KOSDA membership in Seoul on "Global Economic Reforms and Their Impact on Korean Derivative Markets."

Regulatory Developments

Australia: Treasury's proposal on the G4 IRD central clearing mandate

Contact: Keith Noyes (knoyes@isda.org) / Cindy Leiw (cleiw@isda.org)

On February 27, the Treasury issued a proposal paper on the G4 IRD central clearing mandate. This proposal paper is the next step in the mandating of central clearing for US Dollars, Euro, British Pound and Japanese Yen interest rate derivatives (G4 IRD). The central clearing mandate would apply to large financial institutions with significant cross-border activity in these products (G4 dealers). The proposed implementation timeline is: 2nd quarter 2014 for the Ministerial determination and for ASIC to consult on rules relating to the details of the central clearing obligation; late 2014 for central clearing rules to be completed and early 2015 for central clearing obligations to commence.

For trading platforms, no decision will be taken until subsequent reviews by the regulators. However, the Government will be reviewing the licensing arrangement for financial markets. The review will consider whether the framework is adequate to deal with derivatives trading platforms that would be suitable for mandatory trade execution. The proposal paper seeks feedback on the following questions:

- For the central clearing mandate for the G4 IRD, should the coverage scope be wider or narrower?
- Do you agree with the proposal to restrict ASIC rulemaking to entities that are considered to be G4 dealers, and to exempt intra-group trades?
- What should be the calculation methodology used for determining the proposed threshold of activity and the appropriate level of activity for a G4 dealer?
- Do you have any comments on the proposed timetable for implementing the central clearing obligation?
- Do you have any comments on the proposal that some CCPs may be prescribed in order to ensure Australian market participants have appropriate access to CCPs?
- Do you have preliminary views on the costs and benefits of mandatory central clearing of AUD IRS, North American and European referenced CDS or any other derivatives?
- What are the characteristics that make a trading platform suitable for mandatory clearing of derivatives?
- Should end-users be exempted from trade reporting on a permanent level?
- Should a more tightly targeted AFSL be used for trade reporting?

Submission deadline is April 10.

India:

CCIL consults on segregation and portability changes and cleared member structure

Contact: Cindy Leiw (cleiw@isda.org) / Erryan Abdul Samad (eabdulsamad@isda.org)

On February 28, the Risk Management Department of The Clearing Corporation Ltd. (CCIL) released its consultation paper on the Segregation and Portability Related Changes & Clearing Member Structure. CCIL currently deals directly with all its members, with no indirect participation except in the securities segment. All trades of a member and its constituents are not segregated for margin computation. CCIL is seeking to create a structure so that some of its members, based on agreed criteria, may become Clearing Members (CMs). Indirect participants may access the clearing system via these CMs. The CM structure will be implemented in all segments of CCIL after suitable modification. The aim of the proposals is to meet Principle 14 “Segregation and Portability” of the CPSS-ISOCO PFMI.

CCIL seeks to create a basic structure through which it will receive all trades of the indirect participants through their CMs for settlement. These trades will have identifiers to denote those as trades of individual participants. CMs will have the option to allow indirect participants to report their trades through CMs or even directly to CCIL within certain pre-specified limits. CMs be responsible for any margin deficit or any settlement shortfall in the account of any of the indirect participants which accesses clearing through them.

Indirect participants will have the option to select fully segregated collateral model or otherwise. If any indirect participant selects fully segregated collateral, it will have full visibility through CCIL system of margins deposited on its behalf by their CMs. This information will be less detailed for indirect participants who select group or omnibus margin accounts. In the CBLO & Forex Segments, indirect participants have to maintain segregated collateral accounts only. However, an indirect participant, when allowed, may clear through multiple CMs.

The consultation paper covers and seeks views on margin shortfall, settlement shortfall, default on account of indirect participant and clearing member default. Submission deadline is March 15.

Report on OTC derivatives reforms published

Contact: Keith Noyes (knoyes@isda.org) / Erryan Abdul Samad (eabdulsamad@isda.org)

On March 6, the Implementation Group on OTC Derivatives Market Reforms (the Group) released its report on progress in implementing OTC derivatives reform measures in India. In this report, the Group has made a gap analysis with regard to various OTC derivative products and has suggested tentative timelines for reform implementation.

The report notes that while India is fully committed to achieving the G-20 reform agenda for OTC derivatives, the pace and nature of such reforms depends on domestic market conditions. The recommended roadmap for implementation of reform measures with regard to OTC derivatives in India has been worked out with timelines extending up to March 2015. As some of these milestones may be dependable on variables such as an improvement in liquidity, there is a possibility that timelines may be revisited or revised based on developments in the OTC derivatives market.

Singapore: MAS consults on regulatory framework for unlisted margined derivatives

Contact: Keith Noyes (knoyes@isda.org) / Erryan Abdul Samad (eabdulsamad@isda.org)

On March 14, the Monetary Authority of Singapore (MAS) issued its Consultation Paper on Draft Regulations to Enhance the Regulatory Framework for Unlisted Margined Derivatives Offered to Retail Investors (the 2014 Paper). In it, MAS is consulting on the Draft Regulations pursuant to the Securities and Futures Act Chapter 289 of Singapore (SFA), which will affect the policy proposals set out in the 2012 Consultation Paper as well as in the MAS Response to the 2012 Consultation Paper.

Presently, banks which are licensed under the Banking Act are not under the SFA for the regulated activity of LFX trading. MAS proposes certain amendments to the Second Schedule to the SFA to remove the regulatory carve-out in order to effect the proposals set out in the 2012 Policy Paper in relation to banks carrying on LFX trading with retail customers.

MAS also proposes certain amendments to the Securities and Futures (Licensing and Conduct of Business) Regulations to require Capital Markets Services License holders (CMSL holders) and entities exempted under section 99(1)(a), (b) and (c) of the SFA (collectively the derivative holders) who offer CFDs and/or LFX to:

- maintain separate trust accounts for retail customers' transactions in listed and unlisted products;
- maintain retail customer moneys in trust accounts with a bank in Singapore;
- not use retail customer moneys/assets in trust/custody accounts for meeting other obligations incurred by the derivative dealer in connection with the retail customer's unlisted margined derivative transactions;
- perform daily computation of all retail and non-retail customer money/assets which are deposited in a trust/custody account; and
- act as a principal to the trade when dealing in unlisted margined derivatives with retail customers.

MAS proposes certain amendments to the Securities and Futures (Financing and Margin Requirements for Holders of Capital Markets Services Licences) Regulations to:

- Impose minimum margin requirement of 5% on CMSL holders dealing in CFDs on FX and other LFX contracts with retail customers; and

- Require a base capital requirement of S\$5 million for CMSL holders dealing in unlisted derivatives with retail customers.

MAS also proposes to introduce a new set of regulations being the Securities and Futures (Margin Requirements for Exempt Financial Institutions) Regulations which will prescribe margin requirements for exempt financial institutions as set out under Section 99(1)(a), (b) and (c) of the SFA. Deadline for submission is April 14.

South Korea: KRX launches voluntary clearing of OTC derivatives

Contact: Keith Noyes (knoyes@isda.org) / Jing Gu (jgu@isda.org)

Effective from March 3, the Korea Exchange (KRX) started to provide a voluntary clearing service of Korea Won (KRW)-denominated interest rate swap (IRS) contracts to meet the G20 mandate on over-the-counter (OTC) derivatives clearing. The KRX has indicated that the service is temporarily offered to 35 members on a voluntary basis until June 30, 2014. Thereafter, all KRW-IRS contracts will be cleared through the KRX on a mandatory basis.

Upcoming committee and working group meetings/conferences

Meetings:

APAC Legal & Regulatory Advisory Group Meeting	Apr 1
APAC IRD Operation Meeting	Apr 3
Industry call on SGX Cleared Trades and MarkitWire - Interim Solution	Apr 16
South Asia L&R Meeting	Apr 24
North Asia L&R Meeting	Apr 29
APAC CCP Risk call	Apr 30

Conference:

2014 ISDA AGM – Munich	Apr 8 - 10
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