

APAC Monthly Update

August 2015

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

Regulatory Activities

Australia:

On August 20, ISDA in conjunction with the Australian Financial Markets Association (AFMA) submitted an application to extend various existing class order reliefs, including around use of the UTI.

On August 27, the Australian Securities and Investments Commission (ASIC) held a call with ISDA on the proposed inclusion of nexus trades for Australian central clearing.

Hong Kong:

On August 28, ISDA met with HKMA to discuss Hong Kong's regulatory reform time line.

India:

On August 24, ISDA met with:

- representatives of the National Institute of Public Finance and Policy in New Delhi to discuss ongoing developments in India and globally for instance, work relating to the resolution of financial institutions, in particular, the Resolution Stay, margin for uncleared swaps, progress in reforms relating to the G20 commitments, netting considerations, the report and revised draft Indian Financial Code released by the Financial Sector Legislative Reforms Commission (FSRLC).
- representatives of the Department of Economic Affairs of the Ministry of Finance in New Delhi to discuss ongoing developments in India and globally for instance, work relating to the resolution of financial institutions, in particular, the Resolution Stay, margin for uncleared swaps, netting considerations and progress in reforms relating to the G20 commitments.

Committee/Working Group Activities

North Asia L&R:

On August 25, ISDA held its Asia-Pacific Legal & Regulatory Committee Meeting (North Asia) in China. The meeting discussed the the 3 September holiday in Hong Kong and the 11 September holiday in Singapore. ISDA provided the following updates on North Asia developments: the FSB peer review of China, SAFE's notice on FX issues regarding onshore designated futures trading by foreign investors and foreign brokerage firms, HKMA's circular to banks on engagement of intermediaries and sales agents, HKMA's amendments to the supervisory policy manual, the CFTC seeking public comment on a petition

by KRX for exemption from DCO registration, the FSC designating KRX as a trade repository and KRX's amendments to the member system connection guidance.

ISDA also provided the following updates on Australia: the speech by Cathie Amour on setting the reform agenda, the CFTC's order of exemption granted to ASX Clear (Futures) Pty Limited from registration as a DCO, APRA's updated guidelines on Section 66 of the Banking Act, ASIC's follow-up to ISDA's comment letter on CP231, AFMA's survey on complementary benchmarks and ASIC's enforcement report for the first half of 2015.

The meeting also discussed the following South Asia updates: an update on ISDA's recent visit to New Delhi, the amendments to CCIL's bye-laws, CCIL's launch of ASTROID, CCIL's consultation paper on CCP recovery and resolution mechanism, ISDA's draft response and the revised draft Indian Financial Code, MAS' consultation on proposed notice for LCR and MLA for merchant banks, ISDA's response to the MAS consultation paper on mandatory clearing, ISDA's response to the MAS paper on proposed enhancements to resolution regime for financial institutions and an update on the ISDA Arbitration Committee meeting held in Singapore.

ISDA updated members on the latest ISDA initiatives including ISDA's response to the European Commission EMIR review and the prioritization of client clearing opinions, CFTC's extension of the no-action relief for transaction-level requirements where non-U.S. swap dealers arrange, negotiate or execute in the U.S. with non-U.S. persons and IOSCO's publication of the Thematic Review of implementation progress in regulation of derivatives markets intermediaries.

South Asia L&R:

On August 27, ISDA held its Asia-Pacific Legal & Regulatory Committee Meeting (South Asia) in Singapore. The meeting discussed the SFTR, the 3 September holiday in Hong Kong and the 11 September holiday in Singapore. ISDA provided the following updates on Australia: the speech by Cathie Amour on setting the reform agenda, the CFTC's order of exemption granted to ASX Clear (Futures) Pty Limited from registration as a DCO, APRA's updated guidelines on Section 66 of the Banking Act, ASIC's follow-up to ISDA's comment letter on CP231, AFMA's survey on complementary benchmarks and ASIC's enforcement report for the first half of 2015.

The meeting also discussed the following India updates: an update on ISDA's recent visit to New Delhi, the amendments to CCIL's bye-laws, CCIL's launch of ASTROID, CCIL's consultation paper on CCP recovery and resolution mechanism and ISDA's draft response and the revised draft Indian Financial Code. The meeting went on to discuss developments in Singapore: MAS' consultation on proposed notice for LCR and MLA for merchant banks, ISDA's response to the MAS consultation paper on mandatory clearing, ISDA's response to the MAS paper on proposed enhancements to resolution regime for financial institutions and an update on the ISDA Arbitration Committee meeting held in Singapore.

ISDA also provided the following updates on North Asia developments: the FSB peer review of China, SAFE's notice on FX issues regarding onshore designated futures trading by foreign investors and foreign brokerage firms, HKMA's circular to banks on engagement of intermediaries and sales agents, HKMA's amendments to the supervisory policy manual, the SFC's annual Fund Management Activity Survey, the CFTC seeking public comment on a petition by KRX for exemption from DCO registration, the FSC designating KRX as a trade repository and KRX's amendments to the member system connection guidance.

ISDA updated the meeting on ISDA initiatives including ISDA's response to the European Commission EMIR review and the prioritization of client clearing opinions. ISDA also considered certain global developments including ESMA's recommended changes to the EMIR framework to the European

Commission as part of the EMIR review, CFTC's extension of the no-action relief for transaction-level requirements where non-U.S. swap dealers arrange, negotiate or execute in the U.S. with non-U.S. persons and IOSCO's publication of the Thematic Review of implementation progress in regulation of derivatives markets intermediaries.

Members' Activities:

Members' Meeting - New Delhi

On August 25, ISDA held its members meeting in New Delhi, India. The meeting discussed the following topics: documentation under CCIL clearing, netting in India, CCIL's consultation paper on CCP recovery and resolution mechanism, the FBIL MIBOR transition, CCIL's consultation paper on integration of forex forward and forex settlement segment, CCP's update timetable for rupee derivatives, RBI's draft guidelines on covered options, the Basel Committee's publication of Basel III implementation assessments of India and RBI's draft guidelines on the NSFR.

ISDA also updated the meeting on the following: ISDA on Dodd-Frank – the Five Year Appraisal, ISDA's publication of the EMIR Classification Letter and Guidance Note, ISDA's guide to the ISDA and EMTA FX Derivatives Documentation and Currency Provisions, ISDA's industry calls on WGMR, the BIS working group on strengthening the code of conduct of and principles in foreign exchange markets.

ISDA also updated the members on its meetings with the Ministry of Finance and the National Institute of Public Finance and Policy.

Regulatory Developments

Australia:

ASIC releases enforcement report

Contact: Rishi Kapoor - rkapoor@isda.org

On August 5, the Australian Securities and Investments Commission (ASIC) released its enforcement report for the period January 1, 2015 to June 30, 2015. It secured 323 enforcement outcomes, including criminal as well as civil and administrative actions, and it negotiated outcomes, including enforceable undertakings. The majority of enforcement outcomes were summary criminal prosecutions. The report outlines some important cases and decisions during the first half of 2015 and highlights some of ASIC's ongoing enforcement priorities, including tackling poor culture, poor conduct in the retail margin FX trading industry and illegal phoenix activity.

CFTC grants DCO registration exemption to ASX

Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On August 18, the US Commodity Futures Trading Commission (CFTC) issued an order of exemption from registration as a derivatives clearing organisation (DCO) to ASX Clear (Futures) Pty Limited (ASX). The order is the first issued by the CFTC based on its authority under Section 5b(h) of the Commodity Exchange Act, which permits it to exempt a clearing organisation from DCO registration for the clearing of swaps, so long as the CFTC determines that the clearing organisation is subject to comparable, comprehensive supervision by appropriate government authorities in the clearing organisation's home country.

ASX is able to clear proprietary swap positions for its US clearing members, subject to the terms and conditions of the order, which include the reporting of daily information to the CFTC, a requirement to only clear proprietary positions of US clearing persons, open access, the appointment of a US agent,

consent to jurisdiction of the US, inspection of books and records, observance of the CPMI-IOSCO Principles for Financial Market Infrastructures, and record-keeping and reporting requirements, among other things.

ASIC consults on additional Chi-X products

Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On August 20, the Australian Securities and Investments Commission (ASIC) released a consultation paper setting out proposed changes to ASIC market-integrity rules and various instruments to enable Chi-X Australia Pty Ltd (Chi-X) to commence the quotation and trading of warrants and exchange-traded funds (ETFs) on its market.

The proposals aim to apply a consistent regulatory framework for the quotation and trading of warrants and ETFs for market participants and investors that may seek to trade these products on the Australian Securities Exchange (ASX) and/or Chi-X markets. ASIC's objective is to maintain existing levels of market integrity and investor protection for these products, irrespective of the market on which they are traded. The consultation paper also proposes some minor changes to ASIC market-integrity rules for the ASX market in response to recent amendments to ASX operating rules, and individual relief instruments for ASX-quoted ETFs and managed-fund products.

Treasury consults on cost recovery for ASIC

Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On August 28, the Australian Treasury released a consultation paper on a potential industry cost-recovery model to fund the Australian Securities and Investments Commission (ASIC), following on from the government's December 7, 2014 release of the Final Report of the Financial System Inquiry (FSI), which sets out a blueprint for Australia's financial system over the coming decades. In the case of ASIC, the FSI recommended that the government should move to adopt an industry funding model, similar to that already in place for other Australian regulators, which could provide more funding certainty and enhance the transparency of ASIC's costs and funding.

Submissions on this consultation paper are due by October 9, and will assist the government's consideration of whether to accept the FSI's recommendation that ASIC's regulatory activities should be funded by the industry. Industry roundtables will also be held during the consultation period.

Regulators release corporate plans

Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

In late August, the Australian Prudential Regulation Authority (APRA), the Australian Securities and Investments Commission (ASIC) and the Reserve Bank of Australia (RBA) released their corporate plans for the next four years. Publication of a corporate plan is a core element of the Public Governance, Accountability and Performance Act 2013 (PGPA Act). In addition, ASIC released its focus for 2015-16, which identifies a number of key areas where it sees particular concerns. These are in the areas of gatekeeper conduct, cyber attacks, poor financial advice, misalignment of retail product design and distribution with consumer understanding, and cross-border businesses, services and transactions.

China: FSB completes peer review

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On August 13, the Financial Stability Board (FSB) published its peer review of China. The peer review examined two topics relevant for financial stability and important for China: the macro-prudential management framework and non-bank credit intermediation. The review focused on the steps taken by the authorities to implement reforms in these areas, including by following up on relevant recommendations in the 2011 Financial Sector Assessment Program (FSAP) report by the International Monetary Fund and the World Bank.

The peer review identifies notable achievements, including the improvement of monitoring frameworks and toolkits by each agency to assess systemic risk in the sectors under their respective mandates; data improvements and ongoing work to develop a shared statistical platform; and enhanced inter-agency coordination through the Financial Crisis Response Group directly under the State Council and the Financial Regulatory Coordination Joint Ministerial Committee.

The peer review concludes that the authorities have made good progress in addressing the FSAP recommendations on both topics, but there is additional work to be completed. A unifying theme behind the peer review findings and recommendations is the need for closer coordination and information sharing between the authorities and the development of an integrated risk assessment framework.

Hong Kong:**HKMA amends supervisory policy manual**

Contact: Keith Noyes - knoyes@isda.org / Claire Kim - ckim@isda.org

On August 6, the Hong Kong Monetary Authority (HKMA) issued a revised version of the supervisory policy manual module CA-D-1: Guideline on the Application of the Banking (Disclosure) Rules as a guidance note.

The HKMA noted that the revised module provides additional guidance on the amendments made to the Banking (Disclosure) Rules in connection with the implementation of Basel III in Hong Kong. These include disclosure requirements on the composition of capital, capital ratios and capital buffers, as well as the liquidity coverage ratio. In addition, the revised module updates earlier guidance to align with recent changes made to the local prudential reporting regimes relating to mainland activities and international claims.

SFC releases quarterly report

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On August 17, the Hong Kong Securities and Futures Commission (SFC) published its Quarterly Report summarising key developments from April to June 2015. The paper reports on the conclusion of an SFC consultation on proposals to enhance and standardise the regulatory obligations imposed on operators of alternative liquidity pools, and a consultation on proposed amendments to the Securities and Futures Ordinance for the SFC to provide supervisory assistance to regulators outside Hong Kong in certain situations. Additionally, the report refers to a memorandum of regulatory cooperation entered into with the China Securities Regulatory Commission as part of preparations for the July 1 launch of the mutual-recognition-of-funds scheme, which allows qualified funds in the Chinese mainland and Hong Kong to be sold directly into the other market.

India:**RBI releases annual report**

Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On August 27, the Reserve Bank of India (RBI) released its annual report for the year ended June 30, 2015. Part one of the report includes a review of the economy and its prospects, while part two addresses the working and operations of the RBI, including monetary policy operations, credit delivery and financial inclusion, regulation of financial markets and foreign exchange management, regulation, supervision and financial stability, public debt management, currency management, payment and settlement systems and IT, governance, human resources and organisational management, and the RBI's accounts for 2014-15.

RBI designates two D-SIBs

Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On August 31, the Reserve Bank of India (RBI) announced the designation of State Bank of India and ICICI Bank Ltd as domestic systemically important banks (D-SIBs).

The RBI issued the framework for dealing with D-SIBs on July 22, 2014, which requires the RBI to disclose the names of banks designated as D-SIBs every August, starting from August 2015. The framework also requires D-SIBs to be placed in four buckets depending upon their systemic importance scores. Based on the bucket in which a D-SIB is placed, an additional common equity tier 1 (CET1) requirement has to be applied to it. ICICI Bank Ltd has been placed in the first bucket (additional CET1 of 0.2%), while State Bank of India has been placed in the third bucket (additional CET1 of 0.6%).

The additional CET1 requirements for D-SIBs will be applicable from April 1, 2016 in a phased manner, and will become fully effective from April 1, 2019. The additional CET1 requirement will be in addition to the capital conservation buffer.

New Zealand: RBNZ consults on outsourcing

Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On August 26, the Reserve Bank of New Zealand (RBNZ) released a consultation paper with proposals for an updated outsourcing policy for banks. The current outsourcing requirements date back to 2006, and apply to all locally incorporated banks with New Zealand liabilities exceeding \$10 billion. The current policy is mainly focused on underpinning the provision of liquidity to the financial system in the event of stress or the failure of a bank or a service provider to a bank. The main proposals (subject to the outcome of consultation) are:

- An explicit requirement for a separation plan for subsidiaries of foreign-owned banking groups;
- A list of functions that are not relevant for the outsourcing policy;
- A list of functions that cannot be outsourced;
- A clearer process for obtaining non-objection from the RBNZ for outsourcing proposals;
- A compendium of outsourced functions; and
- A possible alignment of the threshold used for deciding which banks the outsourcing policy should apply to, with the threshold used for the RBNZ's open bank resolution (OBR) policy.

The RBNZ further notes that outsourcing can produce efficiency benefits for banks, and provides access to state-of-the-art technology and practices that are not necessarily available internally or within New

Zealand. The proposed new policy does not prevent banks from realising those benefits. The policy also does not prohibit the use of outsourcing arrangements. Comments on the consultation paper are due by November 4, 2015.

Singapore:

MAS issues proposed LCR and MLA notice

Contact: Erryan Abdul Samad - eabdulsamad@isda.org

On July 31, the Monetary Authority of Singapore (MAS) issued its consultation paper on the proposed notice (Proposed MAS Notice) on liquidity coverage ratio (LCR) and minimum liquid assets (MLA) requirements for merchant banks. MAS issued two consultation papers on Local Implementation of Basel III Liquidity Rules in August 2013 and August 2014.

Responses to the consultation feedback described revisions to the liquidity regulatory framework in Singapore, which includes the introduction of the LCR rules in Singapore and a revision of the MLA rules. Another key revision to the framework was the expansion of the scope of liquidity requirements, in particular, which means that merchant banks will therefore be subject to the same liquidity requirements as banks from January 1, 2016. The revised framework for banks was implemented through MAS Notice 649, which was published in November 2014. The Proposed MAS Notice (as set out in Annex A of the consultation paper) prescribes equivalent requirements for merchant banks in Singapore. The corresponding reporting forms are set out in Annex B of the consultation paper.

MAS issues notice on FMI standards

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On August 31, the Monetary Authority of Singapore (MAS) issued its Notice on Financial Market Infrastructure Standards (Notice). The notice applies to licenced trade repositories and approved clearing houses. MAS had previously released its Monograph on Supervision of Financial Market Infrastructures (Monograph). MAS also administers the Securities and Futures Act (Cap. 289) (SFA) in respect of the supervision and oversight of trade repositories and clearing houses in accordance with the Committee on Payment and Settlement Systems and International Organization of Securities Commissions Principles for Financial Market Infrastructures (PFMIs), as set out in the monograph. Some of the principles of the PFMIs are set out in the SFA and subsidiary legislation issued under the SFA. The notice sets out the remaining principles in the PFMIs that an FMI has to comply with.

The notice sets out the standards that are applicable to FMIs. These standards apply to:

- Legal risk management;
- Governance arrangements;
- Credit risk management;
- Framework for the comprehensive management of risks;
- Collateral;
- Margin;
- Liquidity risk;
- Settlement finality;
- Money settlements;
- Physical deliveries;
- Exchange-of-value settlement systems;
- Participant-default rules and procedures;
- Segregation and portability;

- General business risk;
- Custody and investment risk;
- Operational risks;
- Access and participation requirements;
- Tiered participation arrangements;
- FMI links;
- Efficiency and effectiveness;
- Communication procedures and standards;
- Disclosure of rules, key procedures and market data; and
- Disclosure of market data by trade repositories.

The notice takes effect on August 31.

South Korea:

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KRX amends member system connection guidance

On August 7, KRX amended its guidelines on the connection to member systems to ease concerns about maximum capacity and the application for additional communication lines that may be allocated to members for the derivatives market (Korean Only). Key elements include:

- The number of communication lines that may be allocated to members in case of requests for additional main, back-up and disaster recovery lines will be expanded to five, respectively. The implementation date will be announced later.
- In a case where a member system has changed due to office relocation, as well as a merger or split, the member may request KRX to allocate additional communication lines. The implementation date is August 17.

FSC designates KRX as trade repository

On August 17, the Financial Services Commission (FSC) announced that Korea Exchange (KRX) had been designated as a trade repository (TR) (Korean only). For this designation, a task-force was set up comprising the FSC, the Financial Supervisory Service and experts from the industry in the second half of 2014, in order to study global standards and current trends of TRs, operational cases of overseas TRs and TR requirements. Based on this study, the FSC subsequently formed a committee for the designation of TRs, and established specific standards for TR designation in July.

The FSC expects the TR to centrally collect and efficiently manage large amounts of data and information regarding over-the-counter derivatives trades, improving derivatives market monitoring and transparency. Specific action plans, including details on the transaction information that will be centrally collected and the development of an IT system, will be set out by KRX.

KRX seeks DCO registration exemption

On August 18, the US CFTC published a request for public comment on a petition by Korea Exchange, Inc. (KRX) for an exemption from registration as a DCO.

The CFTC is considering a petition for exemption from registration pursuant to its authority under section 5b(h) of the Commodity Exchange Act, which permits the CFTC to exempt a clearing organisation from DCO registration for the clearing of swaps, to the extent the CFTC determines it is subject to comparable, comprehensive supervision by appropriate government authorities in the clearing organisation's home country.

KRX releases new fee schedule

On August 20, KRX released a new fee schedule regarding trading and clearing and settlement (stock, bond, futures and options), and a processor user fee.

The new fee schedule is effective from June 26, 2015.

BOK publishes annual report on payment and settlement systems

On August 26, the Bank of Korea (BOK) published the English version of an annual report on its payment and settlement systems, following publication of the Korean version on April 15. Key elements include:

- Payment and settlement trends and settlement risk management;
- Payment and settlement system oversight and policy responses; and
- Future policy directions.

This report does not include information on Korea's trade repository, which was announced by the Financial Services Commission on August 17.

The Philippines:

SEC approves 2015 SRC Rules

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On August 6, the Philippines Securities and Exchange Commission (SEC) announced that it had approved the 2015 Implementing Rules and Regulations of the Securities Regulation Code (2015 SRC Rules). The 2015 SRC Rules enhance existing requirements, including the ability of companies to raise funds in the domestic market. It also addresses regulatory gaps, strengthens market and regulatory structures, and adopts global best practices to ensure participants are able to meet the challenges posed by increasing market sophistication and regional integration.

The initial draft of the proposed amendments was opened for public comment in 2011. Following that, the SEC conducted a series of consultations with market participants and various stakeholders. The final draft of the rules was adopted after reviewing and considering responses. Some key features of the rules are:

- An expansion of shelf registration;
- A new definition for commercial paper;
- A new category of exempt security;
- A registration exemption for public offerings that have a limited character;
- Loosening of underwriting requirements;
- Relaxed requirements for qualified buyers; and
- A facelift of the mandatory tender offer rules.

BSP issues client asset guidelines

Contact: Keith Noyes - knoyes@isda.org / Claire Kim - ckim@isda.org

On August 11, the Monetary Board (MB) of the central bank of the Philippines, Bangko Sentral ng Pilipinas (BSP) approved new guidelines for segregating customer funds received by banks under a securities brokering arrangement from the deposit-taking activities of these banks. The segregation is undertaken by introducing a new account in the books of the banks, called 'broker customer accounts'. Under prior practice, banks would book as deposits the money they receive from clients that wish to purchase securities. The bank is acting as a securities broker for the client under this transaction.

The broker customer account makes clear that funds recorded under this item are not to be classified as deposits. They are transactional in nature because there is an instruction to use them to purchase securities. In this context, the broker customer account will not be subject to bank reserve requirements and will not be covered by the Philippine Deposit Insurance Corporation.

Broker banks are required to submit a monthly report of their weekly balances of securities and cash they receive from their customers, starting from October 2015.

As a step towards the segregation of banking activities from other business activities, the current Financial Reporting Package of the BSP was also amended to introduce reporting of the amount of securities brokering transactions of its supervised financial institutions.

Vietnam: SBV announces new administrative procedures

Contact: Keith Noyes - knoyes@isda.org / Claire Kim - ckim@isda.org

On August 5, the governor of the State Bank of Vietnam (SBV) issued Decision No. 1548/QĐ-NHNN to publicise new administrative procedures.

The new administrative procedures cover the establishment and operations of credit institutions, including:

- the procedure applicable to commercial banks and foreign bank branches requesting the renewal of a licence;
- the procedure applicable to commercial banks and foreign bank branches requesting additional operations;
- the procedure applicable to commercial banks and foreign bank branches requesting the renewal of a licence and additional operations.

The new administrative procedures are formulated as stipulated in Circular No. 08/2015/TT-NHNN dated June 30, 2015, revising several articles of Circular No. 40/2011/TT-NHNN dated December 15, 2011 on granting licences and the operational structure of commercial banks, foreign bank branches and representative offices of foreign credit institutions and other foreign institutions with banking operations in Vietnam.

At the same time, the SBV announced new administrative procedures for revising, providing additional operations and scope of operations of foreign branches, joint-venture banks and wholly foreign owned banks.

Upcoming committee and working group meetings/conferences

Meetings:

Asian Public Policy Meeting – HK& Singapore	Sep 1
WGMR presentation – Singapore	Sep 3
Regulatory Meeting – Beijing	Sep 8
DCE OTC Working Group Meeting	Sep 9
APAC IRD Operation Working Group Meeting	Sep 9
APAC Equity Operation Working Group Meeting	Sep 10
Regulatory and Members' Meeting – Seoul	Sep 23
Asia Identifiers & Delegated Reporting Sub-Working Group call	Sep 25
North Asia L&R Meeting	Sep 29
AEJ Data and Reporting Compliance Working Group Meeting	Sep 30

APAC CCP Risk Call
South Asia L&R Meeting

Sep 30
Oct 1

Conferences:

Current Issues in the Derivatives Landscape – Beijing
Current Issues in the Derivatives Landscape – Seoul

Sep 8
Sep 22

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Please direct comments and questions about APAC Monthly Update to Donna Chan, dchan@isda.org
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