

APAC Monthly Update

February 2013

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

Regulatory Activities

Hong Kong:

On February 4, ISDA met with Hong Kong Monetary Authority and Securities and Futures Commission to discuss the “originate or execute” issues with regard to trade reporting.

On February 4, ISDA submitted a list of questions to Hong Kong Trade Repository on its technical specifications.

On February 6, ISDA met with Hong Kong Exchange to discuss EMIR Article 25 and CEA 5(b) issues with regard to Asian CCPs wishing to have European or US clearing members.

Singapore:

On February 28, ISDA met with MAS to discuss ISDA’s submission on MAS’s consultation paper on Draft Regulations for Trade Repositories and Clearing Facilities pursuant to the Securities and Futures Act, MAS response to feedback on its consultation paper on Proposed Amendments to the Monetary Authority of Singapore Act and trade reporting.

Committee/Working Group Activities

North Asia L&R

On February 26, ISDA held its L&R Members’ meeting in Hong Kong. Topics relating to North Asia included an update on documentation of offshore deliverable CNY transactions, Hong Kong’s trade reporting requirements, the first WG meeting on the draft Korean law governed CSA and an update on standardizing the representations and undertakings relating to Taiwan underliers. At the meeting, ISDA also briefed members on ISDA’s submission to the Australian Treasury on its “Implementation of Australia’s G-20 Over-the-Counter Commitments” proposal paper, the joint statement by ASIC and RBA on implementing the CPSS-IOSCO principles for financial market infrastructures in Australia, the draft operating rules for OTC derivatives clearing service issued by ASX for public comment, ISDA’s submission on MAS’s Consultation Paper on Draft Regulations for Trade Repositories and Clearing Facilities pursuant to the Securities and Futures Act, and MAS’s response to feedback received on the consultation paper on proposed amendments to the Monetary Authority of Singapore Act. The meeting also provided an update on the ongoing work relating to both the LIBOR Maturity/Currency

Discontinuations and ISDA EMIR documentation, the Second Consultation Paper published by BCBS-IOSCO on margin requirements for non-centrally cleared derivatives, and the revised list of Frequently Asked Questions published by the EC.

South Asia L&R

On February 28, ISDA held its L&R Members' meeting in Singapore. Topics discussed included an update on documentation of offshore deliverable CNY transactions, ISDA's submission to the Australian Treasury on its "Implementation of Australia's G-20 Over-the-Counter Commitments" proposal paper, the joint statement by ASIC and RBA on implementing the CPSS-IOSCO principles for financial market infrastructures in Australia and the draft operating rules for OTC derivatives clearing service issued by ASX for public comment. Also discussed was the RBI circular on standardization of interest rate swap contracts, the recent FIMMDA-PDAI Annual Conference, ISDA's submission on MAS's Consultation Paper on Draft Regulations for Trade Repositories and Clearing Facilities pursuant to the Securities and Futures Act, MAS's response to feedback received on the consultation paper on proposed amendments to the Monetary Authority of Singapore Act, Hong Kong's trade reporting requirements including the "originate or execute" definition, the first WG meeting on the draft Korean law governed CSA and an update on standardizing the representations and undertakings relating to Taiwan underliers. The meeting also provided an update on the ongoing work relating to both the LIBOR Maturity/Currency Discontinuations and ISDA EMIR documentation. The meeting also discussed the FSB report to the G20 on progress of financial regulatory reforms, the Second Consultation Paper published by BCBS-IOSCO on margin requirements for non-centrally cleared derivatives, the revised list of Frequently Asked Questions published by the EC and the withdrawal by the EC of its motion for a resolution objecting to two of the EMIR technical standards.

Operations/Market Infrastructure

On February 1, 6, 7, 19, 20, 22, 26 and 27, ISDA held its APAC Trade Reporting Sub Group meetings to discuss the HK trade reporting matters.

On February 19, ISDA held its APAC Interest Rates Derivatives Operations Working Group meeting to discuss the addition/amendment of floating rate options/matrices, the issues on electronically confirming certain products. A subgroup was also setup to discuss a structured rate mechanism.

On February 21, ISDA held its APAC Equity Derivatives Operations Working Group meeting to brief members on the latest confirmation template development for Asian products. The group also discussed the AEJ reference price source matrix and the eligibility in confirming certain products via an electronic confirmation platform.

Member Activities

Singapore:

On February 7, ISDA together with Linklaters, updated members in Singapore on the Hong Kong and Singapore OTC derivatives regulatory regimes.

Regulatory Developments

Australia: ASX consulted on CCP operating rules

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

On February 21, the Australian Securities Exchange (ASX) released a consultation paper on the Draft Operating Rules for its central counterparty clearing services for OTC interest rate derivatives (OTC

Clearing Service). The OTC Clearing Service will comprise the OTC Derivatives Clearing Rules (OTC Rules), which will relate specifically to the OTC Clearing Service and OTC Clearing Participants; and Futures Clearing Rules (Futures Rules), which will contain the rules for clearing ASX 24 Futures, as well as rules that are common to both futures and OTC Clearing.

The Futures Rules and the OTC Rules will constitute the operating rules of ASX as defined in the Corporations Act 2001. Operating Procedures for the OTC Clearing Service will be set out in the new OTC Handbook, separate from existing futures clearing procedures. The OTC Handbook will contain terms, criteria and procedures relating to cleared OTC derivatives, including product eligibility criteria, contract terms and clearing process.

ASX will introduce OTC Clearing Services in phases. Phase 1 will be Dealer-to-Dealer clearing for AUD\$ IRS and overnight index swaps (OIS), and will be available from July 1. The product coverage may be extended to include AUD\$ FRAs in Q3. Phase 2 will introduce client clearing and extend product coverage to include NZ\$ IRS, OIS and FRAs.

The Operating Rules and Procedures outlined in this Consultation Paper will cover the following categories for both Futures and OTC Derivatives:

- Default Waterfall: this includes expansion of default waterfall; changes to commitments; and default waterfall;
- Resignation Process;
- Capped liability for Clearing Participants: includes replenishment of commitments; compulsory settlement; and termination against the CCP;
- Introduction of a Risk Committee.

The Operating Rules and Procedures outlined in this Consultation Paper will cover the following categories for only OTC Derivatives: participation, OTC commitments, novation approach, portfolio margining, default management and product committee.

Submission deadline for comments is March 29.

Hong Kong: HKMA measures to strengthen HIBOR

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

On February 6, the Hong Kong Monetary Authority (HKMA) announced a package of measures to strengthen the fixing mechanism of the HKD Interest Settlement Rate (more commonly known as HIBOR). The following measures are to be implemented in six months' time:

- Transfer administrator function of HIBOR fixing process to the Treasury Markets Association (TMA);
- Institute an effective surveillance and governance structure for the administrator function;
- Develop a comprehensive Code of Conduct;
- Phase out HIBOR fixings with little market demand (4-month, 5-month, 8-month, 9-month, 10-month and 11-month); and
- Review the composition of the panel of reference banks every 12 months.

Additionally, once HKMA is satisfied with the Code of Conduct developed by the industry, banks will need to comply with the Code, through the issuance of a HKMA Guideline pursuant to Section 7 of the Banking Ordinance. Under Section 7 of the Guidelines, Managers, as defined under the Banking Ordinance, in charge of treasury, risk control and compliance functions will take responsibility for the

reference bank's rate submission activities. Banks are encouraged to participate voluntarily; however, HKMA has powers to ensure a sufficient number of reference banks contribute to the HIBOR benchmark. Independent external audits on TMA's systems of control will also be conducted periodically.

Singapore : MAS responds to feedback on MAS Act proposed amendments

Contact: Keith Noyes (knoyes@isda.org) / Jacqueline Low (jlow@isda.org)

On February 5, the Monetary Authority of Singapore (MAS) issued a response to feedback received on the Consultation Paper on Proposed Amendments to the Monetary Authority of Singapore Act released on December 26, 2012 (Consultation Paper). The Monetary Authority of Singapore (Amendment) Bill 2013 ("MAS(A) Bill") and the Financial Institutions (Miscellaneous Amendments) Bill 2012 have also been moved for their First Reading in Parliament.

On January 12, ISDA made a submission to MAS highlighting preliminary concerns relating to the resolution regime set out in the Consultation Paper. On the concerns raised regarding enforceability of bilateral netting arrangements, MAS has responded:

"MAS agrees that the legal framework governing contractual netting should be clear and transparent during resolution of regulated entities, and not hamper implementation of resolution measures. In light of the comments, the MAS(A) Bill will be amended to expressly reflect that the exercise of resolution powers is not intended to defeat bilateral netting arrangements. MAS will also provide in the MAS(A) Bill, a general power to prescribe safeguards to the exercise of the resolution powers. This would enable the Minister to expressly provide in subsidiary legislation that bilateral netting arrangements, as well as other similar arrangements warranting carve-out, will not be affected by the exercise of resolution powers under the MAS Act."

The MAS(A) Bill that has been tabled before Parliament has been revised. In particular, Section 30AAZN (as set out on page 79 of the MAS(A) Bill, previously Section 30AAAN and set out on page 82 of the MAS Consultation Paper) has been significantly amended to empower the Minister through subsidiary legislation to create the appropriate safe harbors for bilateral netting arrangements.

Submission

On February 8, ISDA made submission to Monetary Authority of Singapore on Consultation Paper on Draft Regulations Pursuant to the Securities and Futures Act for Trade Repositories and Clearing Facilities. This submission is not yet public.

On February 15, ISDA made submission to The Australian Treasury regards to Proposals Paper on Implementation of Australia's G-20 Over-the-Counter Derivatives Commitments. This submission is not yet public.

Upcoming committee and working group meetings/conferences

Meetings:

Beijign Members Meeting	Mar 5
APAC Commodity Meeting	Mar 6
Mumbai Members Meeting	Mar 11
North Asia L&R Meeting	Mar 26
South Asia L&R Meeting	Mar 28

Conferences:

Extra-Territoriality in International Derivatives Regulation and Hong Kong's
Changing Regulatory Landscape for OTC Derivatives – Hong Kong

Mar 19

ISDA APAC Monthly Update

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