

APAC Monthly Update

December 2013

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

Regulatory Activities

China:

On December 9, ISDA met with Deputy Governor Yi of the People's Bank of China to discuss issues on regulatory reforms in respect of OTC derivatives in the US and EU, central clearing in China and Basel III.

On the same day, ISDA visited (National Association of Financial Market Institutional Investors) NAFMII and exchanged views on issues relating to onshore inter-bank market, RMB interest rate liberalisation and possible cooperation of the two associations in the future.

On December 10, ISDA met with the China Securities Regulatory Commission to discuss issues regarding regulation of OTC derivatives and how to develop onshore OTC derivatives market in a safe and efficient manner.

India:

On 2 December, ISDA met with:

- the Department of Banking Operations and Development of RBI to discuss ongoing developments in the Indian derivatives market as well as progress in relation to ISDA's netting submission made in October 2012 in the context of achieving greater consistency in the application of netting directives with regard to financial derivatives transactions in India.

- The Clearing Corporation of India Limited and various members of the Indian bank group to discuss issues related to the transitioning of financial benchmarks.

- The Clearing Corporation of India Limited to discuss ongoing developments in the Indian derivatives market as well as developments relating to ESMA recognition of third-country central counterparties.

On 3 December, ISDA met with:

- the Legal Department, the Financial Markets Department and the Foreign Exchange Department of RBI to discuss ongoing developments in the Indian derivatives market as well as issues related to the transitioning of financial benchmarks.

- the Market Regulatory Department of Securities and Exchange Board of India to discuss ongoing developments in the Indian derivatives market as well as developments relating to ESMA recognition of third-country central counterparties.

Committee/Working Group Activities

Operations/Market Infrastructure

On December 5, 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 industry preference of an unscheduled holiday.

On December 11, 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 latest update of adding certain disclaimers or representations in a confirmation and the documentation practice of certain products.

On December 3, 10 and 17, ISDA held its

- AEJ Data and Reporting Compliance – reporting nexus sub-group meeting to discuss the reporting nexus matters in the region.

- AEJ Data and Reporting Compliance – Asia identifiers sub-group meeting to discuss the application of trade identifiers in Australia, HK and Singapore.

Members' / Other Activities

Mumbai Members' Meeting

On 3 December, ISDA held its members' meeting in Mumbai. Topics discussed included the impact of EMIR reporting on branches of EU banks in India as well as an update of discussion with RBI on the progress of the netting submission. The meeting also discussed the benchmark review of MIBOR, SEBI's consultation of market intermediaries relating to the FATCA IGA, RBI's framework for setting of wholly-owned subsidiaries by foreign banks in India, RBI's announcement relating to AD Category I Banks being able to borrow from international / multilateral financial institutions for a limited period, various speeches given by Dr K.C. Chakrabarty and Shri Harun R Khan on India's economy, growth and the banking sector, RBI's announcement relating to enhancement of limit and lowering of minimum maturity for overseas foreign currency borrowings by AD Banks, RBI's circular on Risk Management and Inter Bank Dealings relating to cancellation and rebooking of forward contracts, ESMA's advice to the European Commission on equivalence of non-European derivatives rules (including ESMA's technical advice on India, proposed amendments to CCIL's rules for netting and regulatory capital purposes, RBI's Annual Report 2012 to 2013 and the impact of the NDF market on onshore market.

ISDA also provided an update on global developments, in particular, the IOSCO APRC letter to the European Union on Asian CCP recognition, ESMA's publication of its draft extraterritoriality RTS, BIS release of OTC derivatives statistics as at end-June 2013, ESMA's registration of the first four trade repositories, ESMA's publication of non-European Economic Area CCPs that have applied for recognition under Articles 25 of EMIR, IOSCO's notice on implementation of Principles for Financial Benchmarks, the proposed FACTS guidance for FFIs released by the U.S. Department of Treasury and IRS and IOSCO's letter to FSB on cross-border regulation task force.

ISDA also updated the meeting on certain ISDA initiatives, including the preparation of the Quick Reference Guides on U.S., EU and Asian OTC derivatives, the publication of the ISDA 2013 DF Agreement for non-U.S. transactions, the ISDA statement letter received from major resolution authorities, an update on the Working Group on legal opinions for cleared derivatives and Working Group on ISDA Addendum Opinion, various ISDA's market education webcasts, public webinars and

presentations, the publication of the Cross-Border Representations Letter on ISDA Amend, the Cross-Border Swaps Representation Letter for U.S. banks, the Dodd-Frank March 2013 Protocol (DFP2) to EMIR Top-Up Agreement, the 2013 ISDA Arbitration Guide and the Form of Change of Status Notice for the ISDA 2013 EMIR NFC Representation Protocol.

Regulatory Developments

Australia: APRA releases final liquidity prudential standard

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In December 2013, the Australian Prudential Regulation Authority (APRA) released its final prudential standard APS 210 on Liquidity, which came into effect on January 1, 2014. This prudential standard requires authorized deposit-taking institutions (ADIs) to adopt sound management of their liquidity risk; maintain a liquidity risk management framework; maintain sufficient liquidity to meet their obligations as they fall due and hold a minimum level of high-quality liquid assets (HQLA) to survive a severe liquidity stress.

APRA will determine whether an ADI is classified as a Liquidity Coverage Ratio (LCR) ADI or an ADI subject to the Minimum Liquidity Holdings (MLH) regime for liquidity by taking into account the ADI's size and complexity with respect to the liquidity risk. An LCR ADI must undertake scenario analysis of domestic and foreign currency liquidity and must complete the following scenarios:

- the Liquidity Coverage Ratio (from January 1, 2015);
- the "name crisis" scenario (until December 2014); and
- the "going concern" scenario.

An MLH ADI will be required to maintain a minimum holding of 9% of its liabilities in specified liquid assets. An MLH ADI is also required to complete the going concern scenario.

China:

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Free trade zone opinion has derivatives provisions

On December 2, the People's Bank of China (PBOC) issued an opinion setting out financial measures to support the development of the China (Shanghai) Pilot Free Trade Zone (the FTZ). The Opinion aims to facilitate cross-border investment and financing, expand the cross-border utilization of Renminbi (RMB), promote interest rate liberalization and reform the foreign exchange administration system. The opinion encourages institutions in the FTZ to carry out hedging transactions within and outside the FTZ, and allows qualified enterprises within the FTZ to invest in securities and derivatives overseas. In addition, banks in the FTZ will be permitted to enter into OTC commodity derivative transactions with domestic clients. The PBOC intends to issue further detailed rules to implement all the relevant measures.

SAFE adjusts derivative business administration to facilitate FX hedging

On December 19, the State Administration of Foreign Exchange (SAFE) issued the Notice on Adjusting the Administration of RMB/FX Derivative Business (Chinese) (the Notice) which is intended to facilitate domestic entities' hedging of foreign exchange risks. The Notice took effect on January 1, 2014.

The Notice appeals the filing requirement for conducting currency swap and foreign exchange swap business. Banks and their branches that are qualified to conduct RMB/FX forward transactions before the

effective date of the Notice may start conducting currency swap and foreign exchange swap business automatically.

The Notice also relaxes certain restrictions on banks' currency swap business: banks are now permitted to enter into a currency swap transaction without exchanging principal at the effective date with their clients who have borrowed debts denominated in a foreign currency. The Notice also allows a bank to decide its own reference exchange rate when conducting cash-settled RMB/FX options with clients or on interbank market as long as the rate is a real and effective rate used in the onshore market. Banks are also permitted to use reasonable and appropriate method and parameters at their discretion to calculate the Delta of their RMB/FX option transactions. Under previous regulations, banks had to use the method and parameters set out in the CFETS guidance when calculating the Delta.

Hong Kong: SFC circular on reporting to trade repository

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On December 4, the Securities and Futures Commission (SFC) issued a circular to licensed corporations in relation to the reporting of OTC derivatives transactions to the Hong Kong Trade Repository (HKTR). The circular is intended to inform licensed corporations that the HKMA has further updated its administration and interface development guide (AIDG) containing the technical specifications for reporting of OTC derivatives transactions to the HKTR.

Licensed Corporations with activities that may be subject to mandatory reporting obligations, or that intend to participate in the Interim Arrangement on a voluntary basis, are advised to take into account the refinements and clarifications made to the AIDG when making preparations for reporting to the HKMA's TR.

India: Reporting platform for OTC FX and IRD

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On December 4, RBI issued a circular on the Reporting Platform for OTC Foreign Exchange and Interest Rate Derivatives. All/selective trades in OTC foreign exchange and interest rate derivatives between the Category-I AD banks/ market makers (banks/PDs) and their clients shall be reported on the CCIL platform, subject to a mutually agreed upon confidentiality protocol.

CCIL has now completed the development of the platform for reporting of the following OTC derivative transactions: Inter-bank and client transactions in Currency Swaps; Inter-bank and client transactions in FCY FRA/IRS; and Client transactions in INR FRA/IRS. Additionally, CCIL has put in place a confidentiality protocol, in consultation, with the market representative bodies. The platform will be operationalized from Dec 30, 2013 for the above OTC derivative transactions. Please see the link above for the full reporting requirements.

Singapore:

MAS consults transaction requirements for banks

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In December 2013, MAS released a consultation paper on Related Party Transaction Requirements for Banks. The consultation paper sets out the proposed changes to MAS' requirements on banks' transactions with their related parties (RPTs) as set out in MAS Notice 643 "Transactions with Related Parties" and in the Banking Act (BA). Key highlights include:

- Exemption of RPTs below SGD \$100,000. Exemption of all other staff transactions, besides staff loans, from the requirements that RPTs be conducted on no more favorable terms, provided that these transactions are granted as part of the officer or employee's overall remuneration package, in accordance with the staff remuneration policy that has been approved by the board;
- Views on whether a bank's majority-owned subsidiaries should be excluded from the bank's list of related parties and the scope of MAS Notice 643. The paper consults on the level of majority shareholding in subsidiaries for the subsidiaries to qualify for the exclusion;
- For a bank incorporated outside Singapore, the consultation paper seeks views on whether the definition of "senior management" should be confined to the senior management of the bank in Singapore;
- For the list of banks' related parties, the consultation paper seeks comments on whether this list should be expanded to include firms, LLPs and companies of which banks are directors, partners, executive officers, agents, guarantors or sureties;
- For substantial shareholder group (SSG), the consultation paper seeks comments on whether it would be appropriate to amend the definition of SSG to include the substantial shareholders of all the holding companies (both ultimate and intermediate holding companies) of a bank incorporated in Singapore (and their respective affiliates);
- Seeking views on aligning the shareholding threshold, for determining the substantial shareholders of a bank incorporated in Singapore, with the 5% shareholding threshold in the Companies Act;
- Seeking views on the materiality thresholds for prior approval requirement: (a) an aggregate threshold of 2% for the bank's Common Equity Tier 1 (CET1) or capital funds for exposures to any related party group; and (b) a per-transaction threshold of 0.05% of the bank's CET1 or capital funds, or \$2 million, whichever is lower, for any non-exposure transaction with a related party.

Submission deadline is January 15.

CFTC grants SGX-DC registration as DCO

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On December 27, the Commodity Futures Trading Commission (CFTC) issued an Order granting Singapore Exchange Derivatives Clearing Limited (SGX-DC) registration as a derivatives clearing organization (DCO) pursuant to Section 5b of the Commodity Act. SGX-DC, which is a subsidiary of Singapore Exchange Limited and is organized under the laws of Singapore, is also regulated by the MAS. Subject to the terms and conditions of the Order, SGX-DC is authorized to provide clearing services for swaps that SGX-DC currently clears and such other swaps that CFTC determines SGX-DC is eligible to clear. This Order was effective on December 31, 2013.

CFTC, MAS sign MoU on supervision of cross-border entities

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On December 27, the Commodity Futures Trading Commission (CFTC) and the Monetary Authority of Singapore (MAS) signed a Memorandum of Understanding (MoU) (press release) regarding the cooperation and the exchange of information in the supervision and oversight of regulated entities that operate on a cross-border basis in the United States and Singapore. The MoU was signed by former CFTC Chairman Gary Gensler and MAS Deputy Managing Director, Financial Supervision, Ong Chong Tee.

The CFTC and MAS express their willingness through this MoU to cooperate in the interest of fulfilling their respective regulatory mandates regarding derivatives markets, particularly in the areas of protecting investors and customers, fostering integrity of and maintaining confidence in financial markets and

reducing systemic risk. The scope of the MoU includes markets and organized trading platforms, central counterparties, trade repositories, and intermediaries, dealers and other market participants.

Upcoming committee and working group meetings/conferences

Meetings:

South Asia L&R Meeting	Jan 23
North Asia L&R Meeting	Jan 28
APAC CCP Risk call	Jan 29

Conference:

US & European Swap Regulations Conference – Singapore	Jan 16
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