

# A Practical Guide to Executing Trades on US-Singapore Recognized Venues

In March 2019, the Commodity Futures Trading Commission (CFTC) and the Monetary Authority of Singapore (MAS) announced they had reached agreement on the mutual recognition of certain derivatives trading venues in the US and Singapore, helping to improve efficiency in cross-border trading between participants in those countries.

This guide describes the practical implications of how cross-border trading will work following this agreement, and sets out the issues that market participants should consider. In particular, it analyzes the effect of mutual recognition on the order flow of trades executed on US and Singapore venues, and highlights areas where further alignment is necessary.

## INTRODUCTION

In recent years, global regulators have achieved tangible progress in recognizing foreign regulatory regimes. Global regulators have issued equivalence determinations – positive assessments of a third-country framework – which allow market participants to rely on the rules of a foreign regulatory regime.

An important example of this approach was an agreement between the CFTC and the European Commission (EC) in October 2017 on the mutual recognition of derivatives trading venues. More recently, other agreements have been announced – between the CFTC and MAS, the CFTC and the Japanese Financial Services Agency, and the EC and MAS.

Following the agreement of EU/US trading venue recognition, ISDA published a guide to assist market participants navigate the numerous regulatory requirements related to trading on these recognized venues<sup>1</sup>.

This new guide is intended to help firms better understand the mechanics of trade execution following the US/Singapore agreement, and explain some of the regulatory complexities associated with trading on these venues<sup>2</sup>.

The following sections describe the mechanics of trade execution on US/Singapore recognized venues. They also provide examples of the regulatory complexity and compliance challenges that remain due to the absence of wholesale equivalence determinations between the US and Singapore derivatives regulatory regimes.

### Clearing

- Trades executed between US and Singapore persons that are subject to mandatory clearing requirements in both the US and Singapore must be cleared through central counterparties (CCPs) that are CFTC-registered derivatives clearing organizations (DCOs) and are also licensed as approved clearing houses (ACHs) or recognized clearing houses (RCHs) in Singapore. Due to a lack of recognition between mandatory clearing rules, these CCPs must prescribe to US rules – for example, the time limit in which such CCPs must accept or reject a trade from clearing.
- Currently, US customers must clear their trades via the agency model (ie, via a US futures commission merchant (FCM)) through a CFTC-registered DCO. ISDA welcomes a CFTC proposal to amend these requirements to allow US customers to clear their trades at an exempt DCO, subject to certain conditions<sup>3</sup>.

<sup>1</sup> <https://www.isda.org/a/COmEE/A-Practical-Guide-to-Navigating-Derivatives-Trading-on-US-EU-Recognized-Trading-Venues.pdf>

<sup>2</sup> This guide is intended to provide a general overview of transaction flows on CFTC-recognized and MAS-licensed venues. It should not be considered legal advice or analysis. Market participants should obtain their own legal advice before taking any action based upon this guide. In particular, this guide does not address the full detail of the cross-border application of trading, clearing or reporting rules and its implications. It is assumed no party is guaranteed by an entity in another jurisdiction and no party is an affiliate conduit. Unless otherwise indicated, where an entity is identified as a Singapore person, firm or counterparty, it is assumed it is not a US person or (in the case of a US person) is acting in its capacity as a Singapore person rather than in its capacity as a US person, and vice versa

<sup>3</sup> Exemption from Derivatives Clearing Organization Registration, Proposal, <https://www.govinfo.gov/content/pkg/FR-2019-07-23/pdf/2019-15258.pdf>

## Public Reporting

- Trades executed between US and Singapore persons on Singapore licensed venues<sup>4</sup> will continue to be subject to US real-time reporting requirements, creating competitive disadvantages. For example, Singapore firms may be unwilling to transact with US persons on Singapore or US recognized venues for fear that their trades would be disclosed in the US.

## Regulatory Reporting

- Due to a lack of recognition of US-Singapore regulatory reporting rules, reporting obligations are more challenging when US persons trade on a Singapore licensed venue. US firms will be required to satisfy various reporting obligations, including:
  - US regulatory reporting of the alpha swap to a swap data repository (SDR) as soon as technologically practicable (ASTP), or T+1 for swaps between two buy-side counterparties.
  - US firms that are also subject to Singapore regulatory reporting requirements (for example, US firms that are also licensed banks in Singapore) will generally have to comply with Singapore regulatory reporting on a T+2 basis.

Note: While DTCC Data Repository (Singapore) PTE Ltd can route such trades to both US and Singapore regulators, US firms will still have to establish parallel compliance mechanisms in practice. Due to a lack of harmonization in reporting rules, US firms are required to report different data in divergent formats and data fields to both regulators. Therefore, while DTCC Data Repository (Singapore) PTE Ltd may facilitate reporting to both regulators, this will not alleviate the compliance burden for US firms.

## Business Conduct Obligations

- Since the US and Singapore have not taken a holistic approach towards recognition of each other's regulatory regimes, US persons may still be subject to US-based business conduct requirements when executing their trades on Singapore licensed venues, and vice versa. In line with the position in ISDA's *Cross-border Harmonization of Derivatives Regulatory Regimes* whitepaper<sup>5</sup>, ISDA questions the necessity of the cross-border application of these rules, as they are not intended to mitigate systemic risk.

<sup>4</sup> See the list of approved exchanges and recognized market operators set out in Annex 2

<sup>5</sup> <https://www.isda.org/a/9SKDE/ISDA-Cross-Border-Harmonization-FINAL2.pdf>

## Note

For the purposes of this guide:

- The questions and answers are limited to the execution of derivatives contracts<sup>6</sup> that are subject to mandatory clearing and trading requirements under US or Singapore laws and regulations.
- We assume that trades are only executed between professional investors (which, for the purposes of Singapore regulatory requirements, are defined as institutional investors, accredited investors or expert investors).
- For ease of reference, the products that are subject to the Singapore clearing mandate are set out in Annex 1. Products subject to the Singapore trading mandate are listed in Annex 2.

Both the Singapore clearing mandate and the Singapore trading mandate apply to licensed banks in Singapore with a certain volume of derivatives trading activity that have been carrying out business for at least one year.

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<sup>6</sup> For the purposes of Singapore laws and regulations, 'derivatives contracts' or 'derivatives transactions' as used herein refer to over-the-counter (OTC) derivatives contracts

## PART I: US PERSON TRADING ON AN AE/RMO<sup>7</sup> TO SATISFY MANDATORY TRADING OBLIGATIONS

Question	Answer
General Registration and Licensing Requirements	
<b>1.1 In order to trade on an organized market operated by an approved exchange (AE) in Singapore or a recognized market operator (RMO) in Singapore, am I required to be licensed or authorized by, or registered with, the Monetary Authority of Singapore (MAS)?</b>	<p>No. You will not have to be licensed or authorized by, or registered with, MAS simply by virtue of trading on an AE or RMO.</p> <p>However, US persons have to assess whether they need to be licensed by MAS based on their activities. Generally, trading of derivatives (including clearing mandate products and trading mandate products) is considered a regulated activity and requires licensing under the Securities and Futures Act (SFA). The licensing requirement applies to persons carrying out such regulated activity within Singapore. It would also apply to US persons carrying out such regulated activity from outside Singapore, where this activity has a substantial and reasonably foreseeable effect in Singapore. In particular, it may apply where US persons execute trades from outside Singapore with counterparties in Singapore<sup>8</sup>. A licensing exemption may be available under certain circumstances.</p>
<b>1.2 What Singapore regulatory requirements will apply to a US swap dealer (SD) that is also licensed by MAS when trading derivatives contracts on an AE/RMO?</b>	<p>A US SD that is licensed by MAS (for example, as a licensed bank or merchant bank) will be subject to a range of Singapore regulations as a result of its licensing status. When trading on an AE/RMO, examples of such obligations include:</p> <ul style="list-style-type: none"> <li>• <b>Client disclosures:</b> Firms may be required to provide disclosure on an ongoing basis to their customers, including particulars of the customer's derivatives contracts and information on fees and charges.</li> <li>• <b>Conflicts of interest:</b> Firms may be required to ensure effective controls and segregation of duties to mitigate potential conflicts of interest that may arise from its operations.</li> <li>• <b>Best execution:</b> MAS has issued guidelines on internal controls that require, among other things, customer orders to be promptly processed in accordance with instructions given and on the best available terms<sup>9</sup>.</li> </ul> <p>In general, a US SD that is not licensed by MAS will not be subject to Singapore conduct of business requirements when trading on an AE/RMO, other than any applicable requirements that may be imposed as a condition where the US SD is relying on a licensing exemption for dealing in derivatives contracts in Singapore.</p>
<b>1.3 I am an SD. Do I need to comply with US external business conduct (EBC) requirements when I execute derivatives contracts on an AE/RMO?</b>	<p>Yes, SDs executing trades on an AE/RMO are required to follow US EBC rules. Some of these rules include disclosure requirements, swap documentation requirements, portfolio reconciliation requirements and fair dealing obligations.</p>

<sup>7</sup> The scope of Part I excludes any AE/RMO which is also regulated as a swap execution facility (SEF)

<sup>8</sup> A person dealing in capital markets products that are OTC derivatives contracts in Singapore is required to hold a capital markets services license for such regulated activity, or be exempt from licensing. For example, licensed banks and merchant banks in Singapore may rely on an exemption from this licensing requirement (this is not an automatic licensing exemption and certain procedural steps are needed to invoke this exemption). Another example of an available licensing exemption is an entity dealing for its own account (or an account of a related corporation) without receiving a spread or other remuneration (including any incentive, benefit or reward, whether monetary or otherwise) in connection with such dealing (for example, if they deal for hedging purposes), and dealing with or through certain Singapore regulated entities. Separately, where an entity executes such trades wholly from outside Singapore (ie, without conducting any physical visit to Singapore, or operating via any presence), it is unlikely that any Singapore licensing or approval requirement would apply if that entity only deals with a limited number of counterparties in Singapore, on the assumption that they all qualify as 'accredited investors' or 'institutional investors' under the SFA

<sup>9</sup> See paragraph 3.11.2 of the MAS Guidelines on Risk Management Practices – Internal Controls (dated July 2014), available at <https://www.mas.gov.sg/regulation/guidelines/guidelines-on-risk-management-practices--internal-controls>. Paragraph 1.2.1 indicates these guidelines are not intended to be exhaustive, nor do they prescribe a uniform set of requirements on internal controls for all institutions. The extent and degree to which a financial institution supervised by MAS adopts the guidelines should be commensurate with the institution's risk and business profile.

See paragraph 5.2 of the MAS Guidelines on Standards of Conduct for Financial Advisers and Representatives, available at <https://www.mas.gov.sg/regulation/guidelines/guidelines-on-standards-of-conduct-for-financial-advisers-and-representatives>. Paragraphs 2 and 5 on page 1 state that MAS will be directed by these guidelines in considering whether a financial advisor or any of its representatives satisfy the business conduct requirements set out in the Financial Advisers Act (Cap. 110 of Singapore) or any of its subsidiary instruments, or is a fit and proper person to be engaged in financial advisory services in Singapore.

On November 20, 2017, MAS issued a Consultation Paper on Execution of Customers' Orders (available at <https://www.mas.gov.sg/publications/consultations/2017/consultation-paper-on-execution-of-customers-orders>), proposing to formalize its expectations for financial institutions to have in place policies and procedures to place and/or execute customer orders on the best available terms to support fair outcomes. The consultation paper included a draft notice that sets out proposed legally binding best execution requirements, and draft guidelines on the notice. The consultation closed in December 2017, and the proposed best execution requirements have yet to be finalized and come into effect

Question	Answer
<b>1.4 When executing a trade on an AE/RMO, does my counterparty have to count its trades towards the Commodity Futures Trading Commission (CFTC) swap dealer de minimis threshold?</b>	Yes, non-US persons engaging in dealer activities must count all swaps entered into with US persons (except with foreign branches of US SDs) towards their swap dealer de minimis threshold calculations, as per the CFTC cross-border guidance.
<b>Pre-execution Considerations</b>	
<b>1.5 Are there any Singapore pre-trade transparency requirements that apply to a trade that will be executed on an AE/RMO?</b>	No. Currently, Singapore regulations do not prescribe pre-trade transparency requirements for the execution of derivatives transactions (including trading mandate products) on AEs/RMOs. However, an AE/RMO is generally required, as far as reasonably practical, to ensure that every organized market it operates is fair, orderly and transparent <sup>10</sup> . The MAS Guidelines on the Regulation of Markets <sup>11</sup> (markets guidelines) define transparency as the degree to which pre-trade and post-trade information about trading is made publicly available on a real-time basis. The markets guidelines provide that pre-trade information, such as best bids and offers, should be made available to investors <sup>12</sup> . While the markets guidelines are not legally binding, they are consistent with the regulatory requirement for an AE/RMO to operate a fair, orderly and transparent organized market <sup>13</sup> as far as reasonably practical <sup>14</sup> .
<b>Execution Considerations</b>	
<b>1.6 Do I have to follow the trading rules of the AE/RMO when I execute my trade on that venue?</b>	Yes. AEs/RMOs each have their own rule books, which market participants are expected to sign up to in order to be on-boarded. An AE/RMO is required to maintain business rules that ensure the organized market operates in a fair, orderly and transparent manner, and provide for the proper regulation and supervision of its members <sup>15,16</sup> .
<b>1.7 If my counterparty is also a US person, can I discharge my made-available-to-trade (MAT) obligations (ie, US trading obligation) on equivalent AE/RMOs?</b>	Yes, because of equivalence. AE/RMO rules will apply in addition to US applicable regulatory requirements, such as reporting and clearing obligations.
<b>1.8 Are there any Singapore straight-through-processing (STP) rules that will apply to my trade that is executed on an AE/RMO?</b>	For trades executed on an AE/RMO, Singapore regulations do not prescribe time frames for trades to be sent to the relevant central counterparty (CCP) for clearing.

<sup>10</sup> Sections 15(1) and 33(1) of the SFA

<sup>11</sup> See paragraph 2.6 of the MAS Guidelines on the Regulation of Markets (dated July 1, 2005), available at <https://www.mas.gov.sg/regulation/guidelines/guidelines-on-the-regulation-of-markets>. Paragraph 1.1 states that these guidelines aim to provide the industry with a better understanding of how MAS will administer the legislative provisions relating to markets under Part II (Organized Markets) of the SFA

<sup>12</sup> Paragraph 2.7 of the markets guidelines

<sup>13</sup> More generally, guidelines issued by MAS set out principles or best practice standards that govern the conduct of specified institutions or persons and are non-legally binding in nature. While contravention of guidelines is not a criminal offence and does not attract civil penalties, specified institutions or persons are encouraged to observe the spirit of the guidelines. The degree of observance with guidelines by an institution or person may have an impact on MAS's overall risk assessment of that institution or person. See the MAS website at <https://www.mas.gov.sg/regulation/MAS-Supervisory-Approach-and-Regulatory-Instruments> for more information on the regulatory instruments issued by MAS

<sup>14</sup> In addition, MAS has consulted on proposals to impose certain additional requirements on market operators, but these requirements have yet to be finalized and come into effect. See the MAS Consultation Paper on Review of the Recognized Market Operators Regime (dated May 22, 2018), available at <https://www.mas.gov.sg/publications/consultations/2018/consultation-paper-on-review-of-the-recognised-market-operators-regime> for more information. The consultation closed in June 2018, and MAS has not published any response to feedback received on this consultation. Also see the MAS Consultation Paper I on Draft Regulations Pursuant to the Securities and Futures Act (dated April 28, 2017), available at <https://www.mas.gov.sg/publications/consultations/2017/consultation-paper-i-on-draft-regulations-pursuant-to-the-securities-and-futures-act>. The MAS response to the April 28, 2017 consultation paper was published on September 28, 2018, and is available at <https://www.mas.gov.sg/publications/consultations/2017/consultation-paper-i-on-draft-regulations-pursuant-to-the-securities-and-futures-act>

<sup>15</sup> Sections 15(1) and 33(1) of the SFA

<sup>16</sup> Additionally, with respect to AEs, section 24 of the SFA provides that an AE's business rules are to be treated and operate as a binding contract between the AE and each member, and between the members inter se. An AE and each member are deemed to have agreed to observe and perform the applicable business rules

Question	Answer
<b>1.9 What happens if I execute an erroneous trade on an AE/RMO that is subsequently rejected from clearing?</b>	There are no Singapore regulations that prescribe specific rules for the treatment of erroneous trades executed on an AE/RMO and subsequently rejected from clearing. In practice, the treatment of such trades would depend on the agreement between the parties to the trade, as well as the rules of the relevant AE/RMO and/or CCP.
<b>1.10 How do I execute a block or package transaction on an AE/RMO?</b>	There are no special Singapore requirements for executing block or package trades on AE/RMOs <sup>17</sup> .
<b>1.11 Will the AE/RMO or Singapore regulators monitor trading on an AE/RMO?</b>	Both. US persons trading on an AE/RMO may potentially be subject to the following oversight (among others): <ul style="list-style-type: none"> <li>• An AE/RMO is required, as far as reasonably practical, to ensure that every organized market it operates is a fair, orderly and transparent organized market<sup>18</sup>.</li> <li>• An AE/RMO is required to have business rules that satisfactorily provide for the proper regulation and supervision of its members<sup>19</sup> and to enforce compliance with its business rules<sup>20</sup>.</li> <li>• An AE's business rules must provide for the expulsion, suspension or discipline of members for conduct inconsistent with just and equitable principles in the transaction of business, or for contravention of the AE's business rules<sup>21</sup>.</li> <li>• An AE/RMO is required to provide any information, including transactional and product information, to MAS in order for MAS to assess compliance with the SFA<sup>22</sup>. In addition, AEs<sup>23</sup> and certain RMOs<sup>24</sup> are required to notify MAS of disciplinary action taken against its members or Singapore participants.</li> <li>• US persons may be responsible for compliance with Singapore regulatory requirements (eg, business conduct requirements) if their activities are regulated by MAS.</li> </ul>
<b>Clearing Considerations</b>	
<b>1.12 Assuming my trade is subject to the US clearing mandate, under which clearing model (agency or principal) do I have to clear my trade? Where can the trade be cleared?</b>	The answer to this question depends on whether you are clearing on your own behalf (house trades) or through a clearing broker as a customer (customer trades). For house trades, you may clear directly as a clearing member (assuming you are a direct clearing member). For customer trades, however, you must clear through the agency model (ie, via a US futures commission merchant (FCM)). Either way, your trade must be cleared through a clearing house that is a CFTC-registered derivatives clearing organization (DCO) or a DCO that is exempt from registration (for house trades only) to satisfy the US clearing mandate. However, there are currently no CCPs exempt from DCO registration in Singapore.  As a practical matter, CFTC-registered DCOs that are also recognized clearing houses (RCHs) in Singapore offer both an FCM clearing model and a principal-to-principal model, and can facilitate one leg being cleared via the FCM model and the other leg being cleared via the principal model. For example, the following registered DCOs are also RCHs (as of July 30, 2019): LCH Limited, ICE Clear Credit LLC, Eurex Clearing AG and Chicago Mercantile Exchange, Inc <sup>25</sup> .
<b>1.13 Will my CCP follow the timing outlined in US rules or Singapore rules when accepting or rejecting a trade for clearing?</b>	As there are currently no exempt DCOs in Singapore, the timing requirements outlined under US rules will apply. Therefore, the DCO must accept or reject a trade for clearing within 10 seconds.
<b>Reporting Considerations</b>	
<b>1.14 Are there any Singapore post-trade transparency obligations (real-time reporting) that will apply to my trade if it is executed on an AE/RMO?</b>	Currently, Singapore regulations do not prescribe post-trade transparency requirements (ie, public reporting of post-trade information) for trades executed on an AE/RMO. However, an AE/RMO is generally required to ensure that every organized market it operates is transparent. The markets guidelines provide that post-trade information on executed trades should be publicized to reflect the market prices of executed trades <sup>26</sup> . See the discussion in 1.5 relating to the markets guidelines and the regulatory requirements recently proposed by MAS.

<sup>17</sup> Package transactions are out of scope of the Singapore trading mandate

<sup>18</sup> Sections 15(1)(a) and 33(1)(a) of the SFA

<sup>19</sup> Sections 15(1)(e) and 33(1)(e) of the SFA

<sup>20</sup> Sections 15(1)(f) and 33(1)(f) of the SFA

<sup>21</sup> Regulation 17(1)(b) of the markets regulations

<sup>22</sup> Sections 20(b) and 38(b) of the SFA

<sup>23</sup> Section 16(1)(f) of the SFA

<sup>24</sup> See paragraph 3(d) of the MAS Notice on Supervision of Market Participants (last revised on March 1, 2019), available at <https://www.mas.gov.sg/regulation/notices/notice-sfa-02-n02>. Such RMOs are also required to have in place measures to ensure that the participants in Singapore of any organized market operated by the RMO comply with the rules of the RMO, and have in place measures to monitor the compliance of the participants in Singapore of any organized market operated by the RMO with Part XII of the SFA

<sup>25</sup> Firms should confirm the services provided and types of trades cleared with each of these clearing houses

<sup>26</sup> Paragraph 2.7 of the markets guidelines

Question	Answer
<p><b>1.15 Do US post-trade transparency obligations (real-time reporting) apply to my trade if it is executed on an AE/RMO?</b></p>	<p>Yes. As the reporting rules have not been determined equivalent, trades executed on an AE/RMO are viewed as off-facility transactions for US public reporting (ie, real-time reporting) purposes and are subject to the reporting hierarchy provided in the CFTC rules. For example:</p> <ul style="list-style-type: none"> <li>• If only one counterparty is an SD, then that counterparty will be responsible for sending the trade to the swap data repository (SDR) as soon as technologically practicable.</li> <li>• If a trade is between a US hedge fund or pension fund and an investment firm (that is not an SD), then the counterparties will have to agree on which entity will be responsible for reporting. In practice, the US person is likely to report. This may be problematic for US buy-side participants that are not set up to send trades to an SDR.</li> </ul>
<p><b>1.16 Is my trade subject to Singapore regulatory reporting?</b></p>	<p>If the US person is a licensed bank in Singapore executing a trading mandate product on an AE/RMO, then it will be subject to the Singapore trade reporting requirements. In general:</p> <ul style="list-style-type: none"> <li>• Financial institutions licensed or regulated by MAS, subsidiaries of Singapore incorporated licensed banks and other persons with significant derivatives activities may be subject to Singapore trade reporting obligations where they enter into 'specified derivatives contracts'<sup>27</sup>.</li> <li>• 'Specified derivatives contracts' refer to any interest rate derivatives, credit derivatives, foreign exchange derivatives, commodity derivatives or equity derivatives contracts that are traded in Singapore or booked in Singapore<sup>28</sup>.</li> </ul> <p>For the purposes of the Singapore trade reporting obligations, the prescribed information must be reported to a licensed trade repository or licensed foreign trade repository<sup>29</sup>. As of August 1, 2019, the only licensed trade repository is DTCC Data Repository (Singapore) PTE Ltd. For a specified derivatives contract that is executed on or after the applicable reporting commencement date, the prescribed information on the transaction must be reported within two business days after the execution.</p>
<p><b>1.17 Is my trade subject to US regulatory reporting?</b></p>	<p>Yes. As the reporting rules have not been determined equivalent, trades executed on AEs/RMOs are treated as off-facility swap transactions for US regulatory reporting purposes and are subject to the reporting hierarchy provided in the CFTC's rules. Therefore, you may be required to report your alpha swap to an SDR as per the reporting hierarchy. For example, if you are an SD and your counterparty is not an SD, then you will have to send the relevant details of your alpha swap to an SDR. In practice, this may impose new reporting obligations on counterparties, as swap execution facilities (SEFs) are required to send alpha swaps to SDRs on counterparties' behalf in the US.</p> <p>If you send your trade to DTCC Data Repository (Singapore) PTE Ltd, then your trade can be routed to both US and Singaporean regulators. However, due to a lack of recognition between regulatory reporting rules, firms are required to report different data in different formats and data fields to both regulators. Therefore, while the DTCC may facilitate reporting to both regulators, firms would still have to fill out two separate reports in practice.</p>

<sup>27</sup> The Singapore trade reporting obligations are prescribed in Part VIA (Reporting of Derivatives Contracts) of the SFA and the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 (the reporting regulations). In addition, MAS has published a set of FAQs on the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013, available at <https://www.mas.gov.sg/regulation/faqs/faqs-on-the-securities-and-futures-reporting-of-derivatives-contracts-regulations-2013>. See also the definition of 'specified person' under section 124 of the SFA, and regulations 6 and 10 to 10C of the reporting regulations. Additionally, the trade reporting obligations are being implemented in phases for different types of entities and different classes of specified derivatives contracts

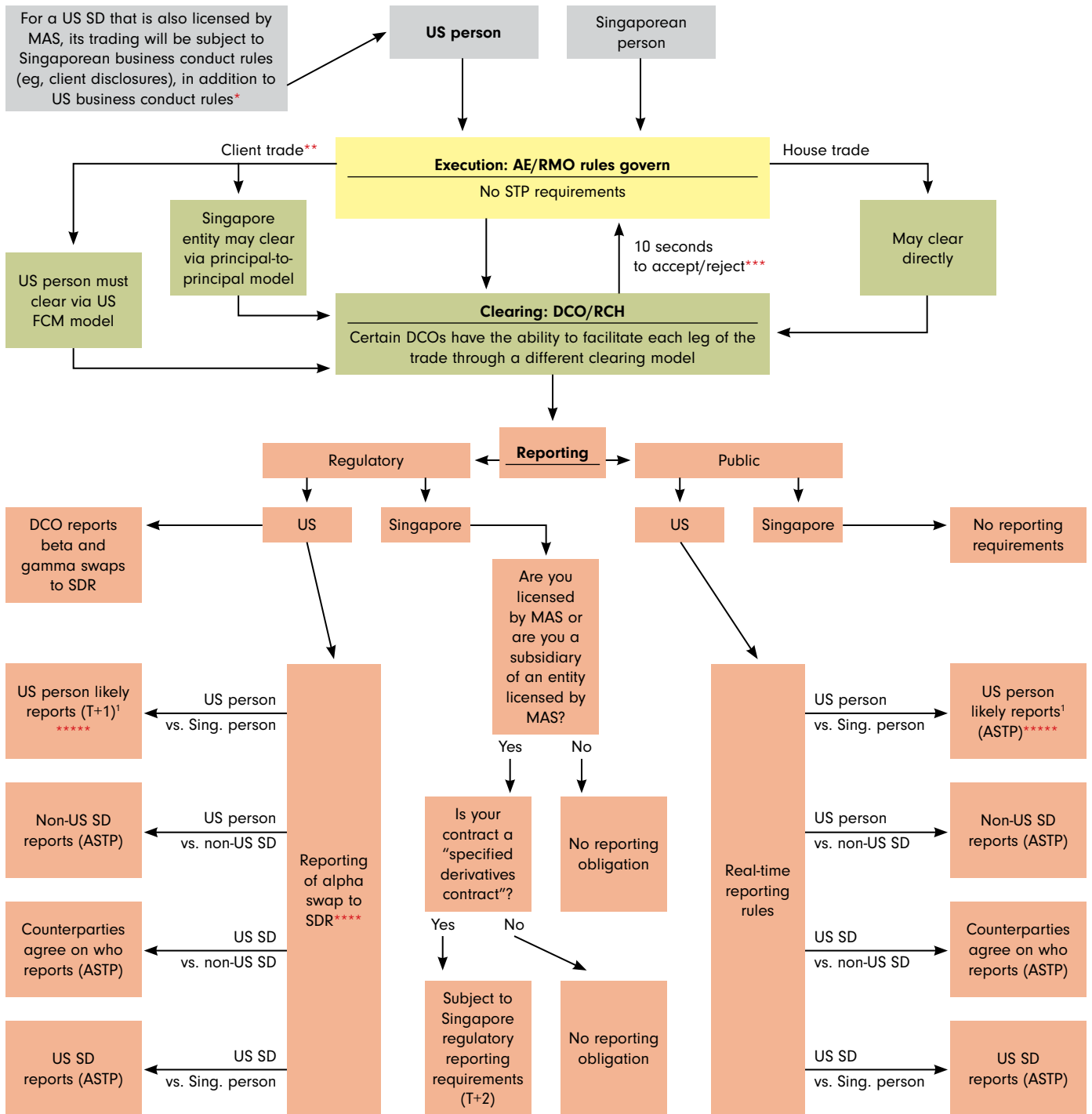
<sup>28</sup> Regulation 5 read with regulation 2 of the reporting regulations

<sup>29</sup> Section 125 of the SFA. The information to be reported and the reporting commencement dates for different types of entities are specified in regulation 7 of the reporting regulations. The requirements for time, form and manner of reporting are specified in regulation 9 of the reporting regulations



US Person Trading on a AE/RMO

1 Counterparties agree on which entity reports.



Compliance Issues

\* Due to a lack of recognition between US-Singapore business conduct rules, US SDs that are licensed in Singapore may be subject to duplicative obligations.

\*\* Due to a lack of recognition between US-Singapore clearing rules, US customers must clear their trades via the US FCM model. Note that the CFTC has proposed rules to amend these

requirements and allow US customers to clear trades at exempt DCOs through foreign intermediaries.

\*\*\* Due to a lack of recognition between mandatory clearing rules, CCPs that are DCOs and RCHs must follow US rules with respect to the time limit in which they must accept or reject a trade from clearing.

\*\*\*\* New requirements for US counterparties to send their alpha swaps to SDRs (as SEFs are required to report on counterparties' behalf).

\*\*\*\*\* Reporting requirements potentially now fall on US buy-side firms (when facing a Singapore person).

## PART II: SINGAPOREAN PERSON TRADING ON A SEF<sup>30</sup> TO SATISFY MANDATORY TRADING OBLIGATIONS

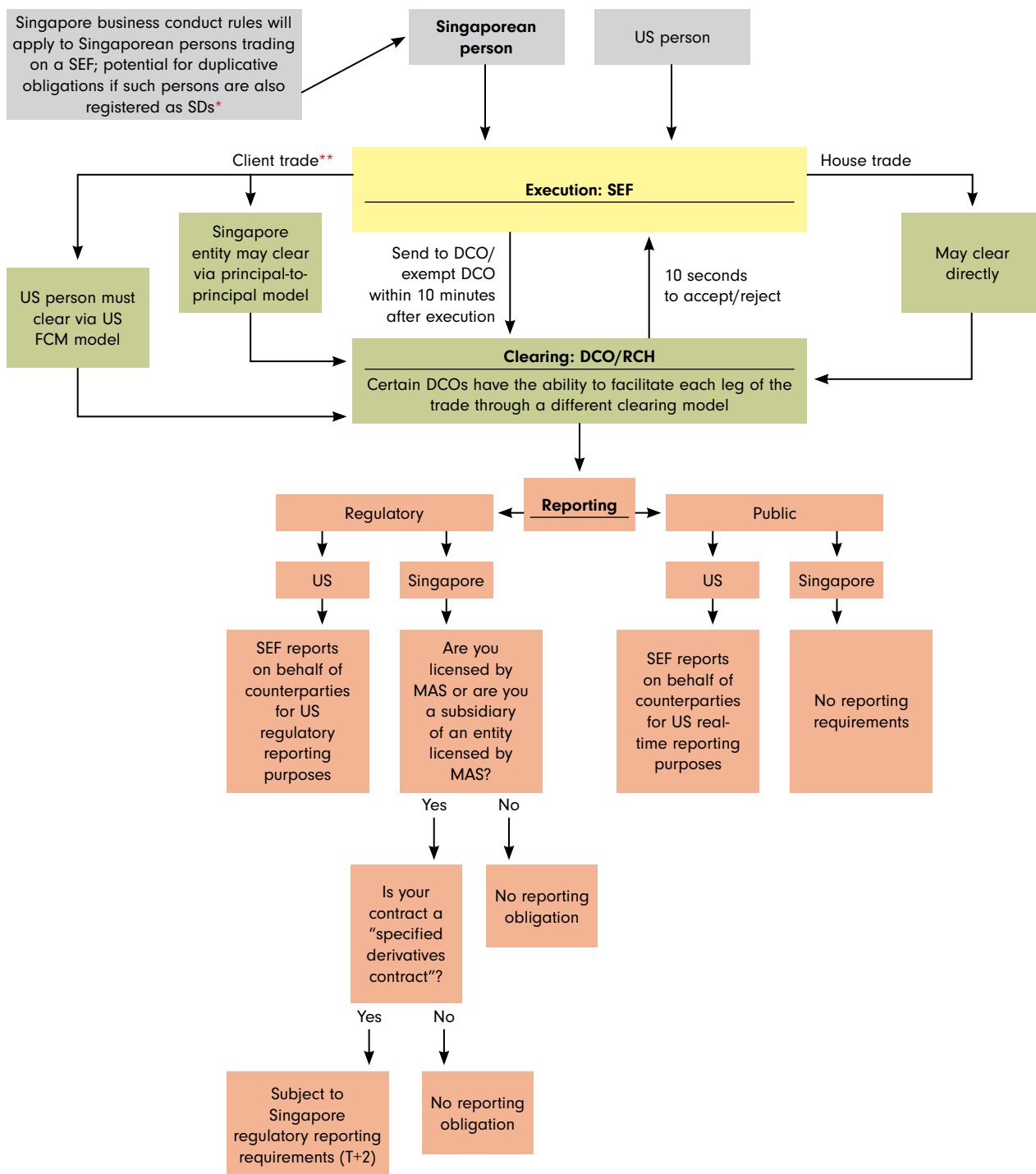
Question	Answer
General Registration and Licensing Requirements	
<b>2.1 Do any Singapore regulations apply to my trade on a SEF?</b>	Yes. When Singapore entities licensed or regulated by MAS engage in trading activities on a SEF, they generally remain subject to applicable regulations imposed on them in Singapore. Some examples of the applicable obligations are set out in 1.2 above.
<b>2.2 When I execute my trade on a SEF, do I have to count my trades with US persons towards the CFTC swap dealer de minimis threshold?</b>	Yes, if engaging in dealer activities, unless the transaction is executed anonymously on a SEF. Note, however, that non-US persons do not have to count their swaps with foreign branches of US SDs, even where such transactions are not executed anonymously.
Pre-execution Considerations	
<b>2.3 Do SEFs have any pre-trade transparency requirements?</b>	Current US rules achieve pre-trade transparency by allowing SEFs to offer a request-for-quote (RFQ) to three, in addition to the required order book trading protocols.
Execution Considerations	
<b>2.4 Do I have to comply with the SEF rules when I execute my trade on a SEF?</b>	Yes, you must comply with US trading rules and the rules of the relevant SEF on which you are executing your trade. Market participants should review the rule books of SEFs on which they expect to execute their trades.
<b>2.5 Will US STP rules apply to my trade that is executed on a SEF?</b>	Yes. <ul style="list-style-type: none"> <li>• Trades executed on a SEF must be subject to a pre-trade credit check.</li> <li>• Trades must be affirmed and routed to the relevant DCO (or exempt DCO) for clearing within 10 minutes after execution.</li> <li>• DCOs have 10 seconds to accept or reject the trade for clearing after receiving the relevant information.</li> </ul>
<b>2.6 What happens if I execute an erroneous trade on a SEF that is subsequently rejected from clearing?</b>	If your trade fails to clear due to a clerical or operational error, then you can submit a new trade with terms and conditions that match the terms and conditions that match those of the original transaction (ie, old terms, new trade) via any method of execution. The trade must be re-submitted as quickly as technologically practicable after receipt of notice of the rejection by the DCO, but no later than one hour from the issuance of the notice.  If the trade is rejected from clearing for any other reason (or a trade resubmitted pursuant to the process above is again rejected from clearing), it is determined to be void ab initio (ie, void at its inception) and may therefore not be re-submitted for clearing.

<sup>30</sup> The scope of Part II excludes any SEF which is also regulated as an AE/RMO

Question	Answer
<b>2.7 How do I execute a block or package transaction on a SEF?</b>	<p>If the product is also subject to the US trading mandate (referred to as MAT) under US regulations, then the following rules on blocks and packages will apply:</p> <p>Blocks:</p> <ul style="list-style-type: none"> <li>• Block trades may be executed away from a SEF platform, or currently may be executed on a SEF via an RFQ to one. A pre-trade credit check is required for blocks. The block trade is subject to void ab initio requirements, as described in 2.6.</li> <li>• Trades that meet the block threshold qualify for a public dissemination delay of 15 minutes.</li> </ul> <p>Packages:</p> <ul style="list-style-type: none"> <li>• Generally, packages with one MAT component must be executed on a SEF via the required methods of execution. However, the CFTC has issued time-limited no-action relief, which has temporarily allowed certain packages to be executed off-SEF or via any method offered by the SEF.</li> <li>• MAT components of packages where one or more other components is a new issuance bond may be executed off-SEF. If executed on a SEF, they may be executed via any method offered by the SEF.</li> <li>• MAT components of packages where one or more other components is a futures contract may be executed off-SEF. If executed on a SEF, they may be executed via any method offered by the SEF.</li> <li>• MAT components of packages where one or more other components is a swap that is non-MAT and not subject to mandatory clearing must be executed on a SEF, but may be executed via any method offered by the SEF.</li> <li>• Packages where one component is MAT and the other is a non-swap instrument must be executed on a SEF, but may be executed via any method offered by the SEF.</li> <li>• Packages where one component is MAT and the other is a non-CFTC swap must be executed on a SEF, but may be executed via any method offered by the SEF.</li> </ul>
<b>2.8 Will the CFTC or SEFs monitor trading on a SEF?</b>	<p>Both. SEFs are required to establish trading, trade processing and participation rules. SEFs are required to have the capacity to detect, investigate and enforce those rules. In addition, SEFs may refer to the CFTC, or the CFTC on its own can bring an enforcement action for more egregious trade violations.</p>
<b>Clearing Considerations</b>	
<b>2.9 Assuming my trade is subject to the Singapore clearing mandate (or is voluntarily cleared), under which clearing model (principal or agency) do I have to clear my trade?</b>	<p>There are no applicable Singapore regulatory requirements governing this issue. The Singapore clearing mandate does not require trades to be cleared using a specific clearing model. However, if you are subject to the Singapore clearing mandate, you must clear your trade at an approved clearing house (ACH) or RCH to satisfy your clearing obligation.</p> <p>Because your counterparty will likely be a US person who is required to clear on a registered or exempt DCO, you will likely have to clear your trade at an ACH or RCH that is also a registered DCO or an exempt DCO<sup>31</sup>. As noted above, registered-DCOs that are also RCHs include (as of July 30, 2019): LCH Limited, ICE Clear Credit LLC, Eurex Clearing AG and Chicago Mercantile Exchange, Inc.</p> <p>If the counterparty is a US customer, then the customer account must be cleared via the agency model (ie, US FCM model). As a practical matter, DCOs that are RCHs offer both an FCM clearing model and a principal-to-principal model, and can facilitate one leg being cleared via the FCM model and the other leg being cleared via the principal model.</p>
<b>2.10 Will my CCP follow the timing outlined in US rules or Singapore rules when accepting or rejecting a trade for clearing?</b>	<p>If you are clearing your trade through a registered DCO (that is also an RCH), then the timing requirements outlined under US rules will apply. Therefore, the DCO must accept or reject the trade for clearing within 10 seconds.</p>
<b>Reporting Considerations</b>	
<b>2.11 Do US real-time reporting (post-trade transparency) rules apply to my trade?</b>	<p>Yes. SEFs are required to send the relevant details of your trade to an SDR for real-time public dissemination.</p>
<b>2.12 Are there any Singapore post-trade transparency obligations (real-time reporting) that will apply to my trade that is executed on a SEF?</b>	<p>There are no post-trade transparency obligations (ie, public reporting of post-trade information) in Singapore.</p>
<b>2.13 Is my trade subject to US regulatory reporting?</b>	<p>Yes, for US regulatory reporting purposes, but the obligation is on the SEF to report your trade to an SDR.</p>
<b>2.14 Is my trade subject to Singapore regulatory reporting?</b>	<p>It depends. The Singapore trade reporting obligations may apply if you are licensed or regulated by MAS and the contract is a 'specified derivatives contract' under the reporting regulations. See 1.16 for more details.</p>

<sup>31</sup> There are currently no CCPs exempt from DCO registration in Singapore

## Singapore Person Trading on a SEF



## Compliance Issues

\* Due to a lack of recognition between US-Singapore business conduct rules, Singapore persons that are licensed by MAS and are registered with the CFTC as SDs may be subject to duplicative obligations.

\*\* Due to a lack of recognition between US-Singapore clearing rules, US customers must clear their trades via the US FCM model. Note that the CFTC has proposed rules to amend these requirements and allow US customers to clear trades at exempt DCOs through foreign intermediaries.

## ANNEX 1

### SINGAPORE CLEARING MANDATE

The Singapore clearing mandate requires certain counterparties that trade specified derivatives contracts (as defined in the Schedule to the Securities and Futures (Clearing of Derivatives Contracts) Regulations 2018 (the clearing regulations)) to clear such contracts through an authorized clearing house (ACH) or recognized clearing house (RCH), in accordance with the business rules of the ACH or RCH, within one business day after execution. Currently, the Singapore clearing mandate only applies to licensed banks in Singapore with a certain volume of over-the-counter (OTC) derivatives trading activity that have been carrying out business for at least one year.

#### Clearing Mandate Products

In general, the clearing mandate products are fixed-to-floating interest rate swap (IRS) contracts that have all the features specified in the table (subject to certain exceptions, such as derivatives contracts entered into or amended as a result of a multilateral portfolio compression cycle).

Fixed-to-Floating Interest Rate Swap Contracts						
Item	Settlement Currency	Underlying	Tenor	Optionality	Constant Notional Amount	Date Derivatives Contract is Entered into
1.	Singapore dollar	SOR	28 days to 10 years	No	Yes	On or after October 1, 2018
2.	US dollar	LIBOR	28 days to 10 years	No	Yes	On or after October 1, 2018

In March 2019, MAS indicated its intent to subject fixed-to-floating IRS denominated in euro and sterling with a maturity of between 28 days and 10 years (inclusive) to the Singapore clearing mandate. MAS stated that these clearing obligations will take effect on April 1, 2020, and the clearing regulations will be amended to include this requirement in due course<sup>32</sup>.

#### ACHs and RCHs

MAS publishes an updated list of ACHs and RCHs (though which the Singapore clearing mandate must be satisfied) in its online financial institutions directory (FID) at <http://www.mas.gov.sg/>.

As of July 30, 2019:

The ACHs are: Asia Pacific Clear PTE Ltd, ICE Clear Singapore PTE Ltd, Singapore Exchange Derivatives Clearing Limited and The Central Depository (PTE) Limited.

The RCHs are: Chicago Mercantile Exchange Inc, Eurex Clearing AG, European Commodity Clearing AG, ICE Clear Credit LLC and LCH Limited.

MAS does not publish updated information on the types of products that are cleared through an ACH/RCH. Confirmation of the specific types of products that are cleared through a particular ACH/RCH should be obtained from the ACH/RCH.

<sup>32</sup> See paragraph 7 of the MAS response (dated March 13, 2019) to feedback received on its Consultation Paper on Draft Regulations for Mandatory Trading of Derivatives Contracts, available at <https://www.mas.gov.sg/publications/consultations/2018/consultation-paper-on-draft-regulations-for-mandatory-trading-of-derivatives-contracts>

## ANNEX 2

### SINGAPORE TRADING MANDATE

The Singapore trading mandate requires certain counterparties trading specified derivatives contracts (as defined in the Schedule to the Securities and Futures (Trading of Derivatives Contracts) Regulations 2019 (the trading regulations)) to execute such contracts on an organized market operated by an approved exchange (AE) or a recognized market operator (RMO), or via any other facility prescribed by section 129N of the SFA. Currently, the Singapore trading mandate only applies to certain licensed banks with a certain volume of OTC derivatives trading activity that have been carrying out business for at least one year. In other words, the same category of licensed banks are subject to both the Singapore clearing mandate and the Singapore trading mandate.

#### Trading Mandate Products

In general, the trading mandate products are fixed-to-floating IRS contracts that have all the features specified in the table (subject to certain exceptions, such as package transactions and derivatives contracts entered into or amended as a result of a multilateral portfolio compression cycle).

Fixed-to-Floating Interest Rate Swap Contracts											
Item	Settlement Currency	Underlying	Tenor	Optionality	Constant Notional Amount	Trade Start Type	Fixed Rate	Fixed Leg Payment Frequency	Fixed Leg Day Count Convention	Floating Leg Reset Frequency	Floating Leg Day Count Convention
1.	US dollar	Three-month US dollar London Interbank Offered Rate	2,3,5,7 or 10 years	No	Yes	Spot starting (T+2) or IMM starting (next two IMM dates)	Par	Semi-annual or annual	30/360 or Actual/360	Quarterly	Actual/360
2.	US dollar	Six-month US dollar London Interbank Offered Rate	2,3,5,7 or 10 years	No	Yes	Spot starting (T+2) or IMM starting (next two IMM dates)	Par	Semi-annual or annual	30/360 or Actual/360	Semi-annual	Actual/360
3.	Euro	Three-month Euro Interbank Offered Rate	2,3,5,7 or 10 years	No	Yes	Spot starting (T+2)	Par	Semi-annual or annual	30/360 or Actual/360	Quarterly	Actual/360
4.	Euro	Six-month Euro Interbank Offered Rate	2,3,5,7 or 10 years	No	Yes	Spot starting (T+2)	Par	Semi-annual or annual	30/360 or Actual/360	Semi-annual	Actual/360
5.	Sterling	Three-month sterling London Interbank Offered Rate	2,3,5,7 or 10 years	No	Yes	Spot starting (T+0)	Par	Quarterly or semi-annual	Actual/365 Fixed	Quarterly	Actual/365 Fixed
6.	Sterling	Six-month sterling London Interbank Offered Rate	2,3,5,7 or 10 years	No	Yes	Spot starting (T+0)	Par	Quarterly or semi-annual	Actual/365 Fixed	Semi-annual	Actual/365 Fixed

## AEs and RMOs

MAS publishes an updated list of AEs and RMOs (through which the Singapore trading mandate can be satisfied) in the FID.

As of July 31, 2019:

The AEs are: Asia Pacific Exchange PTE Ltd, ICE Futures Singapore PTE Ltd, Singapore Exchange Derivatives Trading Limited and Singapore Exchange Securities Trading Limited.

The RMOs are: Australian Securities Exchange Limited, Australian Stock Exchange Limited, BGC Partners (Singapore) Limited, Bloomberg Tradebook Singapore PTE Ltd, Bloomberg Trading Facility BV, Bloomberg Trading Facility Limited, Board of Trade of the City of Chicago, Inc, BrokerTec Americas LLC, BrokerTec Europe Limited, CapBridge Platform PTE Ltd, CBOE Futures Exchange, LLC, Chicago Mercantile Exchange Inc, Cleartrade Exchange PTE Ltd, Creditex Brokerage LLP, Dubai Gold and Commodities Exchange DMCC, Dubai Mercantile Exchange Limited, Eurex Deutschland, Euronext Paris SA, Hong Kong Futures Exchange Limited, ICAP Securities USA LLC, ICE Endex Markets BV, ICE Futures Europe, ICE Futures US Inc, Instinet Pacific Limited, Liquidnet Asia Limited, Lu International (Singapore) Financial Asset Exchange PTE Ltd, MarketAxess Europe Limited, MarketAxess Singapore PTE Limited, New York Mercantile Exchange Inc, Osaka Exchange, Inc, Refinitiv Transaction Services Limited, SGX Bond Trading PTE Ltd, Shanghai International Energy Exchange Co Ltd, Sharespost Asia PTE Ltd, The London Metal Exchange, The Stock Exchange of Hong Kong Limited, Tokyo Commodity Exchange, Inc, Tokyo Financial Exchange Inc, Tokyo Stock Exchange, Inc, Tradeweb Europe Limited and Tradition Singapore PTE Ltd.

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## ABOUT ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has more than 900 member institutions from 71 countries. These members comprise a broad range of derivatives market participants, including corporations, investment

managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as

exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: [www.isda.org](http://www.isda.org). Follow us on Twitter @ISDA.