

## APAC Monthly Update

**October 2014**

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

### **Regulatory Activities**

#### **Asia Pacific:**

On October 15, ISDA attended an IMF presentation on economic stability.

On October 30, ISDA co-hosted a member's meeting with IOSCO Secretary General David Wright.

#### **Australia:**

On October 8, ISDA participated as the international representative in an AFMA Benchmarks Committee meeting. The AFMA Benchmarks Committee oversees the BBSW rate which is widely referenced in Australian derivatives trading.

On October 20, ISDA met with the Australian Treasury to discuss the G20 commitments.

On October 22, ISDA met with the Australian Treasury, APRA, ASIC and RBA to discuss issues such as margin for non-centrally cleared derivatives and resolution.

#### **China:**

On October 23, ISDA spoke at the Asia-Pacific Financial Forum organized by the APEC Business Advisory Council about necessary legal infrastructures for developing financial markets in China.

#### **India:**

On October 7, ISDA visited the Reserve Bank of India to discuss G20 reform initiatives including central clearing, third country recognition issues, trade reporting and resolution and recovery planning.

#### **Korea:**

On October 20, ISDA met with the Korea Federation of Banks to discuss an ISDA education seminar on the netting for domestic banks.

On October 21, ISDA attended the FSS Trade Reporting Working Group meeting to make a presentation on current transaction reporting landscape and industry preferences.

#### **New Zealand:**

On October 8, ISDA joined a New Zealand Financial Markets Association call with the Reserve Bank of New Zealand (RBNZ). During the call RBNZ outlined its plans for derivatives markets reform.

**Singapore:**

On October 28 ISDA visited the Singapore MAS to discuss technical aspects of the Standard Initial Margin Model for uncleared swaps.

On October 28 ISDA CEO Scott O'Malia and ISDA staff visited MAS Assistant MD Lee Boon Ngiap to provide an update on the ISDA Resolution Stay Protocol and other regulatory developments.

**Committee/Working Group Activities****North Asia L&R**

On October 21, ISDA held its monthly Legal and Regulatory Committee meeting in Beijing. ISDA updated the members on the latest North Asian regulatory and documentation developments including the final rules for Shanghai-Hong Kong Stock Connect issued by Shanghai Stock Exchange, the publication of "ISDA Additional Provisions for Stock Connect" and SFC Consultation Conclusions on the Proposed Amendments to the Professional Investor Regime and Further Consultation on the Client Agreement Requirements.

With respect to South Asia, for Australia, ISDA updated members on the proposed risk management amendments to the cross-industry Prudential Standard CPS 220 Risk Management (CPS220) and the Prudential Practice Guide BPG 220 Risk Management (CPG 220). ASX also issued a consultation paper on Central Counterparty Recovery.

The meeting also discussed FX developments in Indonesia: Bank Indonesia tightens documentation requirements for rupiah FX transactions and state-owned companies may be required to implement mandatory hedging to guard the state budget against losses stemming from currency fluctuations.

On Malaysia, Bank Negara releases its concept paper on liquidity cover ratio and the New Zealand derivatives regime is expected to be overhauled from 2015 by the full implementation of the Financial Markets Conduct Act 2013.

For Singapore, ISDA also updated members on the proposed amendments to the MAS Notice 1111 on Risk Based Capital Adequacy Requirements for Merchant Banks incorporated in Singapore (to incorporate key elements of Basel III capital standards) and also the status of the A&G Netting and Collateral Opinions.

ISDA also updated the members on the global efforts including CFTC and FSB- related efforts, for example, that the FSB reissued the Key Attributes of Effective Resolution Regimes for Financial Institutions with four new annexes, including guidance on resolutions of financial market infrastructures (FMIs) and CCPs. The Committee on Payments and Market Infrastructures and IOSCO also published a report on the recovery of such FMIs.

**South Asia L&R**

On 30 October 2014, ISDA held its monthly Legal and Regulatory Committee meeting in Singapore. This month's Members' Topics include how members are dealing with counterparties from the following countries (China, India, Indonesia, Korea, Malaysia, Taiwan, Thailand and Vietnam) if they have not provided the requisite consent to disclosure for Trade Reporting purposes.

ISDA updated the members on the recent APAC Conference (27 and 28 Oct) which focused on cross-border harmonization, margining for uncleared swaps and the Resolution Stay Protocol. In addition, ISDA also updated members on the recent Mumbai and Sydney trips, and in particular, discussions held in Sydney with members on the approach to be taken for the clearing opinions.

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### **Operations/Market Infrastructure**

On October 13, 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, changes in certain rate fixings and confirmation practice in Taiwan.

On Oct 16, ISDA held its APAC Equity Derivatives Operations Working Group meeting to discuss the electronic confirmation migration of a vendor, the addition of a parameter in confirming an option product electronically, the documentation of the Related Exchange and the implementation of 2011 Equity Definitions.

On Oct 31, ISDA held its AEJ Data and Reporting Compliance working group meeting to discuss the trade reporting progress in the region. The meeting also addressed the regulatory updates in HK, Singapore, Australia and South Korea.

### **Members' / Other Activities**

#### **Mumbai Members' Meeting:**

On October 8, ISDA held its India Members meeting in Mumbai. Members raised the following topics for discussion: Proposed clearing of Rupee derivatives in CCIL and Guaranteed Settlement of Interest Rate Swaps. ISDA updated members on the following India- related matters: RBI's guide lines on amendments to the implementation of Basel III, CCIL's release of its schedule of charges for trade repository, the release of the RBI Annual Report, CFTC Staff's No-Action Letter for Clearing Corporation of India Ltd, RBI's changes to spot USD/INR and sport EUR/INR, RBI's Framework for dealing with Domestic Systemically Important Banks (D-SIBs), RBI's circular on IGA with the United States for the implementation of FATCA, IRDA's Guidelines on Interest Rate Derivatives, ISDA's submission on the Report of the Working Group on Resolution Regime for Financial Institutions and CCIL's Elimination of confirmations in respect of FCY-INR Currency Option.

ISDA also updated members on the following ISDA efforts: the 2014 ISDA Credit Derivatives Definitions, ISDA/FIA Europe's response to ESMA Clearing Obligation Consultation, ISDA submission to Asian regulatory members of WGMR, BCBS and certain members of the IOSCO Asian Regional Committee with regards to margining for uncleared swaps, ISDA's publication of the ISDA Reporting Delegation Agreement, ISDA's efforts in relation Section 2(a)(iii), ISDA's project to revise the 2006 ISDA Definitions and various ISDA studies.

ISDA also updated members on certain global efforts including: developments with respect to G20 commitments, CFTC and U.S. developments, ESMA and European developments, developments in gold and silver as well as IOSCO related matters.

#### **Sydney Members' Meeting:**

On October 22, ISDA's CEO, Scott O'Malia together with ISDA staff, met with members in Australia to discuss their critical issues as well as ISDA's top priorities.

#### **Other Activities:**

##### **Korea:**

On October 20, ISDA met with KB Securities & Investment and Woori Securities & Investment to introduce ISDA member benefits.

##### **Hong Kong:**

On October 30, ISDA spoke on derivatives regulatory reform at the Thomson-Reuters Pan Asian Regulatory Summit.

### **Regulatory Developments**

#### **Asia Pacific: ASEAN+3 sign currency swap agreement**

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

The ASEAN+3 members (Association of South-east Asian Nation member states, plus China, Japan and South Korea) signed the ASEAN+3 Macroeconomic Research Office (AMRO) Agreement to establish AMRO as an international organisation. AMRO was established in 2011 to provide surveillance and analysis of regional economies. It is also intended to support effective decision-making for the Chiang Mai Initiative Multilateralisation (CMIM) Agreement, which is a \$240 billion currency swap arrangement between the finance ministries and central banks of the ASEAN+3 countries.

#### **Australia:**

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#### **ASX consults on CCP recovery**

On October 2 the Australian Stock Exchange (ASX) issued a consultation paper on central counterparty (CCP) recovery, which considers uncovered loss allocation and replenishment tools for clearing participant default. The paper sets out proposals to enhance the crisis management capabilities of ASX's CCPs, including how to address credit losses or liquidity shortfalls and how to replenish the default fund in the event of a clearing participant default.

Some of the new recovery tools in the ASX Clear (Futures) recovery proposal are:

- Emergency assessments
- Variation margins gains haircutting
- Partial termination (this is an existing tool; to be amended)

- Complete termination
- Mandatory replenishment

### **APRA proposes risk management amendments**

In January 2014, the Australian Prudential Regulation Authority (APRA) released its final cross-industry Prudential Standard CPS 220 Risk Management (CPS 220) and a consultation draft Prudential Practice Guide CPD 220 Risk Management (CPG 220). On May 8, APRA published a letter outlining responses to several key issues raised during the consultation period – in particular, APRA’s use of the word ‘ensure’ in the prudential standard, the three lines of defence model and the concept of materiality for the risk management declaration. Accordingly, and notwithstanding that CPS 220 was finalised in January, APRA issued a letter on October 7 to all authorised deposit-taking institutions (ADIs), general insurers and life companies to propose further amendments to CPS 220 and CPG 220. For CPS 220, APRA seeks feedback on the proposed refinements and whether they give rise to any fundamental concerns. APRA intends to implement CPS 220 and CPG 220 on January 1, 2015.

### **Malaysia: BNM consults on liquidity coverage ratio**

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On September 30, Bank Negara Malaysia (BNM) released a concept paper on the liquidity coverage ratio (LCR). The concept paper outlines BNM’s approach to implementing the LCR, specifically covering areas such as the scope and level of application of the LCR, the implementation timeline and the relevant transition arrangements, the eligible stock of high-quality liquid assets, and the treatment for cashflow items for the purposes of LCR calculation. The submission deadline is November 30.

### **South Korea:**

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### **FSS announces bank CCP capital rule**

On September 30, South Korea’s Financial Supervision Service (FSS) announced revised regulations on supervision of banking business (Korean only) to implement the Basel Committee on Banking Supervision’s rule on capital requirements for bank exposures to CCPs (BCBS 282).

Key amendments include:

- Introduction of the internal models method (IMM) to calculate counterparty credit risk and credit valuation adjustment, alongside the current method of calculation (Basel II’s current exposure method and standardised method).
- Revision of capital requirements for CCP exposures:
  - Qualifying CCP (QCCP): the FSS plans to grant QCCP status to the Korea Exchange (KRX), and stipulates that banks must calculate and distribute data required to calculate capital requirements against CCP default fund contributions.
  - Calculation method of risk weight: OTC derivatives transactions cleared through QCCPs will receive a preferential capital treatment. In particular, trade exposures will receive a risk weight of 2%
- Foreign bank branches in Korea should calculate counterparty risk based on Basel II standards in the same manner as domestic banks.

Implementation date for domestic banks is September 30. For foreign banks with their financial year ending on December 31, the implementation will start on October 1. Otherwise, it will start on November 1.

### **FSC to revise key financial market and enforcement rules**

On October 1 Korea's Financial Services Commission (FSC) announced its plan (Korean only) to revise the Financial Investment Services and Capital Markets Act, its Enforcement Decree and its Enforcement Rule in order to support recent financial regulatory reform.

Key points on derivatives include:

- If a financial company is granted a business licence for financial investment business, the company will be allowed to add a new business within the licensed category with registration only;
- A financial investment business entity should appoint a person to be in charge of its derivatives business. However, the entity does not need to report the appointment to the FSC;
- Where KRX pays out following a violation by any member of the securities or derivatives market, KRX's financial resources shall be utilised before using the default fund contributions of non-defaulting clearing members.

Institutions have until November 17 to prepare for the implementation of the revisions. The amendments will be submitted to the Cabinet after review by the Ministry of Government Legislation. After passing the Cabinet, it will be further submitted to the National Assembly for final approval.

### **KRX establishes default management committee**

On October 6, KRX established a default management committee (DMC) (Korean only) in order to enhance the stability and efficiency of CCP clearing services. The DMC consists of a chairman from KRX and six committee members from clearing members of the CCP. These six members include Korea Development Bank, Standard Chartered Bank Korea, Deutsche Bank, BNP Paribas, Daewoo Securities and Samsung Securities, which were appointed based on positions and volumes of OTC derivatives transactions. The DMC will mainly provide advice on hedging and the auction of remaining positions following the default of a clearing member.

### **KSD receives endorsement to issue LEIs**

On October 9, the Financial Services Commission (FSC) announced (Korean only) that the Regulatory Oversight Committee endorsed the Korea Securities Depository (KSD) as a pre-local operating unit under the sponsorship of the FSC. Accordingly, domestic companies and financial institutions that previously received legal entity identifiers (LEIs) from authorised issuers in the US or Germany for their over-the-counter derivatives transactions in overseas markets will be able to obtain LEIs from the KSD from January 2015, once its system for issuing LEIs is ready.

### **New Zealand: Derivatives regime overhaul with FMCA implementation**

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New Zealand's derivatives regime will be overhauled from 2015 by the full implementation of the Financial Markets Conduct Act 2013 (FMCA), with major implications for participants that transact OTC derivatives in New Zealand. The last stage before the new regime comes into effect will be the publication of the FMC regulations. A near-final draft was published on September 26.

The FMCA will replace the Securities Markets Act 1988 (SMA), along with several other pieces of legislation, including New Zealand's outdated 'futures contract' and 'futures dealers' regime. Derivatives will be one of a number of classes of financial products under the FMCA. In a move away from the current approach, the regulation of disclosure for derivatives offered to retail investors will be substantially aligned with securities regulation. The FMCA definition of derivatives will cover most generally recognised market categories of cash-settled derivatives. The legislation gives New Zealand's

financial markets regulator, the Financial Markets Authority, the authority to rule on the status of particular agreements.

The FMCA sets out a disclosure regime that will apply when derivatives are offered to retail investors (termed a 'regulated offer' under the legislation). The most important component of the new disclosure regime is a product disclosure statement (PDS), and specific requirements for the PDS have recently been published through regulation (it should be noted that this is not the same as the PDS currently used by New Zealand-registered banks). In addition to the disclosure regime, the new legislation imposes general 'fair-dealing' obligations that will apply to all dealings in derivatives in New Zealand, whether with retail or wholesale counterparties.

The FMCA also creates a regime for licensing derivatives 'issuers' that make regulated offers to enter into derivatives, with the FMA acting as licensing authority and the supervisor of licensed derivatives issuers. While dealings with wholesale counterparties and most dealings in exchange-traded derivatives will be excluded from being deemed regulated offers, any market participant that is in the business of offering derivatives to retail investors will need to consider whether it requires a licence. Transitional provisions in the FMCA provide an interim licence for persons who are authorised or approved as futures dealers under the SMA and who will require a licence under the new regime. The licensing regime under the FMCA will cover prudential and systems and controls matters, as well as conduct of business (with a carve-out for registered banks and other entities subject to Reserve Bank oversight). In addition to these requirements for licensed derivatives issuers, the FMCA regime also sets out new rules for dealing with client funds that will apply to all derivatives issuers, whether or not they hold a licence from the FMA.

The transition process will be complex, and a recently announced delay to its implementation (other categories of financial product will come under the new regime from December 1, 2014) means this will be a major concern for participants in New Zealand's OTC markets for some time to come. Derivatives issuers will need to assess whether they need a licence under the new legislation and apply for one as soon as possible if they won't have a transitional licence. Those derivatives issuers that will have a transitional licence will have more time to obtain a licence (until December 2016), but will need to prepare new offering documentation during 2015.

## **Singapore:**

### **MAS publishes amendments on derivatives reporting**

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On October 31, the Monetary Authority of Singapore (MAS) released the Securities and Futures (Reporting of Derivatives Contracts) (amendment) (No.2) Regulations and their response to the feedback received on the consultation paper for the Securities and Futures (Reporting of Derivatives Contracts) Regulations (Amendment) 2014 (SF(RDC)R).

Key changes include:

- the regulations exclude certain categories of FX contracts from the reporting requirements;
- the refined definition of "traded in Singapore" to include contracts executed by traders located in Singapore who have been executing or have been authorized to execute contracts for at least the last 30 days prior to the date of the contract;
- the reporting commencement date for credit, interest rate and FX derivatives contracts traded in Singapore will commence on November 1, 2015;
- the reporting commencement date for FX derivative contracts booked in Singapore will commence on May 1, 2015;
- the requirement to report the additional data fields will commence from November 1, 2015; and

- the masking relief has been extended to November 1, 2015.

### **Singapore and China strengthen financial cooperation**

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MAS announced on 27 October that Singapore and China have reached an agreement on financial cooperation in offshore RMB market, capital markets and insurance.

In particular, two initiatives were agreed:

1. Direct currency trading between Chinese Yuan and SGD will commence on 28 October. This will lower foreign exchange transaction costs and encourage the greater use of the two currencies in cross border trade and investment; and
2. China-incorporated financial institutions can issue RMB-denominated debt instruments in Singapore directly. This will help to diversify long-term funding for Chinese financial institutions by allowing them to tap into the international institutional investor base in Singapore.

MAS indicated further that the two countries will explore measures to strengthen cooperation in the areas of derivatives and catastrophe risk insurance.

### **Upcoming committee and working group meetings/conferences**

#### **Meetings:**

Asia Identifiers and Delegated Reporting Working Group call	Nov 10
APAC AEJ Trade Reporting Working Group Meeting	Nov 24
Members' Meeting – Jakarta	Nov 24
North Asia L&R Meeting	Nov 25
APAC CCP Risk call	Nov 26
South Asia L&R Meeting	Nov 27

#### **Conference:**

Understanding the ISDA Master Agreements and Credit Support Documents Conference – Mumbai	Dec 2
Current Issues in the Derivatives Landscape: Margin, Collateral, CCPs, SEFs and Global Swap Regulations – Mumbai	Dec 3

#### **APACC Monthly Update**

Please direct comments and questions about APAC Monthly Update to Donna Chan, [dchan@isda.org](mailto:dchan@isda.org)

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