

## APAC Monthly Update

### December 2015

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

#### **Regulatory Activities**

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

On December 15, ISDA and industry members met with SFC to discuss the proposed changes to FRR (capital regime for LCs engaging in OTC derivative activities).

On December 16, ISDA and certain banks met with the HKMA to discuss strategic trade reporting issues.

##### **India:**

On December 14, ISDA held its quarterly Indian working group meeting in Mumbai. On the same day, ISDA visited Reserve Bank of India Deputy Governor Khan to discuss global regulatory reform and country equivalence issues.

On December 15, ISDA visited SEBI Wholetime Member Saran and his staff to discuss global regulatory reform. On the same day, ISDA also visited CCIL to discuss CCP risk management and resolution and recovery issues.

##### **Korea:**

On December 14, ISDA made a presentation to the Korean Trade Reporting System Taskforce (including FSS, BOK, KRX, KOFIA and reporting institutions) on its experience with APAC trade reporting.

#### **Committee/Working Group Activities**

##### **Other Working Groups:**

##### **AEJ Data and Reporting Compliance Working Group**

The WG had a call on 16 December. Discussions centred around approaching Australian, Singaporean and HK regulators about an extension to the 1 February 2016 UTI go-live date, strategic and other general issues around preparations for the commencement of reporting in Hong Kong in January 2016 (including a senior-level meeting with the HKMA), the 7 September HKMA letter on unmatched trades, issues around the reporting of forward-starting swaps in Australia, developments in the Korean reporting taskforces, expected development of a reporting regime in Thailand, and updates to various spreadsheets and contact lists for UTI sharing and pairing and also Hong Kong trade linking and matching. Members noted the ongoing utility of the contact list for resolving HK unlinked and unmatched trade reports.

### **Asia Identifiers and Delegated Reporting Sub-Working Group**

The Sub-WG had a call on 18 December. Participants discussed various issues, including approaching Australian, Singaporean and HK regulators about an extension to the 1 February 2016 UTI go-live date, potential industry and third-party initiatives around historical UTI pairing and sharing, UTI linking of structured trades, updates to various spreadsheets and contact lists, UTI usage from certain FX platforms and transmission of UTIs through certain SWIFT tags and ISDA's new initiatives on product symbology.

### **Members' and Other Activities:**

On December 1, ISDA and ASIFMA held their monthly Asian Public Policy Meeting.

On December 4, ISDA CEO Scott O'Malia delivered a keynote address on global derivatives regulatory reform at the China Futures Association AGM held in Shenzhen.

### **Members' Meeting – Mumbai**

On December 14, ISDA held its ISDA members' meeting in Mumbai, India. ISDA provided an update on various initiatives and developments including work related to margin requirements for non-centrally cleared derivatives and the resolution stay. The meeting also discussed various developments and upcoming plans in India.

The meeting considered several circulars and guidelines issued by the Reserve Bank of India, including the circular on investment of FPIs in corporate bonds, guidelines to Risk Management & Inter-Bank Dealings: Relaxation of facilities for residents for hedging of foreign currency borrowings, paper on early recognition of financial distress, prompt steps for resolution and fair recovery for lenders and liberalising booking of FX contracts. Certain circulars by SEBI were also considered including the circular to regional commodity derivative exchanges on risk management, the increase in limit for FPI investment in government securities, the regulation of the commodity derivatives market.

The meeting went on to discuss certain developments relating to clearing including changes to CCIL's regulations in the Securities, CBLO, Forex settlement and Forex Forward segments, ISDA's submission to CCIL on the consultation paper on CCP recovery and resolution mechanism. The meeting also considered the draft Indian Financial Code.

ISDA provided updates on certain ISDA efforts including the ISDA 2015 Universal Resolution Stay Protocol and global developments including for instance, the EC adopting the EU Securities Financing Transactions Regulation and the US prudential regulators issuing final rules on margin and capital requirements for covered swap entities.

### **Regulatory Developments**

#### **Australia:**

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

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

On December 4, the Australian Securities Exchange (ASX) published a consultation paper on exposure draft rules for the interim replenishment of default funds. The paper seeks feedback on ASX central counterparty (CCP) recovery rules to facilitate the rapid replenishment of the default funds of ASX Clear and ASX Clear (Futures) if they are depleted as a result of a participant default loss. The proposed changes include:

- ASX CCPs must replenish to a minimum fund size of A\$100 million (ASX Clear (Futures)) or A\$37.5 million (ASX Clear) as soon as practicable after completion of the default management process, including the next business day when that would be reasonably practicable;
- ASX CCPs (through funding sourced by the ASX Group) will provide the initial interim contribution to replenish the default fund of up to A\$100 million (ASX Clear (Futures)) or A\$37.5 million (ASX Clear); and
- ASX CCPs have discretion to call for participants to make interim contributions up to a further A\$100 million (ASX Clear (Futures)) or A\$37.5 million (ASX Clear) to the default fund during the default period.

These changes primarily affect the timing of replenishment of mutualised contributions, rather than the amount that is required to be ultimately replenished. As under the current recovery rules, the default fund would be fully replenished up to A\$400 million for ASX Clear (Futures) or A\$150 million for ASX Clear after the default period has ended. ASX would continue to rely on additional margin calls where necessary to ensure it maintains the required level of financial cover during the remainder of the default period.

The deadline for submissions is February 4, 2016.

#### **ASIC finalises central clearing rules**

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

On December 14, the Australian Securities and Investments Commission (ASIC) released rules implementing Australia's mandatory central clearing regime. The regime applies to G4 and AUD OTC interest rate derivatives transacted between dealers and provides the basis for substituted compliance or sufficient equivalence determinations by foreign regulators.

The clearing rules follow a Ministerial determination issued in August 2015 that imposed a clearing mandate on AUD and G4 interest rate derivatives, regulations made in September 2015 that set high-level parameters for the mandatory clearing regime, and ASIC's consultation earlier this year (CP 231) with the proposed draft derivative transaction rules (clearing).

The rules set out which entities and derivative contracts are covered by the clearing mandate, the eligible central counterparties that may be used, alternative clearing (allowing entities to comply with certain overseas clearing requirements) and certain exemptions from the clearing mandate. The clearing obligations will commence in April 2016.

#### **CPMI-IOSCO publishes implementation monitoring report**

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On December 17, the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) released their conclusions drawn from a Level 2 assessment of whether the legal, regulatory and oversight frameworks, including rules and regulations, any relevant policy statements, or other forms of implementation applied to systemically important payment systems (PSs), central securities depositories (CSDs), securities settlement systems (SSSs), central counterparties (CCPs) and trade repositories (TRs) (FMIs) in Australia, are complete and consistent with the Principles for financial market infrastructures (PFMI).

The Level 2 assessment reflects the status of the Australian legal, regulatory and oversight framework as of May 15, 2015. Overall, the assessment found that Australia has consistently adopted most of the

Principles. The Reserve Bank of Australia (RBA) and the Australian Securities and Investments Commission (ASIC) took different approaches to the adoption of the PFMI. For PSs, the RBA's adoption of the PFMI was assessed to be consistent and complete. For CCPs and CSDs/SSSs, the RBA and ASIC have consistently adopted three areas of the PFMI consistently. For TRs, while ASIC's rules do not always mirror the language and structure of the PFMI, the relevant requirements were found generally to have been implemented consistently.

### **APRA announces countercyclical capital buffer rate for ADIs**

*Contact: Keith Noyes - knoyes@isda.org*

On December 17, the Australian Prudential Regulation Authority (APRA) announced that the countercyclical capital buffer applying to the Australian exposures of authorized deposit-taking institutions (ADIs) will be set at 0% from January 1, 2016. The capital framework requires ADIs to hold a buffer of Common Equity Tier 1 (CET1) capital, over and above each ADI's minimum requirement, comprised of three components:

- a capital conservation buffer, applicable at all times and equal to 2.5% of risk-weighted assets (unless determined otherwise by APRA);
- an additional capital buffer applicable to any ADI designated by APRA as a domestic systemically important bank (D-SIB), currently set to 1.0% of risk-weighted assets; and
- a countercyclical buffer which may vary over time in response to market conditions. This buffer may range between 0-2.5% of risk-weighted assets.

ADIs will generally be required to maintain a minimum CET1 ratio of 4.5%, plus a 2.5% capital conservation buffer (3.5% for D-SIBs) and a buffer for international exposures in jurisdictions that have set a non-zero countercyclical capital buffer rate. For some ADIs, additional capital requirements are also applied via Pillar 2. All Australian ADIs currently report CET1 ratios above these requirements. The aggregate CET1 ratio for the banking system at the end of September 2015 was 10.1%.

In addition to this announcement on the size of the buffer, APRA has also released the countercyclical buffer information paper, the draft prudential practice guide on capital buffers, and the revised prudential standard APS 110 on the same day.

### **APRA issues a letter to ADIs on classification of retail and qualifying SME deposit for LCR purposes**

*Contact: Keith Noyes - knoyes@isda.org*

On December 18, the APRA issued a letter to ADIs on classification of retail and qualifying small and medium enterprises (SMEs) deposit for liquidity coverage ratio (LCR) purposes. In early 2015, APRA conducted a consistency review across 14 large ADIs to determine whether they were taking a consistent approach to the interpretation and application of key terms in APS 210 Liquidity relating to the LCR. The area that demonstrated the greatest level of inconsistency was the assumptions relating to retail and qualifying SME deposits.

The letter provides APRA's observations of better practice in the approaches taken to determine whether retail deposits are considered stable or less stable. As part of ongoing supervision and the Committed Liquidity Facility 'all reasonable steps' assessment process in 2016, APRA will consider the extent to which ADI's meet the expectations in this letter. Key elements include:

- Stable deposits: To qualify as ‘stable’, a deposit needs to be fully insured by the Financial Claims Scheme (FCS) and meet either the ‘established relationship’ or ‘transactional account’ criteria.
- Less stable deposits: The LCR recognizes that there are certain types of deposit accounts that demonstrate higher levels of liquidity risk than other deposit accounts.

**Australia government proposes exposure draft legislation, regulation on resilience and collateral protection and policy paper on enhanced protection of client money**

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On December 21, the Australian government proposed exposure draft legislation to introduce certain changes to the Payment Systems and Netting Act 1998 and other Acts, draft regulations to introduce changes to the Superannuation Industry Regulations 1994 and Life Insurance Regulations 1995 and a policy paper on enhanced protection of client money.

The draft legislation was introduced to amend the PSN Act and certain other acts in order to enable Australian entities to enforce rights in respect of margin provided by way of security in connection with certain derivatives in the manner required by international standards, clarify domestic legislation to support globally coordinated policy efforts and provide certainty on the operation of Australian law in relation to the exercise of termination rights (i.e. close-out rights) under derivatives arrangements and enhance financial system stability by protecting the operation of approved financial market infrastructure.

The draft regulation is intended to enable trustees of regulated superannuation entities and life companies to grant security in the manner required to access certain international capital markets and liquidity.

The policy paper provides background information in relation to the enhanced protection of client money in Australia as well as an overview of existing legislation. It details proposed reform with respect to “enhancing retail consumer protection for client monies” and considers proposed reform with regards to wholesale clients.

The government is seeking to introduce legislation in early 2016. Deadline for submission is January 29, 2016.

**Hong Kong:**

**HKMA issues consultation on margining of non-cleared derivatives**

*Contact: Keith Noyes - knoyes@isda.org / Jing Gu - jgu@isda.org*

On December 3, the Hong Kong Monetary Authority (HKMA) issued a consultation paper on the margining of non-cleared derivatives, which includes the relevant provisions in the draft Supervisory Policy Manual of the HKMA.

Subject to phase-in arrangements, the HKMA proposes to implement the margin requirements published by the Basel Committee on Banking Supervision and International Organization of Securities Commissions (IOSCO) and IOSCO’s risk mitigation standards (RMS) starting on September 1, 2016. The proposed margin framework covers guaranteed transactions, partial and substituted compliance for cross-border trades, an outcomes-based approach for comparability assessments, and the operation of two-way margin requirements in non-netting and no-margin jurisdictions. The proposed RMS covers documentation requirements, portfolio reconciliation, portfolio compression and dispute resolution.

## **HKMA finalises return of quarterly reporting on the countercyclical buffer**

*Contact: Keith Noyes - knoyes@isda.org*

On December 4, the HKMA announced it had finalised the return of quarterly reporting on the countercyclical capital buffer (Form MA(BS)25), the revised return on capital adequacy ratio (Form MA(BS)3), and their accompanying completion instructions.

Authorized institutions (AIs) should make submissions using the countercyclical buffer return and the revised capital adequacy ratio return starting from end-March 2016. The HKMA will inform AIs separately when the electronic files for the returns are available.

## **SFC publishes consultation conclusions on client agreement requirements**

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

On December 8, the Hong Kong Securities and Futures Commission (SFC) released consultation conclusions on its Further Consultation on the Client Agreement Requirements.

The SFC decided to proceed with requiring the incorporation of a new clause into client agreements, enabling an investor to claim for damages under the client agreement where the regulated intermediary solicits the sale of or recommends a financial product which is not reasonably suitable.

All intermediaries' client agreements must comply with the new Code of Conduct requirements, including incorporation of the new clause and observance of the new paragraph 6.5 of the Code of Conduct discussed in the Further Consultation, on or before June 9, 2017. The SFC also emphasises that the 18-month transitional period is mainly to cater for circumstances where intermediaries, despite their best efforts, encounter practical difficulties when re-executing agreements with existing clients. However, it is expected that intermediaries should be able to comply well before the end of the transitional period.

## **SFC authorizes first batch of funds under MRF**

*Contact: Keith Noyes - knoyes@isda.org / Jing Gu - jgu@isda.org*

On December 18, the Hong Kong Securities and Futures Commission (SFC) granted authorization for the first batch of four Mainland funds under the Mainland-Hong Kong Mutual Recognition of Funds (MRF) initiative for public offering in Hong Kong. The SFC also welcomed the approval by the China Securities Regulatory Commission (CSRC) of the first batch of three Hong Kong funds for public offering on the Mainland market.

The MRF initiative is intended to open up the Mainland's funds market to offshore funds. It will open up a new frontier for the Mainland and Hong Kong asset management industries and make a wider selection of fund products available to investors in both markets. The SFC and the CSRC have been accepting MRF applications since July 1, 2015.

## **OTC Clear granted DCO exemption**

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On December 22, the US Commodity Futures Trading Commission (CFTC) issued an order of exemption to OTC Clearing Hong Kong Limited (OTC Clear) from registration as a derivatives clearing organization (DCO).

This provision permits the Commission to exempt a clearing organization from DCO registration for the

clearing of swaps to the extent that the Commission determines that such clearing organization is subject to comparable, comprehensive supervision by appropriate government authorities in the clearing organization's home country. Subject to the terms and conditions of the order, OTC Clear is permitted to clear proprietary swap positions for its US clearing members or affiliates of such clearing members.

### **SFC and CFTC ink MoU**

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

On December 23, the Hong Kong Securities and Futures Commission (SFC) announced it has entered into a memorandum of understanding (MoU) with the US Commodity Futures Trading Commission (CFTC). The MoU covers the cooperation and exchange of information on the supervision and oversight of regulated entities that operate on a cross-border basis in Hong Kong and the US.

Through the MoU, which covers regulated markets and organised trading platforms, central counterparties, intermediaries, dealers and other market participants, the SFC and CFTC express their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates.

### **HKMA designates D-SIBs**

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

On December 31, the Hong Kong Monetary Authority (HKMA) announced it has completed its annual assessment of the designation of domestic systemically important authorised institutions (D-SIBs). The list of authorised institutions designated as D-SIBs remains unchanged compared to the first list published by the HKMA on March 16, 2015, with five entities designated. The HKMA intends to update the list annually.

Under the D-SIB framework, each of the authorised institutions designated as a D-SIB will be required to include a higher loss-absorbency (HLA) requirement into the calculation of its regulatory capital buffers within 12 months from the formal notification of the designation. In line with the schedule set by the Basel Committee on Banking Supervision for assessing D-SIBs and global systemically important banks, the full amount of the HLA requirement will be phased-in between 2016 and 2019, in parallel with the capital conservation buffer and countercyclical capital buffer. Ultimately, the HLA requirement applicable to a D-SIB (expressed as a ratio of an authorised institution's common equity tier-one capital to its risk-weighted assets, as calculated under the Banking (Capital) Rules) will range between 1% and 3.5% (depending on the assessed level of the D-SIB's systemic importance). Under the phase-in provisions (set out in section 3V(2) of the Banking (Capital) Rules), the levels of HLA for 2017 will be increased to the range of 0.50%-1.75% (from a range of 0.25%-0.875% in 2016).

### **New Zealand: RBNZ publishes new rules for banks, NBDTs**

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

On December 18, the Reserve Bank of New Zealand (RBNZ) published the conclusions of its stocktake of the prudential regulations that apply to banks and non-bank deposit takers (NBDTs). The stocktake aims to enhance the efficiency, clarity and consistency of the rules for banks and NBDTs.

Changes were proposed to the current requirement that banks must prepare "off-quarter" disclosure statements, with the RBNZ looking into the possibility of a new 'dashboard' mechanism for providing these off-quarter disclosures after a more detailed discussion with banks and other interested parties.

The consultation found broad support for most of the RBNZ's specific proposals such as improving the drafting and layout of the documents that set out prudential requirements for banks and a number of technical changes that were proposed in specific prudential requirements. The RBNZ also received useful feedback on several matters relating to the prudential requirements for NBDTs.

### **Singapore: MAS responds to feedback on liquidity coverage ratio disclosure requirements**

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On December 11, the Monetary Authority of Singapore (MAS) issued its response document to industry's feedback on its consultation paper on Liquidity Coverage Ratio (LCR) disclosure requirements, which was issued on October 9. The document includes MAS's responses to industry comments on specific areas identified for feedback in the consultation paper, in particular the scope of application, the retention period, the reporting currency and treatment of country-level groups.

The LCR disclosure requirements comprise a common LCR disclosure template to promote consistency and comparability in banks' disclosure of their liquidity risk position. In addition, banks are required to provide qualitative discussion around the LCR to help users understand the results and data provided in the LCR disclosure template. Banks are also encouraged to disclose additional qualitative and quantitative information related to its internal liquidity risk measurement and management framework.

MAS noted that they have considered all feedback received and are responding to feedback deemed to be of wider interest. Areas not covered in this document will be addressed directly with the respondents involved. The finalized Notice is appended in Annex C in the document and will take effect on January 1, 2016.

### **South Korea:**

#### **FSC amends the regulation on supervision of banking business and the supervisory regulation on financial holding companies**

*Contact: Keith Noyes - knoyes@isda.org*

On December 23, the Hong Kong Securities and Futures Commission (SFC) announced it has entered into a memorandum of understanding (MoU) with the US Commodity Futures Trading Commission (CFTC). The MoU covers the cooperation and exchange of information on the supervision and oversight of regulated entities that operate on a cross-border basis in Hong Kong and the US.

Through the MoU, which covers regulated markets and organised trading platforms, central counterparties, intermediaries, dealers and other market participants, the SFC and CFTC express their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates. On December 16, the Financial Services Commission (FSC) approved amendments to the regulation on supervision of banking business and the supervisory regulation on financial holding companies. The amendments are intended to implement the Basel Committee recommendations such as domestic systematically important banks (D-SIBs) and a countercyclical capital buffer and ease capital requirements for Internet-only banks in their early years. Key amendments include:

- The FSC should select D-SIBs considering their systemic importance to the financial system. Those identified as D-SIBs are to be required to set aside an additional capital of 1% if deemed necessary, by 0.25% per year in the next four years from 2016 to 2019;



- Considering domestic economic conditions, the FSC should decide on a quarterly basis whether to impose a countercyclical capital buffer and, if so, it will be imposed based on levels of such capital requirements (ranged from 0% to 2.5%);
- The FSC may require banks falling behind the evaluation of risk management by the FSS to hold an additional capital under the Basel II; and
- Internet-only banks are to be subject to the Basel I rules by 2019, while the Basel III rules are to be phase in for them from 2020 to full implementation in January 1, 2023. The liquidity coverage ratio (LCR) applied to Internet-only banks are to be raised by 10 percent points ever year from 70% for 2016 to 100% for 2019.

Additional capital requirements for D-SIBs and for a countercyclical capital buffer will be effective from January 1, 2016 and capital rules for Internet-only banks will be effective immediately.

### **KRX revises fee schedule**

*Contact: Keith Noyes - knoyes@isda.org*

On December 21, the Korea Exchange (KRX) released a revised fee schedule regarding trading and clearing and settlement (stocks, bonds, futures and options, commodity market products) and a processor user fee. The revised fee schedule is effective from December 18.

### **Thailand: China grants RQFII quota**

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

On December 17, the Bank of Thailand (BoT) announced that the People's Bank of China (PBC) granted Thailand a quota of RMB 50 billion to invest in RMB-denominated securities in China under the Renminbi Qualified Foreign Institutional Investor (RQFII) scheme. This will provide opportunities for institutional investors in Thailand to efficiently manage their investment returns and diversify risks, as well as promote the use of Renminbi to facilitate the growing trade and investment between Thailand and China.

Over the years, the two central banks have deepened their financial cooperation in support of the use of local currencies for trade and investment, starting with the signing of the RMB-THB Bilateral Swap Arrangement (BSA) in 2011 and its subsequent extension in December 2014, followed by the establishment of the RMB Clearing Bank in Thailand early this year.

### **Committee and working group meetings/conferences**

#### **Meetings:**

Regulatory Meeting – Beijing	Jan 14
Members' Meeting – Beijing	Jan 15
APAC IRD Operations Working Group Meeting	Jan 20
APAC Equity Operations Working Group Meeting	Jan 21
NA L&R Meeting	Jan 26
AEJ Data and Reporting Compliance Working Group Meeting	Jan 27
APAC CCP Risk Call	Jan 27
SA L&R Meeting	Jan 28
Asia Identifiers and Delegated Reporting Sub-Working Group Meeting	Jan 29

**Conference:**

The New Regulatory Environment of Commodity Derivatives Markets  
and its impact on Asia - Singapore

Jan 27

**APAC 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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