

APAC Monthly Update

May 2014

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

Regulatory Activities

Australia

On May 21, ISDA met with RBA, APRA and ASIC to discuss topics such as trading mandates, resolution, collateral issues and clearing mandates in foreign jurisdictions.

On May 22, ISDA together with DTCC and AFMA met with ASIC to discuss issues regarding trade reporting.

China

On May 7, ISDA met with:

- Shanghai Clearing House to understand their latest plans in providing clearing and client clearing services and to discuss the upcoming July 1st clearing mandate.
- the Shanghai Branch of PBOC to discuss clearing and reporting regulations in China.
- the Shanghai City Government to discuss the Shanghai Free Trade Zone and its development as a financial services center.

Hong Kong

On May 29 ISDA met with SFC to discuss trade counterparty data masking and legal/regulatory impediments to trade data reporting.

On May 30 ISDA made a presentation to about 80 buy-side members of HKIFA on ISDA protocols and documentation required to amend swap data relationship documentation to conform with Dodd-Frank, EMIR and/or other trade reporting obligations.

Committee/Working Group Activities

North Asia L&R

On May 27, ISDA held its Asia-Pacific Legal and Regulatory Committee Meeting in Hong Kong. On North Asia related matters, ISDA provided updates on ISDA letter to PBOC on mandatory central clearing, revised SAFE regulations on FX control over cross-border security, SFC circular to licensed corporations and registered institutions concerning FACTA, Hong Kong and US discussions on tax agreement to comply with FATCA, SFC guidelines on internal product approval process, IMF's report on Financial System Stability Assessment on the Republic of Korea, FSC announcement to establish rules

for the implementation of FATCA and Taiwan FSC's proposal to strengthen regulation of banks' TRS business.

On Australia, ISDA updated the meeting on Australia's inter-governmental agreement with the U.S. on FATCA implementation, offer of structured financial and derivative products by foreign branches and subsidiaries of Indian banks, mandatory clearing through CCIL Forex Forward Guaranteed Segment scheduled to begin on 2 June 2014, FAQs on SEBI (Foreign Portfolio Investors) Regulations 2014, the Report of the High Level Working Group on Resolution Regime for Financial Institutions in India, review of payment and settlement systems in New Zealand, and Singapore Ministry of Law response to feedback received from public consultation on the Insolvency Law Review Committee.

ISDA also provided updates on various ISDA documentation projects including publication of the ISDA and FIA Europe Publish European Cleared Derivatives Execution Agreement, ISDA 2014 Collateral Agreement Negative Interest Protocol and form of CFTC 23.704 Quarterly Notice. ISDA also mentioned a number of global regulatory developments at the meeting including CFTC's No-Action Letter issued to OTC Clearing House Hong Kong Limited and Bank Recovery and Resolution Directive (BRRD) in the EU.

South Asia L&R

On May 29, ISDA held its Asia-Pacific Legal and Regulatory meeting in Singapore. The meeting discussed the use of arbitration in ISDAs with Thai counterparties. ISDA updated the meeting on the following Australia-related matters: CFTC's extension of its no-action letter for Yield broker, the Australian Treasury signing of the IGA with the United States on FATCA and the release of the letter by APRA to ADIs informing them that they will be able to issue AT1 and T2 instruments.

With respect to India, matters discussed included the proposal to allow partial credit enhancements to corporate bonds, the offer of structured financial and derivative products by foreign branches and subsidiaries of Indian banks, the start on June 2 of mandatory clearing through CCIL Forex Forward Guaranteed Segment, the issue of FAQs by SEBI on the SEBI (Foreign Portfolio Investors) Regulations 2014, the release of the Report of the High Level Working Group on Resolution Regime for Financial Institutions and India's agreement in substance to the FATCA IGA.

Other matters discussed included the New Zealand review of payment and settlement systems, the response by the Ministry of Law in Singapore to feedback on the Insolvency Law Review Committee Report and Singapore's agreement in substance to the FATCA IGA.

On North Asia related matters, ISDA provided updates on ISDA letter to PBOC on mandatory central clearing, revised SAFE regulations on FX control over cross-border security, SFC circular to licensed corporations and registered institutions concerning FACTA, Hong Kong and US discussions on tax agreement to comply with FATCA, SFC guidelines on internal product approval process, IMF's report on Financial System Stability Assessment on the Republic of Korea, FSC announcement to establish rules for the implementation of FATCA and Taiwan FSC's proposal to strengthen regulation of banks' TRS business.

ISDA also provided updates on various ISDA documentation projects including publication of the ISDA and FIA Europe Publish European Cleared Derivatives Execution Agreement, ISDA 2014 Collateral Agreement Negative Interest Protocol and form of CFTC 23.704 Quarterly Notice as well as the selection of IBA as the new ISDAFIX administrator.

ISDA also mentioned a number of global regulatory developments at the meeting including the adoption of MiFIR/MiFID 2 CFTC's No-Action Letter issued to OTC Clearing House Hong Kong Limited, the

Bank Recovery and Resolution Directive (BRRD) in the EU as well as various letters including ESMA's letter to the EX proposing to limit the scope of the frontloading requirement under EMIR

Operations/Market Infrastructure

On May 8 and 27, ISDA held its AEJ Data and Reporting Compliance – Asia identifiers & delegated reporting sub-group meeting to discuss the application of trade identifiers and delegated reporting in Australia, HK and Singapore as well as the current technological limitations.

On May 8 and 20, ISDA held its AEJ Data and Reporting Compliance – reporting nexus sub-group meeting to discuss the reporting nexus relief requests and the technical challenges of implementation in the region.

On May 12, 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 the recent industry documentation practice for CNH transactions.

On May 19, ISDA held its APAC Collateral Management Operations Working Group meeting to discuss the reporting of collateral and brief the group of the margin requirements for non-centrally cleared derivatives as listed in the BCBS/IOSCO final framework.

On May 26, 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 and Australia.

On May 28, ISDA held its APAC Equity Derivatives Operations Working Group meeting to discuss the progress of confirming accumulator/decumulator electronically, the practice of executing a confirmation, the electronic confirmation migration of a vendor, the addition of a parameter in confirming an option product electronically and the reporting of equity derivatives.

Members' / Other Activities

On May 7, ISDA had its China working group members meeting in Shanghai. At the meeting, members discussed the Shanghai-Hong Kong Stock Connect pilot programme, Shanghai and Shenzhen Stock Exchanges revised trading rules for QFIIs and RQFIIs and mandatory central clearing of RMB interest rate swaps. ISDA also briefed members on the latest global regulatory and ISDA documentation developments.

Regulatory Developments

Australia: Deposit-taking institutions issue AT1 and T2 instruments

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

On April 15, the Australian Prudential Regulation Authority (APRA) released a letter to inform mutually owned deposit-taking institutions (ADIs) that they will be able to issue Additional Tier 1 capital (AT1) and Tier 2 capital (T2) instruments that provide for conversion into mutual equity interests in the event that the loss absorption or non-viability provisions in these instruments are triggered. Mutual equity interests that result in such a conversion will qualify to be included in common equity Tier 1 (CET1)

capital if they comply with the relevant provisions of APS 111. The final form of APS 111 is now available.

China: SAFE issues regulations on FX control over cross-border security

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

On May 12, the State Administration of Foreign Exchange (SAFE) issued the Regulations on Foreign Exchange Control over Cross-border Security (Chinese only), which will replace the current regulations on cross-border guarantee and security from June 1, 2014. Compared with the consultation draft issued on February 13, 2014 which ISDA commented on, the final regulations include several steps further to deregulate cross-border security.

In order to improve convertibility of RMB under capital account items and simplify administrative approval procedures, the regulations have made a number of significant changes to the current regulatory regime:

- Abolishing the prior approval requirement and most of the qualification requirements regarding cross-border security;
- Providing that FX control requirement (such as foreign security registration requirement) will not affect the validity of cross-border security contract;
- The case-by-case registration requirement is only triggered where the enforcement of a cross-border security will give rise to debts owed to non-residents by residents and vice versa;
- Except for the two types of security provided in the regulations, a domestic entity may provide or accept a security on cross-border basis without any registration or filing with SAFE - this would cover most security arrangements in respect of derivative transactions between foreign entities and Chinese entities;
- Allowing PRC individuals to provide cross-border security.

South Korea:

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FSC plans rules for FATCA implementation

On April 29, the Financial Services Committee of Korea (FSC) announced its plan (Korean only) to establish rules for the implementation of FATCA. This follows the signing of the intergovernmental agreement on March 17 between the Ministry of Strategy and Finance and the United States, which aims at improving the international tax compliance and implementing FATCA.

The FSC will set out further details of the agreement such as the confirmation procedure and the relevant form of clients' account information in order to help financial institutions and their clients in reporting.

IMF issues financial system stability assessment report on Korea

On May 20, the International Monetary Fund (IMF) issued its report Financial System Stability Assessment of the Republic of Korea, based on the work of the Financial Sector Assessment Program (FSAP) mission conducted in 2013. The FSAPs are designed to assess the stability of the financial system as a whole and to help countries identify and remedy weakness in their structure in order to enhance their resilience to macroeconomic shocks and cross-border contagion.

In this report, IMF used six core assessment parameters: soundness of the financial sector and potential risks; macroprudential framework; financial sector supervision; sectoral regulation and supervision; systemic liquidity; and crisis management and resolution framework.

On the same day, IMF also published the Report of the Observance of Standards and Codes on the Republic of Korea as a background document to this Financial System Stability Assessment report. The analysis is based on core principles such as Basel core principles for effective banking supervision (BCP) and CPSS-IOSCO principles for financial market infrastructures (PFMI).

Upcoming committee and working group meetings/conferences

Meetings:

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| APAC Commodity Meeting | Jun 9 |
| Members' Meeting – Mumbai | Jun 10 |
| North Asia L&R Meeting | Jun 24 |
| APAC CCP Risk call | Jun 25 |
| South Asia L&R Meeting | Jun 26 |
| AEJ data and reporting compliance working group monthly Meeting | Jun 30 |

Conference:

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| OTC Derivatives Client Clearing In-depth – Hong Kong | Jun 12 |
| Swap Execution Facilities – Evolution of OTC Trading – Hong Kong | Jun 25 |

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