

APAC Monthly Update

April 2015

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

Regulatory Activities

Australia:

On April 8, ISDA participated in a quarterly call of the AFMA Benchmark Committee. On the same day, ISDA participated in a call with the Australian Treasury and the Australian Counsel of Regulators to discuss ISDA's recent consultation response on FMI resolution

India:

On April 15, ISDA met with the Reserve Bank of India to discuss RBI's plans for mandatory IRS clearing, how to promote growth of the onshore CDS market, WGMR and Resolution Stay Protocol. On the same day, ISDA met with the Clearing Corporation of India Limited to discuss CCIL's consultation paper (and ISDA's response) on default management and managing end of the waterfall scenarios.

Korea:

On April 23, ISDA co-hosted with ASIFMA an industry meeting with KRX in Hong Kong to discuss developments in the Korean derivatives market. Topics of discussion included expected deregulation initiatives and market infrastructure overhaul of the derivatives market.

Committee/Working Group Activities

North Asia L&R:

On April 28, ISDA held its monthly North Asia legal and regulatory committee meeting in Hong Kong. At the meeting, ISDA updated members on the recent regulatory developments in Asia including CBRC's proposed changes to implementing measures on administrative licensing of foreign-funded banks, PBOC's circular on issuance of credit asset-backed securities, the Regulations on Deposit Insurance in China, CSRC's guidelines for Public Securities Investment Funds' Trading under the Stock Connect Regime, HKMA's response to outstanding trade reporting issues and draft supplementary documentation concerns, ISDA submission on the second consultation paper on an effective resolution regime for FIs in Hong Kong, Korean FSC's policy direction for capital market reform, ISDA's submission on Treasury Consultation Paper on Resolution Regime for Financial Market Infrastructures, Council of Financial Regulators' consultation paper on clearing and settlement facility licensing, RBA's research discussion paper on CCP Loss Allocation and Transmission of Financial Stress, Bank Indonesia's revised regulations on the application of prudential principles in management of offshore foreign currency borrowings by non-bank corporations in Indonesia, Malaysian netting opinion, and ISDA submission on

MAS Consultation Paper on Proposed Amendments to the Securities and Futures Act. Members also discussed the updated ISDA DF General Disclosures Statement, ISDA's paper on path forward for centralized execution of swaps and a recent case on netting and set-off, MHB-Bank AG v Shanpark Ltd.

South Asia L&R:

On April 30, ISDA held its Asia-Pacific Legal & Regulatory Committee Meeting South Asia in Singapore. Allen & Overy provided an update on MHB-Bank AG v Shanpark Ltd, a case dealing with netting and set-off. ISDA then provided an update on the following topics related to Australia: the Memorandum of Understanding entered into by CFTC and APRA on April 13 to enhance supervision of cross-border regulated firms, ISDA's submission on March 27 on the Treasury Consultation paper on Resolution Regime for Financial Market Infrastructures, the consultation paper released by the Council of Financial Regulators on March 27 on clearing and settlement facility licensing and the RBA discussion paper released on March 18 on CCP Loss Allocation and Transmission of Financial Stress. ISDA also provided an update on its recent trip to Mumbai and also RBI's rearticulation on April 9 of its core purpose, values and vision. The meeting also discussed revised regulations issued by Bank Indonesia on the application of prudential principles in management of offshore foreign currency borrowings by non-bank corporations in Indonesia as well as the regulation issued on March 31 by Bank Indonesia on the obligation to use rupiah in Indonesia. The meeting also discussed the Malaysia netting of financial agreements act. ISDA provided an update on the following Singapore developments: ISDA's submission on March 31 on MAS Consultation Paper on Proposed Amendments to the Securities and Futures Act and Singapore signing the Hague Choice of Court Convention on March 25.

ISDA also provided an update on the following North Asia developments: CBRC's proposed changes to implementing measures on administrative licensing of foreign-funded banks, the circular issued by PBOC on issuance of credit asset-backed securities, the adoption by the State Council on Regulations on Deposit Insurance and FAQs issued with PBOC, guidelines issues by CSRC for public securities investment funds' trading under the Stock Connect regime, HKMA's response to outstanding trade reporting issues and draft supplementary concerns, ISDA's submission for the final response to the second consultation paper on effective resolution regime for FIs in Hong Kong and HKMA allowing more time for trade ID reporting and the Korean FSC's announcement of its policy direction for capital market reform.

ISDA provided an update on the recent AGM in Montreal and also provided a brief update on the following ISDA efforts and papers: ISDA and aosphere enhancing netalytics to cover ISDA Clearing Opinions, the ISDA papers on end users seeing fragmentation, reduced liquidity and higher costs for derivatives, on 50 per cent. of IRD and 70 per cent. of CDS indices trades on SEFs during Q1 2015 and ISDA study showing continued fragmentation of global liquidity pools. ISDA also updated on other ISDA efforts, including the publication of the Chinese translation of the 2014 ISDA Credit Derivatives Definitions and the path forward outlined for the centralized execution of swaps.

ISDA also updated the meeting on the following global efforts: the FSB's launch of its second peer review on resolution regimes, EBA's review of EU colleges of supervisors for cross-border banking groups, ESMA's update of its Q&A document, the European Parliament's ECON adopting its report on benchmarks, as well as the testimonies of Commissioners Wetjen, Bowen and Giancarlo of the CFTC given on April 14.

AEJ Data & Reporting Compliance Working Group:

The working group met on April 29 in HK, Singapore and Sydney. The WG discussed recent regional and global developments including the upcoming Hong Kong mandatory trade reporting obligation, and post-implementation reviews of recent go-lives under the Australian and Singaporean trade reporting regimes. The working group also discussed arrangements and considerations for going live with universal transaction identifier (UTI) 'share-and-pair' requirements across the APAC region.

Members' Meeting/Activities

Mumbai Members' Meeting

On April 15, ISDA held its members meeting in Mumbai, India. Topics discussed in relation to India developments include the Indian Budget 2015 -2016, a circular issued by the Reserve Bank of India (RBI) on February 6 clarifying the requirements regarding foreign investment in India by foreign portfolio investors, the Memorandum of Understanding entered into by RBI and the European Central Bank on central banking, ISDA's response dated January 12 to CCIL's consultation paper Default Handling: Auction of trades and positions of defaulter, RBI's revised guidelines issues on January 8 on leverage ratio framework and attendant disclosure requirements and RBI's Statement of Cooperation on "Supervisory Cooperation and exchange of Supervisory information with U.S. financial regulators signed on January 2.

ISDA also provided updates on the following: the ISDA memo circulated on the Hague Principles on Choice of Law in International Contracts, the ISDA statement published regarding negative interest rates and the ISDA 2014 Collateral Agreement Negative Interest Protocol, the announcement of the new LBMA Gold Price, ISDA's research not on ISDA OTC Derivatives Market Analysis : Interest Rate Derivatives, ISDA's position paper setting out a proposed recovery and continuity framework for central counterparties as well as ISDA's response to the FSB consultation on cross-border recognition resolution actions.

Updates were also provided on the following topics: the revisions made on March 18 by IOSCO and BCBS on framework for margin requirements for non-centrally cleared derivatives as well as the IOSCO review of the Implementation of Principles for Financial Benchmarks issued on February 26.

Regulatory Developments

Asia Pacific: Asia-Pacific CCPs recognized by ESMA

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On April 29, The European Securities and Markets Authority (ESMA) announced that it has recognized ten third-country CCPs established in Australia, Hong Kong, Japan and Singapore. The recognition allows these CCPs to provide clearing services to clearing members or trading venues established in the EU. Australia, Hong Kong, Japan and Singapore have already been assessed as equivalent by the European Commission with regard to their legal and supervisory arrangements for CCPs. Several other steps led to the recognition of the third-country CCPs, including the conclusion of cooperation agreements with the relevant third-country authorities, as well as the consultation of certain European competent authorities and central banks, as foreseen by EMIR.

ESMA has published a list of the recognized third-country CCPs as well as the classes of financial instruments covered by the recognition of the following CCPs: ASX Clear (Futures) Pty Ltd, ASX Clear Pty Ltd, HKFE Clearing Corporation Limited, Hong Kong Securities Clearing Company Limited, OTC Clearing Hong Kong Limited, SEHK Options Clearing House Limited, Japan Securities Clearing Corporation, Tokyo Financial Exchange Inc, Singapore Exchange Derivatives Clearing Limited and The Central Depository (Pte) Limited.

Australia: CFTC and APRA ink MOU

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On April 13, the US Commodity Futures Trading Commission (CFTC) and the Australian Prudential Regulation Authority (APRA) announced that their respective chairmen had signed a memorandum of understanding (MOU) on cooperation and the exchange of information in the supervision and oversight of regulated firms that operate on a cross-border basis in the US and in Australia. Through the MOU, the CFTC and APRA express their willingness to cooperate and consult regularly in the interests of fulfilling their respective regulatory mandates, particularly in the area of derivatives activities and conduct, but also in other areas of mutual supervisory interest. The scope of the MOU includes swap dealers and major swap participants in the US, as well as authorised deposit-taking institutions in Australia.

Singapore:

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AML/CTF bill moves to parliament

On April 13, the Monetary Authority of Singapore (Amendment) Bill 2015 was moved for a first reading in the Singaporean Parliament. The proposed amendments to the Monetary Authority of Singapore Act (MAS Act) will clarify the MAS's powers in relation to anti-money laundering (AML) and countering the financing of terrorism (CFT) supervision and enhance the effectiveness of Singapore's AML/CFT regime, particularly in relation to international cooperation. The enhancements will also align the regime with international AML/CFT standards set by the Financial Action Task Force (FATF) and Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision.

The MAS Bill will:

- Set out requirements for financial institutions (FIs) to conduct customer due diligence and retain such records;
- Set out the MAS's powers to conduct AML/CFT inspections on FIs and to approve such inspections by home AML/CFT supervisors;
- Subject to strong safeguards, enable the MAS to provide information to:
 - a) foreign AML/CFT supervisors, in connection with the AML/CFT supervision of foreign FIs carrying on financial activities in that country; and
 - b) domestic authorities, in connection with the investigation or enforcement action of an offence, or any supervisory action taken against a person regulated by that authority for the contravention of AML/CFT requirements;
- Clarify that the scope of the AML/CFT regime extends to designated financial holding companies and non-bank credit card or charge card issuers.

The MAS conducted a public consultation on the proposed enhancements in June 2014. The consultation paper and the MAS responses to comments received are published on the MAS website.

MAS and RBA sign MOU

On April 14, the Monetary Authority of Singapore (MAS) and the Reserve Bank of Australia (RBA) entered into an (MOU) on cooperation arrangements to facilitate access by the RBA to information on derivatives contracts held in trade repositories in Singapore. The MOU is meant to enable the RBA to fulfil its responsibilities and mandates, while ensuring the privacy of the information is appropriately protected. The MOU also provides for derivatives trade data to be disclosed to an Australian governmental entity, subject to strict conditions.

MAS publishes framework for D-SIBs in Singapore

On April 30, the Monetary Authority of Singapore (MAS) published its framework for identifying and supervising domestic systemically important banks (D-SIBs) in Singapore, and the inaugural list of seven D-SIBs.

MAS will apply additional supervisory measures on banks designated as D-SIBs. Banks that have a significant retail presence in Singapore will be required to locally incorporate their retail operations. Locally-incorporated D-SIBs will need to meet higher capital requirements – a minimum Common Equity Tier 1 (CET1) capital adequacy ratio (CAR) of 6.5%, Tier 1 CAR of 8% and Total CAR of 10%, compared with the Basel III minimum requirements of 4.5%, 6% and 8% respectively. Other measures such as recovery and resolution planning, liquidity coverage ratio requirements, and enhanced disclosures will also apply, depending on the bank's operating model and structure. MAS will allow a transition period for affected banks to comply with the requirements that are currently not in effect, such as the local incorporation requirement.

South Korea:

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FSC announces policy direction for capital market reform

On April 23, the Financial Services Commission (FSC) announced its policy direction for capital market reform, which contains several measures to enhance the country's derivatives market. The measures include:

- Mini KOSPI 200 futures and options: Trading units for KOSPI 200 derivatives products will be downsized and the trading units of Mini products will be cut to one-fifth of the level of KOSPI 200 futures and options. For example, if KOSPI 200 futures are KRW130 million per unit, then Mini KOSPI 200 futures will be KRW26 million per unit. If KOSPI 200 options are KRW30 million, then Mini options will be KRW6 million.
- KOSDAQ individual equity futures: New futures products will be developed with individual stocks listed on KOSDAQ as the underlying.
- Dividend index futures: New futures products will be developed and introduced with a dividend index as the underlying in response to a growing demand for dividend investments.
- RMB currency futures: Chinese renminbi (RMB) futures will be introduced.

A tentative listing schedule for the above products is: July for Mini KOSPI 200 products and KOSDAQ futures; August for dividend index futures; and September for RMB futures.

KRX releases self-assessment report on PFMI

On April 23, the Korea Exchange (KRX) published an updated version of its disclosure framework on the Committee on Payment and Settlement Systems and International Organization of Securities Commission's Principles for Financial Market Infrastructures (CPSS-IOSCO PFMI), which is a self-assessment report on the PFMI. This report, in line with the CPSS-IOSCO disclosure template, contains major changes since the last update of the disclosure framework in July 2013, including OTC clearing services.

In this report, KRX also announced it will establish a technological platform for disclosure in 2015, and will start disclosing quantitative information (including the C-factors for both exchange-traded and OTC products) in 2016, in accordance with the public quantitative disclosure standards for CCPs published by CPMI-IOSCO.

KRX announces improvements to market stabilisation facilities

On April 29, the Korea Exchange (KRX) announced its revised business regulations for securities and derivatives markets to improve market stabilisation facilities and expand daily price limits in these markets. For the derivatives markets, key elements include:

- Improved price stabilisation safeguards: In line with circuit breakers that have been strengthened with interval-based triggering in the stock markets, the trading of derivatives products will also be suspended by intervals accordingly.
- Expansion of daily price limits: An interval-based price limit will be introduced for equity-related derivatives products in line with the expansion of daily price limits in the stock markets.
- Introduction of intraday additional customer margin: As a result of the expanded range of price limits for underlying assets, intraday additional customer margin will be introduced to ensure proactive risk management. In cases where underlying assets change beyond a certain level, additional customer margin must be demanded by a clearing member to customers when their total deposit amount falls short of the intraday customer maintenance margin. When a call for intraday additional customer margin has been made, clearing members should reject orders placed by the customer until they check the deposit of the requested margin, but allow the customer to send offsetting orders for reducing requested margin deposit amounts (or relevant risk).

The KRX plans to revise relevant enforcement rules including details and timeline for the implementation of the revised regulations.

Upcoming committee and working group meetings/conferences

Meetings:

North Asia L&R Meeting	May 26
South Asia L&R Meeting	May 28
AEJ Data & Reporting Compliance WG Meeting	May 27

Conference:

Overview of the Capital Regulations – Sydney	May 19
Client Clearing Legal Opinions – Sydney	May 20
Overview of the Capital Regulations – Hong Kong	May 22
Overview of the Capital Regulations – Singapore	May 25

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Please direct comments and questions about APAC Monthly Update to Donna Chan, dchan@isda.org

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