

APAC Monthly Update

December 2014

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

Regulatory Activities

Asia-Pacific:

On December 5, ISDA hosted a meeting between industry representatives and CFTC Commissioner Mark Wetjen.

On December 11, ISDA met with Foreign Exchange Division of Bank of England. At the meeting, ISDA and BoE discussed various issues relating to the offshore RMB market. ISDA also briefed BoE on the related ISDA documentation project and the background of the document.

On December 18, ISDA and ASIFMA hosted a meeting between industry representatives and SEC Commissioner Michael Piwowar.

Australia:

On December 3 ISDA joined a call of the AFMA Benchmark Committee, on which it is the international representative.

India:

On December 4, ISDA met with the members in Mumbai and provided an update on ISDA conference held on 2 and 3 December. ISDA also briefed members on the various legal and regulatory developments both in India and globally.

On the same day, ISDA also met with RBI to discuss various current developments in the derivatives space, including the ISDA Resolution Stay Protocol, WMGR and the CCP Recovery Position Paper. RBI expressed that the progress of the G20 Commitments and netting was on track. ISDA also proposed a one-day know-how session for RBI on the same topics in the first quarter of 2015 in which they expressed interest.

China:

On December 15 ISDA met with:

- CBRC to discuss the ISDA Resolution Stay Protocol and WGMR, as well as the status of Chinese netting legislation
- NAFMII to discuss the ISDA Resolution Stay Protocol and WGMR

- CSRC to discuss the ISDA Resolution Stay Protocol and WGMR

On December 16 ISDA met with PBOC to discuss the ISDA CCP Recovery Paper, WGMR and the ISDA Resolution Stay Protocol.

Singapore:

On December 18, ISDA and ASIFMA organized a meeting in Singapore with SEC Commissioner Michael Piwowar to discuss, among others, developments in OTC derivatives as well as developments in the financial markets generally.

Committee/Working Group Activities

China Working Group Meeting:

On December 16, ISDA held its quarterly China working group meeting in Beijing. At the meeting, members discussed the draft bank deposit insurance rules in China, Shanghai-Hong Kong stock connect program and related new tax policies. ISDA also updated members on the current ISDA documentation projects and the latest developments of OTC derivatives regulations in the US and EU.

Regulatory Developments

Australia:

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

ASX consults on client clearing enhancements

On December 15, the ASX issued a consultation paper “Enhanced Derivatives Account Segregation and Portability”, which seeks stakeholders input on enhancements to ASX’s client clearing account structures that will offer derivatives clients the choice of increased collateral protection. ASX seeks feedback on the proposed amendments to the operating rules of ASX CCPs, ASX Clear and ASX Clear (Futures), which will enable excess customer collateral for derivatives to be held directly with the ASX CCPs and attributed to an individual client account. ASX is introducing the enhancements to comply with regulatory guidance from the Reserve bank of Australia (RBA) so that ASX CCPs can gain recognition in the EU. Submission deadline is February 6, 2015.

Financial System Inquiry Final Report published

On December 9, the Financial System Inquiry Final Report was released. The final report responds to the objective in the Inquiry’s Terms of Reference to best position Australia’s financial system to meet the country’s evolving needs and support economic growth. The final report offers a blueprint for an efficient and resilient financial system over the next 10 to 20 years. The Inquiry has made 44 recommendations focusing on the funding of the Australian economy, competition, resilience, superannuation and retirement incomes, innovation, consumer outcomes and the regulatory system.

China:

SAFE issues rules on RMB FX transactions

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

On December 25, the State Administration of Foreign Exchange (SAFE) issued implementing rules on renminbi (RMB) FX sale and purchase transactions conducted by banks (Chinese only). The rules simplify and repeal 14 regulations regarding entry and exit requirements in respect of banks’ RMB FX

spot and derivatives businesses, RMB FX spot transactions conducted for banks' own accounts, management of RMB FX derivatives businesses and position limits on banks' FX businesses. Regarding derivatives businesses, the rules reiterate that banks have an obligation to verify clients are entering into derivatives transactions for hedging purposes. The rules will come into effect on January 1.

Hong Kong:

HKMA announces amendments to disclosure requirements

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

The Hong Kong Monetary Authority (HKMA) has announced that the Banking (Disclosure) (Amendment) Rules 2014 to introduce disclosure requirements associated with the second phase of Basel III requirements for authorised institutions was gazetted on December 24.

The disclosure requirements relate primarily to:

- the capital buffers and the liquidity coverage ratio to be implemented via the Banking (Capital) (Amendment) Rules 2014 and the Banking (Liquidity) Rules, respectively, which will come into effect on January 1; and
- the Basel III leverage ratio, which is required to be disclosed by banks with effect from 2015, according to the Basel Committee on Banking Supervision's Basel III implementation timetable.

The Banking (Disclosure) (Amendment) Rules 2014 will be tabled before the Legislative Council at its sitting on January 7 for negative vetting. They are scheduled to come into operation on March 31.

India:

CCIL consults on default handling

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

On December 8, the Risk Management Department of The Clearing Corporation Ltd. (CCIL) released its Consultation Paper on the Default Handling: Auction of Trades & Positions of Defaulter etc.

The Consultation Paper proposes the following:

1. **Auction for close-out of Defaulter's positions:** CCIL is considering introducing the possibility of auctioning trades of the defaulter.
2. **Default classification:** CCIL will categorize the event of default into large and small default depending on the impact to other clearing market participants. The classification may be based on the amount involved at a netted position level as compared to the aggregate net outstanding positions being cleared in the institutional segment of the market. Based on a pre-decided scale, a default may be classified based on such ratio and a subsequent course of action be adopted.
3. **Committee of Clearing Participations for Default Handling:** For large-sized defaults, CCIL is proposing to form a Committee of Clearing Participants. This committee will advise CCIL on handling large-sized defaults and will assist CCIL on close-out positions either through direct sale or auction.
4. **Segment-wise approach:** The default handling in each segment is different as the default of a market participant for each segment should be handled separately. However, a clearing participant may default in more than one segment. CCIL is proposing to handle such defaults at a consolidated level instead of through a segment-based approach.
5. **Compression of Portfolio of defaulter or of all (including non-defaulters):** CCIL is proposing a mandatory compression of trades of all clearing participants before the default process begins.

6. **Sale of positions in the market:** In the instance of a small-sized and medium-sized default, CCIL may choose to close-out such positions through a sale in the market either through its anonymous trading systems or through a private sale by inviting quotes from at least three of the large non-defaulting clearing participants. The residual positions may be closed out following the approach as described in paragraph 2.5.5 of the Consultation Paper. In the instance of a large-sized default, the Default Management Committee of clearing participants may be shown the portfolio of the defaulted clearing participant. This Committee, in consultation with CCIL, may be required to decide on the auction size of the defaulter's portfolio. This Committee may also decide to sell the defaulter's portfolio in the market based on pre-determined rules and via the anonymous trading systems of CCIL.
7. **Auction Model:** All non-defaulting clearing participants will have an obligation to bid in the auction and buy positions up to a portion of the auctioned position that is equal to the ratio of their contributions to the default fund for the segment to the total contributions of non-defaulting clearing participants to the same default fund. For each tranche, CCIL will declare a minimum price based on its MTM price.
8. **Positions carried forward:** If some positions of the defaulter could not be immediately closed-out in the market or through the auction, such positions will be carried forward.
9. **Residual Loss from Default:** Any loss not recovered from the handling of a default will be met in terms of the Default Waterfall described in the respective segment.

South Korea:

Contact: Keith Noyes (knoyes@isda.org) / Claire Kim (ckim@isda.org)

National Assembly passes income tax amendment

On December 2, an amendment (Korean only) to the Income Tax Law, which would impose a capital gains tax on profits from certain derivatives transactions, was passed in the plenary session of the National Assembly of the Republic of Korea.

Key points include:

- Basic tax rate: 20% (+/- 10% is flexible);
- An exemption for the first Won 2.5 million of annual capital gains;
- Gains from the transfer of derivatives products are not to be aggregated with other capital gains but computed separately;
- The scope of derivatives products subject to capital gains tax will be stipulated under Presidential Decree.

The amendment will be effective from January 1, 2016.

Emission trading set for launch in January

On December 10, the Ministry of Environment (MOE) announced that Korea's emission trading market will officially launch on January 12, 2015. The opening date was decided through consultation with relevant agencies, including the Greenhouse Gas Inventory & Research Center of Korea (GIR) and the Korea Exchange (KRX). MOE designated KRX as the official emission permits exchange in January 2014, and KRX subsequently announced the Emission Trading Market Business Regulation (Korean only) on December 2.

Key highlights include:

- Member requirement: 525 business entities eligible for allocation and three government-owned financial institutions (Korea Development Bank, Industrial Bank of Korea, Korea Exim Bank);
- Trading items: emissions allocation permit and emissions offset permit;
- Trading hours: 10:00am – 12:00pm;
- Price limit: base price +/- 10%;

- Trading unit: one emission permit (= 1tCO2-eq);
- CCP: KRX.

Before the official opening day, user registration of business entities eligible for allocation and over-the-counter transactions of emission permits will begin on January 2, 2015.

FSS revises risk management standards on FX derivatives transactions

On December 15, the Financial Supervisory Service (FSS) announced its revised risk management standards on FX derivatives transactions. FSS inspected the compliance of domestic banks and foreign bank branches with the risk management standards on FX derivatives transactions that were established in January 2010 to restrict over-hedging and encourage sound FX risk management practices. The findings of the inspection pointed to the need to further fine-tune and reinforce the standards, including the calculation methods used to determine the maximum transaction amount permitted for an FX derivatives transaction.

The revised standards will take effect on January 1, 2015 following an inter-agency review and assessment of the proposed enhancements to the standards by Regulatory Reform Committee.

Upcoming committee and working group meetings/conferences

Meetings:

Asia-Pacific Interest Rate Derivatives Operations WG Call	Jan 6
Asian Public Policy Committee Meeting	Jan 12.
North Asia L&R Meeting	Jan 27
APAC CCP Risk call	Jan 28
South Asia L&R Meeting	Jan 29

Conference:

Global Swap Regulations Conference – Hong Kong	Jan 15
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Please direct comments and questions about APAC Monthly Update to Donna Chan, dchan@isda.org

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