

## **APAC Monthly Update**

### **September 2011**

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

#### **Regulatory Activities**

##### **Korea:**

On September 1, ISDA visited Korea Exchange (KRX) to discuss central clearing. Under the proposed legislation, KRX will be mandated as Korea's first CCP and it planned to begin clearing Korean Won IRS first, followed by NDFs and CDS.

On the same day, ISDA met with the Bank of Korea (BOK) to discuss central clearing, global regulatory developments and European sovereign CDS issues.

##### **China:**

On September 6, ISDA met with China Banking Regulatory Commission (CBRC) to discuss the regulatory landscape in China.

On September 7, ISDA conducted three meetings with China's regulators: 1) with CBRC on the wealth management products guidelines, 2) with National Association of Financial Market Institutional Investors (NAFMII) on CCP and netting in China, and 3) with People's Bank of China (PBOC) on issues relating to central clearing and DFA/EMIR extraterritoriality.

##### **Thailand:**

On September 8, ISDA visited Bank of Thailand to discuss central clearing, trade reporting and electronic confirmation process.

##### **India:**

On September 26, ISDA met with one of the economic advisors of the Ministry of Finance to discuss the derivatives market in India and global regulatory developments.

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

##### **New Zealand:**

On September 1, ISDA held a call on the submission draft of the New Zealand Draft of Financial Markets Conduct Bill.

**Korea:**

On September 2, ISDA held a Korea Working Group meeting in Seoul. The discussion focused on ISDA's draft response to the Financial Services Commission's "Proposed Amendment to Financial Services and Capital Markets Act Relating to Central Counterparty". ISDA would submit its comments by mid September.

**China:**

ISDA held two member meetings on September 6 and 7 to provide an overview of the impending Basel III changes and the regulatory updates in China respectively.

**India:**

On 27 Sep, ISDA held a member meeting in New Delhi to discuss regulatory developments.

**North Asia L&R**

On September 27, ISDA held its monthly L&R meeting in Hong Kong. At the meeting, ISDA briefed members on the latest regulatory and documentation developments in this region. Topics discussed regarding North Asia include China's Ministry of Commerce's consultation on the rules governing foreign direct investments in RMB, changes to high net worth professional investor rules in Hong Kong, and ISDA's submission to the National Assembly and FSC on central clearing in Korea. Other topics covered were the ISDA's submission to the New Zealand Ministry of Economic Development on the Financial Markets Conduct Bill, the delay in the PPSA implementation, ISDA's submission to RBA on 'Central Clearing of OTC derivatives in Australia', the Indian CDS draft MCAs for market makers and users, ISDA's submission to SC on the Capital Markets and Services (Amendment) Act 2011 and ISDA's submission to PIDM on the criteria for Qualified Third Party. Members also discussed the disruption events and fallbacks language applicable to offshore deliverable CNY transactions.

**South Asia L&R**

On September 29, ISDA held its monthly L&R meeting in Singapore. A member raised the topic of whether disruption language should be included for LIBOR and other floating rates and the offshore CNY disruption events language. Other topics covered were the ISDA's submission to the New Zealand Ministry of Economic Development on the Financial Markets Conduct Bill, the delay in the PPSA implementation, ISDA's submission to RBA on 'Central Clearing of OTC derivatives in Australia', the Indian CDS draft MCAs for market makers and users, RBI's circular on the authorization guidelines for primary dealers and licensing of new banks in the private sector, the transfer of foreign exchange earnings to domestic banks in Indonesia, SGX's consultation paper on the enhancements to default management framework for derivatives contracts and ISDA's submission to SC on the Capital Markets and Services (Amendment) Act 2011 and ISDA's submission to PIDM on the criteria for Qualified Third Party.

**Market Infrastructures**

On September 1, ISDA held an APAC Interest Rates Derivatives Operations Working Group meeting to address a number of floating rate options draft for KRW, INR and the rounding treatment of INR MIBOR OIS compounding calculation.

On September 14, ISDA held an APAC Credit Derivatives Operations Working Group meeting to discuss the latest operations development in India and also the renaming treatment of a Korean entity

On September 15, ISDA held an APAC Equity Derivatives Operations Working Group meeting on the documentation of local taxes in China H-stock and Pan-Asia interdealer swap.

## **Regulatory Developments**

### **Australia:**

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On September 6, the Australian Prudential Regulation Authority (APRA) released a discussion paper on Implementing Basel III Capital Reforms in Australia. In the discussion paper, ADIs will be required to meet the revised Basel III capital ratios (4.5% Common Equity Tier 1, 6% Tier 1 capital ratio and 8% total capital ratio) and capital adjustments in full from January 1, 2013. APRA will adopt the Basel III phase-out timeline for capital instruments that no longer qualify as Additional Tier 1 and Tier 2 capital, i.e., instruments that no longer qualify will be capped at 90% from January 1, 2013, with the caps reducing by 10% in each subsequent year. The 50:50 deduction rule from Tier 1 and Tier 2 will also be removed in calculating capital. A Capital Conservation buffer of 2.5% of Common Equity Tier 1 to be phased in by January, 2016. APRA will indicate in 2015 whether any Countercyclical Buffer will apply from January 1, 2016 and this could range from 0-2.5% of Common Equity Tier 1. APRA will also introduce the leverage ratio of 3%, in-line, with the Basel III timeline, which envisages this ratio being migrated to Pillar 1 on January 1, 2018.

For Common Equity Tier 1, APRA proposes that dividends will be deducted from retained earnings only after they have been declared. Historically, APRA was more conservative and required expected current year dividend (net of an allowance for dividend reinvestment) to be deducted from retained earnings when determining Tier 1 capital. APRA will also align its current approach to Basel III by allowing unrealized gains and losses to be included in determining Common Equity Tier 1.

For Additional Tier 1 capital, here are some of the changes from current requirements: certain hybrid instruments will be removed; “innovative” features such as step-ups or other incentives to redeem will not be allowed; and Additional Tier 1 capital instruments classified as liabilities for accounting purposes must have a principal loss absorption through a conversion or write-down mechanism that allocates losses to holders.

Basel III requires an ADI to deduct investments in its own common shares from the corresponding tier of capital, to avoid double-counting the ADI's own capital. Basel III also requires deduction of any instrument that an ADI could be contractually obliged to purchase and applies to investments in both the banking and trading books. Basel III also requires the deduction of exposures to own shares through holdings of index securities. APRA would like feedback on the practical consequences of a look through approach of index securities. APRA also proposes to continue the full deduction of investments in non-consolidated financial institutions as well as for deferred tax assets due to timing differences, significant investments in common shares of non-consolidated financial institutions and mortgage servicing rights. Basel III allows the recognition of deferred tax assets due to timing differences, significant investments in common shares of non-consolidated financial institutions and mortgage servicing rights to be capped at an aggregate of 15% for all 3 items.

APRA requests feedback from interested parties on the financial impact/ cost-analysis benefit analysis of the proposed Basel III capital reforms and any other substantive costs associated, such as impact on balance sheet and capital. The deadline for submission is December 2, with a view to issuing draft prudential standards and reporting requirements for consultation in early 2012

### **Korea:**

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

In August, the Financial Supervisory Commission (FSC) published the proposed amendments to Financial Investment Services and Capital Markets Act (FISCMA) Relating to Central Counterparties. Under the proposed amendments, a CCP for OTC derivatives will be set up in time to meet Korea's end-2012 G20 commitment. The National Assembly is expected to take up discussion of proposed amendments this month. Once passed into law, further details to the proposed amendments will be added in a Presidential Decree is expected to be written by the FSC.

The proposed amendments do not provide great detail on the scope of clearing, though Korean Won swaps are expected to be the first products cleared, potentially followed by non-deliverable forwards and CDS at a later date. Items such as eligible collateral and clearing membership criteria are not covered in any detail in the proposed amendments, nor is the scope of who must clear what mandatorily. These details are expected in the Presidential Decree. ISDA is preparing a bilingual submission to the FSC and the National Assembly on issues that members would like to see addressed in the legislation and the Presidential Decree.

**Singapore:**

Contact: Jeffrey Kan (*jkan@isda.org*)

On September 28, ISDA met with Monetary of Singapore (MAS) to discuss the Trade Repository (TR) development in Singapore. ISDA expressed industry's preference to report the data to global TR(s) rather than to each bespoke local TR in the region. ISDA also expressed concerns of mandatory reporting to a local TR. It was noted that MAS would consult market participants later this year on TR development together with the mandating of clearing.

**Submissions**

ISDA made the following submissions:

- on September 6 to the New Zealand Ministry of Economic Development on the Financial Markets Conduct Bill
- on September 15 to Perbadanan Insurans Deposit Malaysia regarding Consultation Paper on Criteria for Qualified Third Party.
- on September 19 to Korea's FSC on Proposed Amendment to Financial Investment Services and Capital Markets Act (FISCMA) Relating to Central Counterparty
- on September 23 to Securities Commission Malaysia on Capital Markets and Services (Amendment) Bill 2011.

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

**Meetings:**

India CDS call	Oct 4
APAC IRD Operation Working Group Meeting	Oct 6
Indian Netting Submission call	Oct 10
L&R Advisory Meeting – Hong Kong & Singapore	Oct 11
APAC Credit Operation Working Group Meeting – Singapore	Oct 12
APAC Equity Operation Working Group Meeting – Singapore	Oct 13
Asia Steering Committee Meeting – Hong Kong	Oct 24
L&R South Asia Meeting – Singapore	Oct 27

**Conferences:**

2011 ISDA Annual Australia Conference	Oct 20
Fundamentals of OTC Derivatives Clearing, Repositories and Data Infrastructure – Sydney	Oct 21
Fundamentals of OTC Derivatives Clearing, Repositories and Data Infrastructure – Hong Kong	Oct 24
2011 ISDA Annual Asia Pacific Conference – Hong Kong	Oct 25
2011 ISDA Annual Japan Conference	Oct 27
Fundamentals of OTC Derivatives Clearing, Repositories and Data Infrastructure – Tokyo	Oct 28

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