

APAC Monthly Update

March 2013

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

Regulatory Activities

China:

On March 5, ISDA met with the China Banking Regulatory Commission (CBRC) to discuss issues relating to the OTC derivatives regulatory reforms in the EU and US and the impact on financial institutions operating in China, such as trade reporting issues and BCBS/IOSCO proposal regarding margin for uncleared transactions.

On March 5 and March 6, ISDA conducted two meetings with the People's Bank of China to discuss issues relating to offshore RMB markets and central clearing of OTC derivatives.

Hong Kong:

On March 28, ISDA met with Ashley Alder, CEO of Securities and Futures Commission of Hong Kong to discuss issues on ESMA recognition of third country CCPs.

India:

On March 11, ISDA met with:

- the Department of Banking Operations and Department of the Reserve Bank of India to discuss the notification issued by The Clearing Corporation of India Ltd. (CCIL) dated 28 February 2013 on changes to the regulations of CCIL's Forex Forward Guaranteed Settlement Segment, greater consistency in the application of close-out netting directives, third country recognition issues under the Dodd-Frank Act and EMIR, determination as to whether a CCP is a Qualifying CCP, third country recognition issues under the Dodd-Frank Act and EMIR and ongoing developments in the global OTC derivatives market.
- The Clearing Corporation of India Ltd. (CCIL) to discuss the notification issued by CCIL dated 28 February 2013 on changes to the regulations of CCIL's Forex Forward Guaranteed Settlement Segment, determination as to whether a CCP is a Qualifying CCP, greater consistency in the application of close-out netting directives, trade reporting and clearing issues as well as ongoing developments in the Indian and global OTC derivatives market.

On March 12, ISDA conducted a presentation to the Legal Department of the Reserve Bank of India on the following topics: an introduction to ISDA and its activities, OTC derivatives, an overview of ISDA documentation and issues of close-out netting, collateral and regulatory capital. ISDA also presented an overview of G20 regulatory reforms, including the Dodd-Frank Act, EMIR, margin requirements for

uncleared OTC derivatives as well as issues of concern to India in relation to these ongoing global developments.

On March 12, ISDA met with:

- the Internal Debt Management Department of the Reserve Bank of India (RBI) to discuss RBI's circular dated January 28 on the standardization of interest rate swap contracts and ongoing related efforts, margin requirements for uncleared OTC derivatives, the Indian CDS market as well as other developments in the Indian market, the notification issued by The Clearing Corporation of India Ltd. (CCIL) dated 28 February 2013 on changes to the regulations of CCIL's Forex Forward Guaranteed Settlement Segment and ongoing developments in the Indian and global OTC derivatives market.
- the Foreign Exchange Department of the Reserve Bank of India (RBI) to discuss the notification issued by The Clearing Corporation of India Ltd. (CCIL) dated 28 February 2013 on changes to the regulations of CCIL's Forex Forward Guaranteed Settlement Segment, third country recognition issues under the Dodd-Frank Act and EMIR and ongoing developments in the Indian and global OTC derivatives market.

Committee/Working Group Activities

North Asia L&R

On March 26, ISDA held its monthly Legal & Regulatory meeting in Hong Kong. Topics discussed in respect of North Asia included the expanded RQFIIs regime announced by CSRC, HKMA's consultation regarding interim reporting requirements for OTC derivative transactions, the latest relaxation of SFC policy on RMB retail structured products and the Revision Bill of the FSCMA introducing mandatory central clearing in Korea as well as the draft Korean law governed CSA. ISDA also briefed members on the latest regulatory developments in Southeastern Asia including the Consultation Paper 201 on derivatives trades repositories released by the ASIC on March 15, ISDA's submission addressed to the RBI, MOF and CCIL on the CCIL Forex Forward Guaranteed Segment (the Segment), the RBI circular dated March 13 on Reporting Platform for OTC Foreign Exchange and Interest Rate Derivatives and the amendments published by CCIL relating to its regulations governing the Segment.

The meeting also provided an update on current ISDA efforts and projects including the proposed changes to the 2003 Credit Derivatives Definitions, the publication on March 25 of the ISDA LIBOR Discontinuations Guidance Note and associated Amendment Letter, the publication on March 22 of the ISDA March 2013 Dodd-Frank Protocol, the proposed ISDA Reporting Protocol Working Group, the proposed ISDA working group on conflicts between mandatory trade reporting requirements and national laws, the ISDA response on March 18 to BCBC and IOSCO on the Second Consultative Document "Margin Requirements for Non-Centrally Cleared Derivatives", the publication on March 8 of the EMIR Non-Financial Counterparty Representation Protocol and Timely Confirmation Agreement and the upcoming ISDA FLRC hosted "Arbitration in Derivatives" meeting in Singapore. Members also discussed the impact of Article 25(1) of EMIR on Asian CCPs and the practical guide released by ESMA on March 12 on recognition of third-country CCPs.

South Asia L&R

On March 26, ISDA held its L&R Members' meeting in Singapore. Topics discussed included the use of JIBOR for onshore IRS trades, Consultation Paper 201 on derivatives trades repositories released by the Australian Securities & Investments Commission on March 15, an update on ISDA's trip to Mumbai on March 11 and 12, the Indian Budget proposal to amend the Bombay Stamp Act, ISDA's submission dated March 20 addressed to the Reserve Bank of India (RBI), the Ministry of Finance (MOF) and The Clearing

Corporation of India Ltd (CCIL) on the CCIL Forex Forward Guaranteed Segment (the Segment), the RBI circular dated March 13 on Reporting Platform for OTC Foreign Exchange and Interest Rate Derivatives and the amendments published by CCIL relating to its regulations governing the Segment.

Also discussed were the assessment dated March 20 concluded by the Basel Committee on the implementation of Basel III capital regulations in Singapore, the Revised Notice 637 dated February 8 issued by the Monetary Authority of Singapore (MAS) on Risk Based Capital Adequacy Requirements for Banks incorporated in Singapore, the Interim Measures issued by the CSRC on March 6 on Investments of Renminbi Qualified Overseas Investors in Domestic Securities, the consultation by the HKMA on interim requirements for OTC derivative transactions, the latest relaxation of SFC policy on RMB retail structures, HKMA's consultation paper released on March 4 relating to draft banking (Capital) (Amendment) Rules 2013, the Revision Bill released on March 5 by the Korean National Assembly on Financial Investment Services and Capital Markets Act and the draft Korean law governed Credit Support Annex.

The meeting also provided an update on current ISDA efforts and projects including the Asian Members update call hosted by ISDA and Allen& Overy on proposed changes to the 2003 Credit Derivatives Definitions, the publication on March 25 of the ISDA LIBOR Discontinuations Guidance Note and associated Amendment Letter, the publication on March 22 of the ISDA March 2013 Dodd-Frank Protocol, the Proposed ISDA Reporting Protocol Working Group, the Proposed ISDA Working Group on Conflicts between mandatory Trade Reporting Requirements and National Laws, the ISDA response on March 18 to BCBS and IOSCO on the Second Consultative Document "Margin Requirements for Non-Centrally Cleared Derivatives", the publication on March 8 of the EMIR Non-Financial Counterparty Representation Protocol and Timely Confirmation Agreement and the upcoming ISDA FLRC hosted "Arbitration in Derivatives" meeting in Singapore.

The meeting also discussed the First FAQs released by ESMA on March 20 on EMIR implementation, the coming into force on March 15 of six EMIR RTS, the CICI Guidance dated March 13 on registration and certification as well as the practical guide released by ESMA on March 12 on recognition of third-country CCPs.

Operations/Market Infrastructure

On March 13, ISDA held its APAC Interest Rates Derivatives Operations Working Group meeting to brief members on the latest regional developments in rates. The group also discussed the addition/amendment of floating rate options/matrices, the issues on electronically confirming certain products, novation practice and the upcoming changes in certain rate fixings.

On March 14, ISDA held its APAC Equity Derivatives Operations Working Group meeting to update the latest confirmation template development for Asian products. The group also discussed the AEJ reference price source matrix, the eligibility in confirming certain products via an electronic confirmation platform and the confirmation practice for products involving CNY/USD.

On March 12, 14, 18, 25 and 26, ISDA held its APAC Trade Reporting Sub Group meetings to discuss the Hong Kong trade reporting matters.

Member Activities

Beijing Members Meeting:

On March 4, ISDA held its quarterly China members meeting in Beijing. At the meeting, members discussed the new FX regulations applicable to Qualified Foreign Institutional Investors (QFIIs), ISDA's letter to Asian CCPs and latest equity documentation projects. ISDA also updated members on the progress of the US and EU regulatory reforms in respect of OTC derivatives and the impact of the reforms on financial institutions operating in China.

Mumbai Members Meeting:

On March 11, ISDA held its L&R Members' meeting in Mumbai. Topics discussed included an update on the recent FIMMDA-PDAI Annual Conference, the publication on February 28 by The Clearing Corporation of India Ltd (CCIL) of the amendments to its regulations governing the Forex Forward Guaranteed Settlement Segment, the circular dated January 28 published by the Reserve Bank of India (RBI) on the standardization of interest rate swap contracts, the publication of the Final GAAR Report dated January 14 by the Ministry of Finance, the Draft Guidelines issued on January 10 on Capital Requirements for bank exposures to central counterparties as well as ISDA's submission dated January 31 on the same, the Revised Guidelines dated January 7 on Credit Default Swaps for Corporate Bonds and the ISDA survey dated January 4 on bilateral netting for regulatory capital purposes. ISDA also provided an update on each of the following: the US Dodd-Frank and EU EMIR and the implementation of the G20 commitments by other Asian countries as well as related ISDA documentation efforts and ongoing ISDA Asian initiatives.

Regulatory Developments

Australia:

ASIC consults on trade repositories

Contact: Keith Noyes – knoyes@isda.org / Jacqueline Low – jlow@isda.org

On March 15, Australian Securities and Investments Commission (ASIC) released Consultation Paper 201 Derivatives trade repositories which sets out proposals for the licensing and rules governing derivatives trade repositories or data warehouses, which maintain electronic databases of records of derivatives transactions. The proposals will apply to operators and users of licensed trade repositories as well as officers of Australian derivative trade repository (ADTR) licensees. Submission deadline for comments is April 12.

The Consultation paper sets out proposed guidance on:

- the process of applying for an ADTR license and the information required;
- the conditions that ASIC may consider imposing on ADTR licenses;
- ASIC's approach for granting exemptions from all or specified provisions of the Corporations Act;
- the draft derivatives trade repository rules to ensure ADTR licensees provide a reliable reporting system and conduct themselves in a manner that fosters market stability, market integrity and promotes transparency.

ASIC consults on trade reporting obligations

Contact: Keith Noyes – knoyes@isda.org / Jeffrey Kan – jkan@isda.org

On March 28, Australian Securities and Investments Commission (ASIC) issued Consultation Paper 205, Derivative transaction reporting (CP 205) to address the mandatory trade reporting obligations for OTC derivatives such as interest rate swaps. CP 205 proposes:

- rules governing the reporting of OTC derivative transactions to derivative trade repositories, such as which institutions will need to report to trade repositories, what information will need to be reported, and when the reporting obligation will start for different classes of reporting entities;
- rules aiming at complying with internationally-agreed standards on transaction reporting developed by the International Organization of Securities Commissions (IOSCO) and the Committee on Payment and Settlement Systems (CPSS).

ASIC has also considered the transaction reporting regimes being implemented in other parts of the world including the EU, US, Singapore, Hong Kong and Canada, aiming to ensure consistency by identifying and trying to mitigate any conflicting or overlapping rules across jurisdictions.

Under ASIC's proposals, major financial institutions (those with at least \$50 billion of notional outstanding positions in OTC derivatives on September 30, 2013) would be subject to a reporting obligation in some asset classes from December 31, 2013; other smaller financial institutions would be subject to a reporting obligation in some asset classes from June 30, 2014. Submissions deadline is May 1.

Hong Kong: HKMA consults on banking capital rules

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

On March 4, the HKMA released their consultation paper on draft banking (Capital) (Amendment) Rules 2013 (B(C)(A)R) together with 2 letters to the Hong Kong Association of Banks and the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies (the DTC Association). The consultation paper is seeking consultation on the refinements to the Banking (Capital) Rules (B(C)R). The B(C)(A)R will be subsidiary legislation and will be subject to negative vetting by the Legislative Council (LegCo). HKMA aims to publish the Rules in the Gazette and table them in LegCo in April 2013, along with the draft Banking (Disclosure) (Amendment) Rules 2013. Both sets of Rules are intended to come into operation from June 30. The deadline for comments is March 12. The additional refinements include:

- Sections 226 X and 226ZD of the B(C)R have been amended to recognize the credit risk mitigation given to exposures of authorized institutions (AIs) to central counterparties. One of the refinements proposed is where an AI's exposure is covered by a recognized credit derivative contract cleared by a qualifying CCP (QCCP), the AI may allocate to the credit protection covered portion of the exposure a risk weight of 2% if the AI is a clearing member (CM) of the QCCP; or is a client of a CM of a QCCP and all conditions in section 226ZA (6) are met. The AI may allocate a 4% if the AI is a client of a CM of a QCCP and certain conditions of section 226ZA (6) are met. The attributed risk-weight of the credit protection provider is 2% if the concerned credit derivative is cleared by a QCCP and the AI concerned is a CM of that QCCP; or a client of a CM of the QCCP, subject to certain conditions being met. It will be assigned a risk weight of 4% if the AI concerned is a client of a CM of the QCCP and only certain conditions are met.
- Sections 265 and 278 of the B(C)R addresses some internal inconsistencies between certain provisions in the IRB approach for AI's non-securitization exposures and the IRB approach for AI's securitization exposures.

India:**Forex Forward Guaranteed Settlement Segment**

Contact: Keith Noyes (knoyes@isda.org) / Jacqueline Low (jlow@isda.org)

On February 28, The Clearing Corporation of India (CCIL) published amendments to its regulations governing the Forex Forward Guaranteed Settlement Segment. These changes deal with a member's right to resign, the closing-out of trades of a resigning member, the default handling procedure and a cap on default fund contributions. These changes will take effect on March 31.

RBI requires reporting of FX and INR OTC transactions

Contact: Keith Noyes (knoyes@isda.org) / Jacqueline Low (jlow@isda.org)

On March 13, RBI released a circular on Reporting Platform for OTC Foreign Exchange and Interest Rate Derivatives. All/selected trades in OTC foreign exchange (FX) and interest rate derivatives between Category-I Authorized Dealer Banks (ADs)/market makers (banks/PD) and their clients should report on a CCIL platform subject to mutually agreed upon confidentiality protocol. CCIL has completed the development of the platform for reporting of client transactions and a confidentiality protocol. With effect from April 2, these FX transactions between ADs and their clients will need to be reported (a) FCY-INR Forwards; (b) FCY-FCY Forwards; (c) FCY-INR Options; and (d) FCY-FCY options.

AD category-I banks will be required to report all client transactions in OTC FX forwards and FX options executed on and after April 2 to CCIL. Trades executed with clients should be reported before noon of the following working day. The reporting threshold for reporting the transactions will be US\$1 million and equivalent in other currencies. Only transactions exceeding the reporting threshold will be reported to CCIL. The threshold limit will be based on the base currency of the trades at the time of origination. CCIL will provide a currency matrix to be used for base and term currency. This threshold will not apply to post-trade events. The FEDAI Revaluation rates will be used for computation of threshold limits and rates and will be valid till the next rates are published by FEDAI.

Transactions with these clients will need to be reported: (a) all categories of resident entities (including individuals); (b) all categories of non-resident entities such as NRI, FDI and FII and non-resident exporters/ importers; and (c) a trade done by non-resident exporter/ importer to hedge its exposure in Rupees directly through the AD located in India. ADs are responsible for ensuring accuracy of the transactions reported. The current reporting arrangement will cover transactions involving 14 currencies and will be extended to other currencies in due course. Firms must ensure completion of documentation and other pre-reporting formalities with CCIL before commencement of reporting client transactions and detailed operational guidelines will be made available by CCIL.

Korea: National Assembly passes bill to create CCPs

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

On March 5, the Revision Bill of the Financial Investment Services and Capital Markets Act (FSCMA) passed the plenary session of the National Assembly, following approval by the Legislation and Judicial Committee of the National Assembly the previous day. The final steps for this amendment to come into force require only that the government promulgate the Amendment and a grace period be given prior to implementation. The Financial Services Commission (FSC) has indicated that it will proceed quickly with revision of the FSCMA enforcement decree in order to ensure that central counterparty clearing can begin three months after the passage of the revision.

The legislation creates a new business sector, central counterparty clearinghouses (CCPs), to deal with clearing for OTC transactions in financial investment products. While clearinghouse operators will be

approved depending upon the types of financial products they deal with, KRX is believed to be the only institution currently considered as a CCP for OTC clearing in Korea. The FSC press release also states that "Over-the-counter (OTC) derivatives whose default could deliver significant impact to the market will be mandatorily cleared through a CCP."

The clearing mandate will likely begin with Won interest rate swaps, identified by the FSC as the largest derivatives asset class in the Korean market. Because the Won is a restricted currency only tradeable onshore, physically-settled Won IRS could only be cleared in a Korean CCP. The FSC notes that central clearing of this product would "significantly improve the settlement safety of OTC derivatives" and allow Korea to implement G20 agreements and bring Korea in line with global OTC regulatory standards.

Submission

On March 20, ISDA made submission to Reserve Bank of India, Ministry of Finance and The Clearing Corporation of India Ltd. regards to CCIL's Forex Forward Guaranteed Settlement Segment. This submission is not yet public.

Upcoming committee and working group meetings/conferences

Meetings:

Legal and Regulatory Advisory Group Meeting	Apr 2
Regulatory Meeting & Members' Meeting - Taipei	Apr 15
Demo of DTCC Regulatory Portal	Apr 15
South Asia L&R Meeting	Apr 18
APAC Commodity Meeting	Apr 22
North Asia L&R Meeting	Apr 30

Conferences:

Global Transaction Reporting Conference – Hong Kong	Apr 11
Global Index Variance with a focus on Pan-Asia Transactions: Transition to 2011	
Equity Definitions Documentation - Singapore	Apr 23
ISDA AGM – Singapore	Apr 23- 25

ISDA APAC Monthly Update

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