

## APAC Monthly Update

**July 2015**

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

### **Regulatory Activities**

#### **Australia:**

On July 29, ISDA participated in the quarterly periodic liaison meeting with the industry, held by the Council of Financial Regulators in Australia (APRA, ASIC, Reserve Bank of Australia and the Treasury). Topics discussed included central clearing, single-sided reporting for Phase 3B entities, margin for non-centrally cleared derivatives and the current market assessment.

#### **Hong Kong:**

On July 8, ISDA visited SFC CEO Ashley Alder to discuss extra-territorial issues related to financial markets reform.

#### **South Korea:**

On July 17, ISDA had a call with Bank Of Korea to discuss global regulatory issues.

#### **China:**

On July 20, ISDA's CEO, Scott O'Malia and global head of public policy, Steve Kennedy met with:

- the deputy governor of the People's Bank of China to discuss the OTC derivatives regulatory reform and latest developments of China's derivatives market.
- China Insurance Regulatory Commission to discuss the OTC derivatives regulatory reform and issues relating to use of derivatives by Chinese insurance companies
- the vice chairwoman of the Financial and Economic Affairs Committee of the National People's Congress to discuss issues regarding China's derivatives market and related financial legislation.

On July 21, Scott O'Malia and Steve Kennedy met with:

- the vice chairman of the China Securities Regulatory Commission to discuss the OTC derivatives regulatory reform and latest developments of China's derivatives market.
- NAFMII to discuss issues relating to OTC derivatives regulatory reform and potential cooperation with two associations.
- China Futures Association to exchange views on developing China's derivatives market and potential collaboration between two associations.
- China Banking Regulatory Commission to discuss issues relating to WGMR implementation and BCBS NSFR derivatives margin review.

#### **Taiwan:**

On July 31, ISDA made a presentation to Taiwanese regulatory authorities and members of the Banking Association of the Republic of China on WGMR and Basel regulatory capital requirements.

## **Committee/Working Group Activities**

### **South Asia L&R:**

On July 30, ISDA held its monthly South Asia Asia-Pacific Legal & Regulatory Committee meeting in Singapore: Members raised the topic of trade reporting in Singapore for discussion with the group. An update on the publication of the revised netting opinion for Malaysia was also provided to members.

ISDA provided updates on the following developments in Australia: APRA's release of its international capital comparison study, ISDA's submission to ASIC and the Australian Treasury on ASIC CP 231, ASIC's release of its report on financial benchmarks and ISDA's comment letter to the Australian Treasury on the exposure draft of the Corporations Amendment (Central Clearing and Singapore-Sided Reporting) Regulation 2015.

The following updates on India were provided: an update on the FBIL MIBOR transition and the publication of the revised ISDA Supplement No. 47, CCIL's release of its consultation paper on the integration of forex forward and forex settlement segment, CCIL's consultation paper on the integrated risk information system and additional functionalities, CCIL's updated timetable for rupee derivatives, the launch of the trading platform for CCIL's rupee derivatives system and the draft guidelines by RBI on covered options. Also discussed were the press release by Bank Indonesia in relation to the commencement of the mandatory use of the Indonesian rupiah and the release of two concept papers by Bank Negara Malaysia on the Capital Adequacy Framework (Capital Components).

ISDA provided updates on the following developments in Singapore: the upcoming ISDA Arbitration meeting in Singapore, the joint ISDA/FIA Asia/ASIFMA submission the MAS policy consultation paper on regulatory framework for intermediaries in OTC derivative contracts, execution-related advice and the marketing of collective investment schemes, MAS' consultation paper on mandatory clearing and ISDA's submission to MAS on its consultation paper on proposed enhancements to resolution regime for Financial Institutions in Singapore.

The following North Asia updates were provided: an update on ISDA CEO's trip to China, PBOC's notice on cross-border settlement issues regarding crude oil futures, PBOC's notice on issues concerning investment of foreign central banks, international financial institutions and sovereign wealth funds with RMB funds in the inter-bank market, the announcement of China and U.S. commitments following the seventh round of U.S.-China Strategic and Economic Dialogue, HKMA's circular regarding FAQs on Basel III leverage ratio framework, SFC's proposed changes to financial resources rules for LCs engaged in OTC derivatives activity, coming into force of the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules, the commencement of Hong Kong's OTC reporting regime, OTC Clearing HK's application for DCO registration exemption, HKMA's release of first analysis data of HKTR data, FSC's revised regulation on financial institutions' outsourcing of data processing business, KRX default waterfall change passes, KRX's analysis of performance of CCP clearing, KRX's revised derivatives market business regulation, KRX's announcement of its amended rules of the DMBR and KRX's launch of the mini KOSPI 200 futures and options.

ISDA provided updates on the following ISDA initiatives: an update on the ISDA Commodity meeting, the pre-publication of the ISDA General Disclosure Statement, ISDA's draft of the Australian single-sided reporting representation letter, ISDA's draft Supplement No. 48, an update on Greece, ISDA/FIA Europe/Investment Association's response to the ESMA Clearing Obligation RTS for EEA Rates, ISDA's publication of the EMIR Classification Letter and Guidance Note and ISDA's draft response on the EBA consultation on valuation of derivatives in resolution. The meeting also considered the following global developments: the special English High Court procedures on proposed financial markets disputes, CFTC's notice of the proposed rule-making on the application of margin rules to non-cleared cross-border

swap transactions, BIS working group commencing work to strengthen the code of conduct and principles in foreign exchange markets and FSB's interim progress report on reform of major interest rate benchmarks.

## **Other Working Groups:**

### **AEJ Data & Reporting Compliance WG:**

The working group (WG) held its monthly meeting on 29 July in HK, Singapore and Sydney. The WG discussed recent regional and global developments, including in relation to Hong Kong: the mandatory trade reporting obligation taking effect on July 10, and the scope of the next and final phase of implementation for reporting.

At the international level, the WG discussed the recent FSB progress report on implementation of OTC derivatives market reforms, and the latest expected timing of consultation by IOSCO on recommendations on standards for a unique trade identifier (UTI).

In relation to Australia, the WG discussed ISDA's responses to the Australian regulator consultations on single-sided reporting for Phase 3B reporting entities and central clearing, and the request for certain elements of existing trade reporting relief under the Australian regime to be extended.

In relation to Singapore, the WG discussed approaches to the sharing and pairing of UTIs for structured trades, and concerns around the ongoing masking of counterparty identifiers in trade reports where the counterparty has not given consent to be identified.

The working group also discussed considerations and arrangements for going live with UTI 'share-and-pair' requirements across the APAC region.

### **Asia Identifiers & Delegated Reporting Sub-WG:**

The sub-working group had its monthly call on 31 July. The group discussed potential UTI matching requirements for historical trades under certain APAC regimes, as well as finalising dates for APAC counterparties to assume UTI generation and communication responsibilities, for Australia, Singapore and Hong Kong as part of the UTI share-and-pair requirement.

The group also discussed approaches to the sharing and pairing of UTIs for structured trades, as well as issues around the assignment of UTIs for FX swaps on certain platforms and related confirmation messages.

The sub-WG also discussed the request for certain elements of existing identifier relief under the Australian regime to be extended, and issues in relation to the offering of delegated reporting services, particularly in the context of single-sided reporting for Phase 3B reporting entities under the Australian regime.

## **Regulatory Developments**

### **Australia:**

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### **ASIC reports on financial benchmarks**

On July 8, the Australian Securities and Investments Commission (ASIC) released a report on financial benchmarks, highlighting the importance of key indices to Australia's markets and the broader economy. It also describes the regulatory reforms and other responses that have occurred internationally and in Australia in response to concerns about poor conduct in connection with financial benchmarks.

ASIC's report makes a number of recommendations for market participants, including measures they should adopt to avoid conduct issues. The report confirms ASIC is investigating financial institutions to test for conduct and other issues relating to financial benchmarks, such as key interest rate and foreign exchange benchmarks. ASIC's enquiries are informed by the types of benchmark-related conduct and oversight issues that have been observed overseas. Its investigations are ongoing and no conclusions have been drawn yet.

### **APRA releases international capital comparison study**

On July 13, the Australian Prudential Regulation Authority (APRA) released the results of a study comparing the capital position of Australia's major banks against a group of international banking peers. The study was conducted by APRA in response to Recommendation 1 of the Financial System Inquiry (FSI). The FSI recommended that APRA should "set capital standards such that Australian authorised deposit-taking institution capital ratios are unquestionably strong".

In its final report, the FSI suggested banks should have capital ratios that position them in the top quartile of internationally-active banks in order for them to be regarded as 'unquestionably strong'. APRA's study, which adjusts for differences in measurement methodology across jurisdictions and uses a number of different measures of capital strength, found that the Australian major banks are well-capitalised, but not in the top quartile of international peers.

The results of the study will inform, but will not ultimately determine, APRA's approach for setting 'unquestionably strong' capital adequacy requirements. APRA regards the top quartile positioning as a useful indicator of the strength of the Australian framework, but does not intend to tightly tie Australian requirements to a benchmark based on the capital adequacy ratios of international banks.

A final response to the determination of 'unquestionably strong' capital standards will require further consideration by APRA, taking into account the results of this study, changes arising from the Basel Committee on Banking Supervision's current review of the global capital adequacy framework, and the extent of further strengthening in the capital ratios of peer international banks. Taking all of these factors into account, APRA's current judgement is that the major banks would need to increase their capital adequacy ratios by at least 200 basis points, relative to their position in June 2014, to be comfortably positioned in the top quartile of their international peers over the medium- to long-term.

### **APRA increases capital requirements for residential mortgages**

On July 20, the Australian Prudential Regulation Authority (APRA) announced an increase in the amount of capital required for Australian residential mortgage exposures by authorised deposit-taking institutions (ADIs) accredited to use the internal ratings-based (IRB) approach to credit risk. This change will mean that the average risk weight on Australian residential mortgage exposures for ADIs accredited to use the IRB approach will increase from approximately 16% to at least 25%.

The increase in IRB mortgage risk weights addresses a recommendation of the Financial System Inquiry (FSI) that APRA “raise the average IRB mortgage risk weight to narrow the difference between average mortgage risk weights for ADIs using IRB risk-weight models and those using standardised risk weights”. The increase is also consistent with the work being undertaken by the Basel Committee on Banking Supervision on changes to the global capital adequacy framework for banks.

The increased IRB risk weights will apply to all Australian residential mortgages, other than lending to small businesses secured by residential mortgage. The increase is being implemented through an adjustment to the correlation factor used in the IRB mortgage risk-weight function for each affected ADI. In order to provide ADIs sufficient time to prepare for the change, the higher risk weights will come into effect from July 1, 2016.

The increase in IRB mortgage risk weights is an interim measure. APRA has stated it is not possible to settle on the final calibration between IRB and standardised mortgage risk weights until changes arising from the Basel Committee’s broader review of this framework are complete. Further changes to IRB mortgage risk weights will be considered by APRA over the medium term in the context of these broader international developments.

#### **APRA releases revised prudential standard on public disclosure**

On July 22, the Australian Prudential Regulation Authority (APRA) released a revised version of Prudential Standard APS 330 Public Disclosure (APS 330), which rectifies an omission in paragraph 21(b) of the July 2015 version of APS 330.

The omission altered the definition of ‘material risk-taker’ for the purposes of the remuneration disclosure requirements in APS 330. This omission would have imposed quantitative remuneration disclosure requirements on a wider range of persons than APRA intended.

The revised APS 330 amends paragraph 21(b) to align the definition of ‘material risk-taker’ with the definition used in the January 2015 version. No other substantive changes have been made, although APRA has made a number of minor formatting amendments. Revised APS 330 will not be subject to public consultation as the correction is in align with APRA’s previously consulted upon position.

The revised version of APS 330 will take effect on August 1.

#### **Hong Kong:**

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#### **OTC Clearing HK seeks DCO registration exemption**

On July 9, the US Commodity Futures Trading Commission (CFTC) published a request for public comment on a petition by OTC Clearing Hong Kong Limited for exemption from registration as a derivatives clearing organisation (DCO).

The CFTC is considering a petition for exemption from registration pursuant to its authority under section 5b(h) of the Commodity Exchange Act, which permits the CFTC to exempt a clearing organisation from DCO registration for the clearing of swaps, to the extent that the CFTC determines it is subject to comparable, comprehensive supervision by appropriate government authorities in the clearing organisation’s home country.

### **SFC proposes changes to financial resources rules**

On July 17, the Hong Kong Securities and Futures Commission (SFC) released a consultation paper on proposed changes to the Securities and Futures (Financial Resources) Rules (FRR) relating to capital and other prudential requirements for licenced corporations engaged in over-the-counter (OTC) derivatives activity. The consultation paper also proposes certain changes to non-OTC derivatives-related FRR requirements. The three-month consultation ends on October 16, 2015.

The proposals aim to ensure that licenced corporations maintain their capital and liquidity at levels that are commensurate with the risks they undertake pertaining to derivatives businesses, as well as to encourage them to adopt more advanced risk management standards. The proposed FRR treatment can be calibrated to permit different capital approaches for different levels of OTC derivatives activity.

The SFC proposes a small number of changes to the FRR treatment applicable to licenced corporations that do not engage in OTC derivatives activity. These include lowering the haircut percentages for certain types of shares and funds, and introducing measures to better facilitate third-party clearing by general clearing brokers. The consultation paper's proposals cover seven key areas:

- Minimum capital requirements for licenced corporations engaging in OTC derivatives activity;
- Capital treatment for market risks of OTC derivatives and other proprietary trading positions;
- Capital treatment for counterparty credit risks arising from OTC derivatives transactions;
- Introduction of an internal models approach to calculate the capital requirements for market risk for proprietary investments and counterparty credit risk arising from OTC derivatives transactions;
- Measures to address operational risks of licenced corporations engaging in certain types of regulated OTC derivatives activities or opting into certain capital approaches;
- Notification and reporting requirements related to OTC derivatives activity; and
- Miscellaneous technical changes to other areas of the FRR.

Following the consultation, the SFC plans to further consult the public on subsidiary legislation that sets out the proposed changes.

### **SFC releases annual Fund Management Activities Survey**

On 21 July, The Hong Kong Securities and Futures Commission (HK SFC) released its annual Fund Management Activities Survey (FMAS) which shows that the combined fund management business in Hong Kong reached a record high of \$17,682 billion, up 10.5% compared to the end of 2014. The findings also indicate that Hong Kong remained a preferred platform for international investors, who contributed \$12,404 billion and accounted for 71% of the fund management business.

The FMAS has been conducted annually since 1999 to help the SFC assess the state of the industry for policy and operational planning, and notes that a robust regulatory regime is fundamental to Hong Kong's development as an international asset management centre. This year, a total of 587 institutions responded to the survey on a voluntary basis, including 519 licensed asset management and fund advisory corporations, 47 registered financial institutions and 21 insurance companies.

### **HKMA issues circular regarding FAQs on Basel III leverage ratio framework**

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On July 20, the Hong Kong Monetary Authority (HKMA) issued a circular regarding a number of frequently asked questions (FAQs) that the Basel Committee on Banking Supervision (BCBS) recently

published, which provides technical elaboration and interpretative guidance relating to various areas of the Basel III leverage ratio framework.

In the circular, HKMA noted that for the purpose of completing the HKMA's Quarterly Template on Leverage Ratio (which involves institutions calculating their leverage ratio according to the BCBS methodology under Basel III outlined in Annex 1 of the reporting package released on May 19, 2014), institutions are expected to take into account the guidance set out in the FAQs in calculating their leverage ratio.

**Philippines: BSP publishes guidelines on the electronic submission of leverage ratio report**

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On July 16, the Bangko Sentral ng Pilipinas (BSP, the Central Bank of the Philippines) published guidelines on the electronic submission of the Basel III leverage ratio (BLR) report. Further to the guidelines on the Basel III leverage ratio framework published on June 9, 2015, the submission guidelines will be observed for the BLR report starting with the reporting period ending December 31, 2014 and every quarter thereafter until December 31, 2016. The submission guidelines include: 1) a link to where the prescribed data entry template (DET) and the corresponding control prooflist (CP) of the BLR report can be downloaded; 2) prescribed reporting periods and corresponding submission deadlines; 3) formatting for electronic submission; and 4) the mailing address in case banks are unable to submit electronically.

**Singapore:**

**MAS issues consultation paper on mandatory clearing**

*Contact: Keith Noyes - knoyes@isda.org / Erryan Abdul Samad - eabdulsamad@isda.org*

On July 1, the Monetary Authority of Singapore (MAS) issued a Consultation Paper on Draft Regulations for Mandatory Clearing of Derivatives Contracts. As background, the Securities and Futures (Amendment) Act 2012 was passed by parliament on November 15, 2012, which gave effect to certain policy proposals relating to the regulation of over-the-counter (OTC) derivatives, among other things. The latest consultation paper covers proposed regulations for mandatory clearing of OTC derivatives. This is set out in the draft Securities and Futures (Clearing of Derivatives Contracts) Regulations, which provides the implementation details of the initial set of product and persons subject to clearing obligations under the Securities and Futures Act, Chapter 289 of Singapore.

Key highlights of the policy proposals include:

- The MAS intends to commence mandatory clearing by asset class, beginning with interest rate derivatives contracts. This includes Singapore dollar fixed-to-floating swaps based on the Singapore swap offer rate and US dollar fixed-to-floating swaps referenced to LIBOR. The MAS is also considering interest rate swaps denominated in euro, sterling and yen.
- The MAS seeks views on subjecting transactions that are booked in the Singapore-based operations of both transacting counterparties (ie, a Singapore-incorporated company or a Singapore branch of a foreign entity) to clearing obligations.

- The MAS proposes to exempt all banks from clearing obligations, as long as they do not exceed a maximum threshold of S\$20 billion in derivatives gross notional outstanding booked in Singapore for each of the past four calendar quarters.
- The paper proposes to exempt intra-group transactions from the scope of clearing obligations. The MAS also proposes to exempt public bodies from clearing requirements, including all central banks and governments, as well as international multilateral organisations such as the Bank for International Settlements, the International Monetary Fund and the World Bank.
- The MAS intends to issue regulations by the end of 2015, and will provide at least six months notice before the clearing obligations take effect.

### **MAS enhances safeguards for the sale of financial products at retailers and public places**

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On July 23, the Monetary Authority of Singapore (MAS) published a consultation paper on Market Conduct Guidelines outlining measures to safeguard consumers' interests when buying financial products and services at retailers and public places. These measures include ensuring that there are adequate controls for a proper sales and advisory process. The MAS also proposes to require financial institutions to notify the MAS of their marketing and distribution activities at retailers and public places. The proposals seek to address the risk of consumers making purchases of financial products that may be unsuitable for them when they are prospected at retailers or public places. The proposed Guidelines complement existing rules and practices, and ensure consistency and alignment of standards across the financial industry.

The deadline for submission is August 24.

### **South Korea:**

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### **FSC plan to strengthen exchange market competitiveness**

On July 2, the FSC outlined its plan to strengthen the competitiveness of Korea's exchange market and boost capital markets. Key elements include:

- The structure of the KRX will be converted into a holding company, and KOSPI, KOSDAQ and derivatives markets will be spun off;
- The spun-off KOSDAQ will compete with KOSPI by attracting listings of innovative companies and introducing new products and services;
- The KRX holding company (tentatively named 'KRX Holding Company') will pursue an IPO;
- Relevant regulations will be eased to facilitate the establishment of an alternative trading system.

The revision to the FSCMA to convert the KRX into a holding company will be discussed at the National Assembly's regular session in the second half of 2015.

### **KRX default waterfall change passes**

On July 6, the Financial Services Commission (FSC) announced (Korean only) that the revision bill on the amendment of the Financial Investment Services and Capital Markets Act (FISCMA), including changes to the Korea Exchange's (KRX) default waterfall, was passed at the plenary session of the National Assembly of Korea. Going forward, the KRX will use its own allocated settlement reserve prior to the default fund contributions of non-defaulting clearing members – commonly referred as skin-in-the-game. The FSC also noted it will modify other regulations such as the Enforcement Decree and the Enforcement Rule of the FSCMA in July in order to implement this amendment smoothly. In addition,



the KRX Membership Regulation specifying the details of the revised default waterfall is expected to be amended accordingly.

### **KRX to launch mini KOSPI 200 futures and options**

The Korea Exchange (KRX) announced its plan to launch mini KOSPI 200 futures and options starting from July 20. Key details of the product specifications include:

#### **Mini KOSPI 200 futures**

- Underlying assets: KOSPI 200;
- Multiplier: 100,000;
- Tick size: 0.02 point;
- Type of order: limit order but real-time price banding is not applicable;
- Delivery months: designed to have consecutive six delivery months with maturity of six months, so a delivery month arrives every month;
- Settlement price: the closing contract price. In the case where a KOSPI 200 futures contract and a mini KOSPI 200 futures contract have been listed simultaneously, the settlement price of KOSPI 200 futures is applied;
- Base price: the settlement price on previous day. In the case where a KOSPI 200 futures contract and a mini KOSPI 200 futures contract have been listed simultaneously, the quotation price unit shall be adjusted after the settlement price of KOSPI 200 futures is applied;
- Last trading day: the second Thursday of each delivery month;
- Last settlement day: next trading day of the last trading day.

#### **Mini KOSPI 200 options**

- Underlying assets: KOSPI 200;
- Multiplier: 100,000;
- Tick size: 0.02 points for order price less than 10 points and 0.10 points for order price of 10 points or more;
- Type of order: limit order but real-time price banding is not applicable
- Expiration months: consecutive four non-quarterly months and two quarterly months;
- Strike price interval: 25 strike prices with 2.5p interval;
- Base price for member margin: borrowing base price for member margin of KOSPI 200 options;
- Base price: base price of KOSPI 200 options is applied. If it is not consistent with the quotation price unit (tick size), the nearest price to the tick size will be applied;
- Last trading day: the second Thursday of each expiration month;
- Last settlement day: next trading day of the last trading day.

### **Submissions**

July 10: ISDA submission to Australian Securities and Investments Commission on Consultation Paper 231 Mandatory central clearing of OTC interest rate derivative transactions. This submission is not yet public.

July 10: ISDA joint submission with FIA Asia and ASIFMA to Monetary Authority of Singapore with regards to Policy Consultation on Regulatory Framework for Intermediaries Dealing in OTC Derivative Contracts, Execution-Related Advice, and Marketing of Collective Investment Scheme. This submission is not yet public.

July 29: ISDA submission to Monetary Authority of Singapore with regards to Consultation Paper on Proposed Enhancements to Resolution Regime for Financial Institutions in Singapore. This submission is not yet public.

July 31: ISDA submission to Monetary Authority of Singapore with regards to Consultation Paper on Draft Regulations for Mandatory Clearing of Derivatives Contracts. This submission is not yet public.

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

#### **Meetings:**

APAC IRD Operations Working Group Meeting	Aug 12
APAC Equity Working Group Meeting	Aug 13
Regulatory and Members' Meeting - Jakarta	Aug 21
Regulatory and Members' Meeting - New Delhi	Aug 24
North Asia L&R Meeting	Aug 25
AEJ Data and Reporting Compliance Working Group Meeting	Aug 26
APAC CCP Risk call	Aug 26
South Asia L&R Meeting	Aug 27
Asia Identifiers & Delegated Reporting Sub-Working Group Call	Aug 28

#### **APAC Monthly Update**

Please direct comments and questions about APAC Monthly Update to Donna Chan, [dchan@isda.org](mailto:dchan@isda.org)

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