

APAC Monthly Update

August 2013

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

Regulatory Activities

Thailand:

On August 19, ISDA met with:

- the Bank of Thailand to discuss trade reporting, clearing, margin for non-centrally cleared derivatives and the potential impact of global OTC reforms in Thailand.
- the Securities and Exchange Commission to discuss trade reporting, clearing, margin for non-centrally cleared derivatives and the potential impact of global OTC reforms in Thailand.

Hong Kong:

On August 13, ISDA and the industry met with the HKMA and SFC to discuss “originate or execute” definitions under the trade reporting regime.

On the same day, ISDA met with the HKMA and SFC to discuss the potential impact of the final interpretive guidance on the cross-border application of swap regulations and the exemptive order issued by CFTC in July as well as issues relating to the trade reporting regime in Hong Kong.

India:

On August 26, ISDA met with:

- representatives of the Financial Sector Legislative Reforms Commission (FSLRC) and Financial Stability and Development Council (FSDC) to discuss the Report of the FSLRC presented to the Indian Government on March 22 as well as ongoing developments in the Indian market as well as global developments relating to OTC derivatives and their impact on India.
- representatives of the Department of Economic Affairs of the Ministry of Finance to discuss ongoing developments in the Indian market as well as global developments relating to OTC derivatives and their impact on India.

On August 27, ISDA met with:

- representatives of the National Institute of Public Finance and Policy (NIPFP) to discuss the Report of the Financial Sector Legislative Reforms Commission (FSLRC) presented to the Indian Government on March 22 as well as ongoing developments in the Indian market and global developments relating to OTC derivatives and their impact on India.
- representatives of the Department of Financial Services of the Ministry of Finance to discuss developments relating to the ISDA submission dated April 10 to the Ministry of Finance, The

Clearing Corporation of India Limited (CCIL) and the Reserve Bank of India (RBI) on the impact of the Article 25 of EMIR on CCIL and the Indian market. ISDA also discussed ongoing developments in the Indian market as well as global developments relating to OTC derivatives and their impact on India.

- representatives of the Ministry of Corporate Affairs to discuss developments relating to the ISDA submission dated October 12, 2012 on achieving consistency of netting application in India as well as ongoing developments in the Indian market as well as ongoing global developments relating to OTC derivatives and their impact on India.

Committee/Working Group Activities

North Asia L&R

On August 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 included central clearing in China, PBOC notice on cross-border RMB settlement procedures and policies, the proposed trade reporting requirements in Hong Kong and the SFC guidelines on CPSS-IOSCO principles for financial market infrastructures (PFMIs).

In addition, ISDA also briefed members on various regulatory developments in Southeast Asia, including the new Companies Bill in India, RBI circular on Risk Management and Inter-bank-Dealings relating to Participatory Notes (PN) / Overseas Derivative Instruments (ODIs), RBI Policy Document for Regulation and Supervision of Financial Market Infrastructures, MAS consultation paper on Local Implementation of Basel III Liquidity Rules, the newly published Securities and Futures (Trade Repositories) Regulations 2013 and the Securities and Futures (Clearing Facilities) Regulations 2013 in Singapore.

Other topics discussed at the meeting including the ISDA Standard Amendment Agreement – 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Form, ISDA's approach on Cross-border issues, ESMA's updated FAQ document and the Implementation monitoring of PFMIs – Level 1 Assessment Report issued by CPSS-IOSCO.

South Asia L&R

On August 29, ISDA held its monthly L&R meeting in Singapore. At the meeting, ISDA briefed members on the latest regulatory and documentation developments in this region. Topics discussed regarding North Asia included central clearing in China, PBOC notice on cross-border RMB settlement procedures and policies, the proposed trade reporting requirements in Hong Kong and the SFC guidelines on CPSS-IOSCO principles for financial market infrastructures (PFMIs).

In addition, ISDA also briefed members on various regulatory developments in Southeast Asia, including the new Companies Bill in India, the speech by RBI Governor Subbarao on Banking Structure in India, the RBI circular on Risk Management and Inter-bank-Dealings relating to Participatory Notes (PN) / Overseas Derivative Instruments (ODIs), RBI Policy Document for Regulation and Supervision of Financial Market Infrastructures, MAS consultation paper on Local Implementation of Basel III Liquidity Rules, the newly published Securities and Futures (Trade Repositories) Regulations 2013 and the Securities and Futures (Clearing Facilities) Regulations 2013 in Singapore as well as APRA's note for ADIS on its approach to the implementation of the Basel III Liquidity Framework.

Other topics discussed at the meeting including the ISDA Standard Amendment Agreement – 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Form, ISDA's approach on Cross-border

issues, ESMA's updated FAQ document and the Implementation monitoring of PFMI – Level 1 Assessment Report issued by CPSS-IOSCO as well as ISDA's Cross-Border Swaps Representation Letter.

Operations/Market Infrastructure

On August 6, ISDA held its APAC Interest Rates Derivatives Operations Working Group meeting to brief members on the latest regional developments on rates. The group also discussed the addition/amendment of floating rate options/matrices, the confirmation practice and the upcoming changes in certain rate fixings.

On August 15, ISDA held its APAC Equity Derivatives Operations Working Group meeting to discuss the confirmation matching requirements in US and Europe.

On August 1, 16, 21, 22, 23, 26, 28 and 29, ISDA held its AEJ Data and Reporting Compliance Working Group meetings to discuss trade reporting matters in the region.

Members' Activities

Thailand Members' Meeting

On August 20, ISDA updated members in Bangkok on the following topics: various trade reporting regimes in Asia; the practical issues; the trade reporting requirements under EMIR and the DFA; BCBS Bank Exposures to Central Counterparties (CCPs); the practical issues with clearing; the issues that have arisen from 3rd country recognition of CCPs; BCBS Margin for non-centrally cleared derivatives and the financial benchmark reforms.

India Members' Meeting

On August 26, ISDA held its Members' Meeting in New Delhi. Topics discussed included the speech on the banking structure in India made by Dr Duvvuri Subbarao, Governor, Reserve Bank of India (RBI) on August 13, the passing of the Companies Bill 2012 on August 8, the circular dated August 1 issued by the RBI on "Risk Management and Inter-bank Dealings" relating to Participatory Notes (PN) / Overseas Derivative Instruments (ODIs), the Policy Document dated July 26 on Regulation and Supervision of Financial Market Infrastructures, the ISDA submission dated July 15 to the Financial Sector Legislative Reforms Commission (FSLRC) on Section 182 of the draft Indian Financial Code, the guidelines dated July 2 issued by the RBI on Capital Requirements for Banks' Exposures to Central Counterparties and the draft guidelines dated July 2 issued by the RBI on Capital and Provisioning Requirements for Exposures to Unhedged Foreign Currency Exposure.

ISDA also discussed certain global updates and ISDA initiatives including the approach outlined by ISDA on August 20 on cross-border issues, ISDA's publication on August 20 of the ISDA Standard Amendment Agreement relating to the 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Form, the publication on August 5 by ESMA of its updated FAQ document, the publication in August by CPSS-IOSCO of the Implementation monitoring of PFMI –Level 1 Assessment Report, ISDA's publication of July 19 of its ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol and Reporting Guidance Note, ESMA's consultation paper dated July 17 on draft technical standards regarding OTC derivative transactions by non-EU counterparties, the CFTC's release on July 12 of its final cross-border interpretive guidance and policy statement and the limited extension of the CFTC exemptive order, the Common Path on Derivatives reached by the EC and CFTC on July 11, the CFTC's release of four No-Action Letters on July 11, ISDA's coordinated Asian regulator outreach on CFTC No-Action Letter 13-41 relating to time-limited no-action masking relief and the letter dated June 6 from IOSCO's Asia-Pacific Regional Committee to European Commissioner Michel Barnier on recognition of Asian CCPs.

Regulatory Developments

Australia: APRA note on Committed Liquidity Facilities for ADIs

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On Aug 8, the Australian Prudential Regulation Authority (APRA) released a note for Authorized Deposit-taking Institutions (ADIs) with further details on its approach to the implementation of the Basel III liquidity framework, in particular the Committed Liquidity Facility (CLF). Due to the relatively short supply of Australian-dollar high quality liquid assets (HQLA), the Reserve Bank of Australia (RBA) will allow “scenario analysis” ADIs to establish a secured CLF sufficient to cover any shortfall between the ADI’s holdings of HQLA and the requirement to meet the liquidity coverage ratio (LCR). The note provides details on APRA’s role in determining the appropriate size of the CLF for each scenario analysis ADI. The main steps are as follows:

- ADIs will be required to apply for inclusion of a CLF for LCR calculation purposes on an annual basis;
- ADIs will be required to demonstrate they have taken “all reasonable steps” towards meeting their LCR requirements through their own balance sheet management, before relying on the CLF;
- ADIs must meet relevant qualitative and quantitative liquidity requirements, including having in place a statement of the Board’s tolerance for liquidity risk, a robust liquidity transfer pricing mechanism, appropriate remuneration arrangements for those executives responsible for the ADI’s funding plan and liquidity management;
- The CLF will be available to address Australian dollar liquidity needs only;
- The size of the CLF for each ADI will be limited to a specified percentage of that ADI’s Australian dollar net cash outflow target as agreed by APRA, plus an allowance for an appropriately sized buffer.

Hong Kong:

Guidelines on applying PFMI

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The Hong Kong Securities and Futures Commission (SFC) published its Guidelines on the Application of the CPSS-IOSCO Principles for Financial Market Infrastructures. These Guidelines came into effect on Aug 9. The SFC fully supports the CPSS-IOSCO Principles for Financial Market Infrastructures and will adopt the PFMI as benchmarks against which to assess recognized clearinghouses in their supervisory, monitoring and regulation.

HKMA finalizes standard templates for Basel III implementation

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On August 19, Hong Kong Monetary Authority (HKMA) issued a circular on Basel III implementation, setting out the final version of the standard templates (including associated explanatory text) to be used by locally incorporated authorized institutions for the purpose of making disclosures in relation to their capital base under the Banking (Disclosure) (Amendment) Rules 2013.

HKMA code of conduct for CNH Hong Kong Interbank rate

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On August 20, following a consultation with the Hong Kong Association of Banks (HKAB), the Hong Kong Monetary Authority (HKMA) announced that it will issue the Code of Conduct for Reference

Banks for TMA's CNH Hong Kong Interbank Offered Rate as Annex B to module CG-7 of the Supervisory Policy Manual (SPM).

The Code was published by notice in the Gazette on August 23. The SPM module issued on May 3 sets out the supervisory requirements on systems of control to be maintained by authorized institutions (AIs) that are benchmark submitters. The module is intended to be of generic application to benchmark submitters, while its Annexes provide detailed requirements and rate submission guidance for specific benchmark fixings. As an Annex to the SPM module, the new Code provides sound practices on systems of control for the CNH Hong Kong Interbank Offered Rate (CNH HIBOR) fixing process as well as clear guidance for reference banks to observe in making rate submissions for this fixing. HKMA requires AIs that are submitting rates for CNH HIBOR take active steps to comply with the guidance set out in the Code as quickly as possible and achieve full compliance within six months from the date of the Gazette notice.

Singapore:

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Trade Repositories

On July 25, the Monetary Authority of Singapore (MAS), published the Securities and Futures (Trade Repositories) Regulations 2013 (the Act) which came into operation on August 1. An applicant for a trade repository (TR) license will need to demonstrate to MAS that it is able to meet the obligations of, and comply with the requirements imposed on, a licensed TR under the Act; and the applicant is able to maintain a minimum base capital of at least \$10 million. The TR will have the obligation to notify MAS of certain matters, such as any civil or criminal legal proceeding instituted against the licensed TR, whether in Singapore or elsewhere; and any disruption of or delay in, or any suspension or termination of any systems relating to, the reporting of transactions, including those from any system failure.

A licensed TR shall seek approval prior to commencing any linkage, arrangement or co-operative arrangements. The licensed TR will need to submit periodic reports to MAS. The licensed TR shall maintain confidentiality except in certain circumstances, such as: the disclosure of user information is necessary for the making of a complaint or report under any written law for an offence. A licensed TR will need to maintain at all times a business continuity plan and a recovery and resolution plan as well as procedures and systems to maintain the integrity and security of the transmission and storage of all information reported to the licensed TR. A licensed TR will also need prior approval from MAS to impose any reporting fee on its participants for any services provided by the licensed TR; or modify, restructure or otherwise change any existing reporting fee imposed on its participants.

Clearing Facilities

On July 25, MAS also published the Securities and Futures (Clearing Facilities) Regulations 2013, which came into operation on August 1 as well. An approved clearinghouse will need to comply with the requirements imposed for an approved clearinghouse and will need to maintain a minimum base capital of at least \$10 million. A recognized clearinghouse will need to comply with the requirements imposed for a recognized clearinghouse and will need to maintain a minimum base capital of at least \$5 million.

MAS may approve a Singapore corporation as an approved clearinghouse if MAS is satisfied that a disruption in the operations of a clearing facility could (a) trigger, cause or transmit further systemic disruptions to the financial system; or (b) affect public confidence in the financial system. A Singapore corporation will be a recognized clearinghouse if the above two conditions do not apply.

An approved clearinghouse will have the obligation to notify MAS of certain matters, such as any civil or criminal legal proceeding instituted against the approved clearinghouse, whether in Singapore or

elsewhere; any disruption of or delay in any clearing or settlement procedures of the approved clearing house, including system failures. An approved clearinghouse will need to seek approval from MAS prior to making any change to its risk management frameworks, including the types of collateral accepted, the methodologies for collateral valuation and determination of margins, and the size of the financial resources available to support a member's default. An approved clearinghouse will need to maintain at all times a business continuity plan and a recovery and resolution plan as well as procedures and systems to maintain the integrity and security of the transmission and storage of its user information.

A member is required to notify an approved clearinghouse in such a manner that the approved clearinghouse is able to identify client money and assets and whether they are segregated in accordance with the instructions given by the client. If the client chooses to have its money and assets segregated from the books of the other customers of the member, the approved clearinghouse will need to ensure the relevant money is deposited in a trust account or custody account, to be held for the benefit of the client; ensure the relevant assets and money are kept separate from all other money and assets of the members and clearinghouse accounts. If a client chooses not to segregate its money and assets from the books of other clients of the member, the approved clearinghouse shall deposit it in a trust or custody account; ensure all money and assets are kept separate from the other members and clearinghouse accounts. However, if a member fails to meet its obligations to the approved clearinghouse and may be attributable to the failure of the client to meet its obligations, the clearinghouse may use these money and assets under certain conditions. An approved clearinghouse may invest any money or assets received in certain investment products only, such as securities of the Government.

A recognized clearinghouse shall ensure that every member shall inform their clients that they may choose to have any money or assets separated from the books of any other customer or customers of that member. A recognized clearinghouse will need to maintain at all times a business continuity plan and maintain the integrity and security of the transmission and storage of its user information. Similar client segregation rules apply to a recognized clearinghouse which is a Singaporean corporation.

MAS consults on Basel III liquidity rules implementation

On August 16, Monetary Authority of Singapore (MAS) issued a consultation paper on Local Implementation of Basel III Liquidity Rules – Liquidity Coverage Ratio . MAS is proposing to replace the existing Minimum Liquid Assets (MLA) with the Liquidity Coverage Ratio (LCR) framework. Locally incorporated banks, foreign bank branches and finance companies in Singapore will be required to comply with the LCR requirement. Additionally, MAS is proposing that merchant banks be subject to the LCR requirement as well.

MAS is proposing to impose an individual LCR requirement on an entity level for financial institutions in Singapore, however, MAS is prepared to consider proposing a collective LCR requirement on an aggregated country level where the related entities in Singapore can justify and demonstrate that their liquidity needs are managed on a country level basis; governed by clear and common liquidity management frameworks, policies and processes. MAS is also prepared to vary the LCR requirement for foreign bank branches under certain conditions and will be assessed on a case-by-case basis.

MAS proposes to impose a SGD LCR requirement of 100%, to be implemented by Jan 1, 2015. MAS proposes to impose a USD LCR requirement and this will be set at 80%. Bank-specific requirements will be imposed on a case-by-case basis if prudential concerns warrant them. The USD LCR will start at 40% on Jan 1, 2015 and rise in equal annual steps to reach 80% on Jan 1, 2019.

High Quality Liquid Assets (HQLA) will comprise mainly of cash, central bank reserves, and certain marketable securities backed by sovereigns and central banks, among others. Residential mortgage-

backed securities (RMBS) and non-financial equities will not be allowed. MAS proposes to accept non-financial corporate securities as HQLA but this will be limited to those rated A and above.

MAS is prepared to waive the end-of-day cash balance requirement for banks and finance companies in a liquidity stress situation, to allow them to meet their payment obligation for the day. As such, MAS proposes to allow cash balances held to meet the Minimum Cash Balance (MCB) requirement to be included as HQLA for the computation of LCR. Currently, banks and finance companies are required to maintain a MCB of 2% of their Qualifying Liabilities at the end of each day and a minimum daily average of 3% over each two-week maintenance period. For trade finance, MAS proposes to apply an outflow factor of 3% to trade finance instruments instead of 5%. For intragroup flows, MAS proposes to allow netting of intragroup flows within each day inside the 30 days period. Deadline for comments is September 16.

Submission

On August 30, ISDA made a submission to HKMA and SFC on the “originate or execute” definitions under the trade reporting regime.

Upcoming committee and working group meetings/conferences

Meetings:

APAC IRD Operations Meeting Call	Sep 5
China Members' Meeting - Beijing	Sep 9
Webinar on the Rates-MAA	Sep 12
Indonesia Members' Meeting – Jakarta	Sep 16
North Asia L&R Meeting	Sep 23
South Asia L&R Meeting	Sep 26

Conferences:

Global Transaction Reporting Conference – Singapore	Sep 6
Extra-Territoriality in International Derivatives Regulation and China's Changing Regulatory Landscape for OTC Derivatives – Beijing	Sep 10

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