APAC Monthly Update

January 2016

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

Regulatory Activities

Asia-Pacific

On January 13, ISDA held an industry call with ASIC, MAS, HKMA and HK SFC to discuss potentially deferring the go-live date for UTI implementation across Australia, Singapore and HK.

Australia:

On January 22, ISDA responded to ASIC on a draft relief instrument to extend the Australian UTI go-live compliance date.

Hong Kong:

On January 5, ISDA held a call with the HKMA to discuss agency trade reporting issues prior to the 10 January go live date.

China:

On January 14, ISDA met with CBRC to discuss financial institution resolution and recovery issues as well as developments in Chinese netting legislation. On the same day, ISDA also met with CFA to discuss future joint education efforts and the developments of China's OTC commodities market.

On January 15, ISDA met with NAFMII to discuss the growth of China's OTC derivatives markets. On the same day, ISDA held the quarterly China Working Group meeting in Beijing.

Thailand:

On January 20 to 22, ISDA gave a 3-day presentation to the Bank of Thailand on considerations related to designing a trade reporting regime.

Committee/Working Group Activities

North Asia/South Asia L&R Meetings

ISDA held its Asia-Pacific Legal & Regulatory Committee Meeting (North Asia) in Hong Kong on January 26, and its Asia-Pacific Legal & Regulatory Committee Meeting (South Asia) in Singapore on January 28.

The meeting in Hong Kong started with a discussion on 2 members' topics. Clifford Change gave an update on HK SFC's consultation conclusions on the client agreement requirements. ISDA also discussed the most recent developments relating to trade reporting in Hong Kong and provided an update on the extension of the UTI go-live date by ASIC, MAS, HKMA and HK SFC and discussed its implications.

The meeting in Singapore started with a discussion on the documentation and regulatory developments in Indonesia. ISDA also provided an update on the extension of the UTI go-live date by ASIC, MAS, HKMA and HK SFC and discussed its implications.

Legal and regulatory developments in the following jurisdictions were discussed in both meetings.

North Asia

For China, ISDA provided an update on its January trip to Beijing and the announcement of PBoC and SAFE relating qualified foreign institutions trading in inter-bank FX market.

For Hong Kong, ISDA provided an update on its meeting with HKMA on the Financial Institutions (Resolution) Bill, its meeting with SFC on SFC's consultation on changes to Securities and Futures (Financial Resources) Rules, HKMA's designation of D-SIBs, its submission on SFC's consultation on changes to ATS Guidelines, the MoU between SFC and CFTC to enhance supervision on cross-border regulated entities, CFTC's issuance of DCO registration exemption to OTC Clearing Hong Kong, HKMA's consultation on margin and other risk mitigation standards for non-centrally cleared derivatives, and MoU between SFC and ESMA on exchange of information reported to TRs.

For Korea, ISDA provided an update on FSC's notice on proposed amendments to the Enforcement Decree on Financial Investment Business and Capital Markets Act, Regulation on Financial Investment Business, Regulations on Issuance, Public Disclosure, etc. of Securities, FSC's designation of D-SIBs, KRX's plans to change the default waterfall for ETD clearing, and FSC's approval of amendments to the Regulation on Supervision of Banking Business and the Supervisory Regulation on Financial Holding Companies to implement Basel recommendations.

For Taiwan, ISDA provided an update on FSC's new measures to strengthen the regulatory regime for the derivatives business of banks.

South Asia

For Australia, ISDA provided an update on the Treasury's consultation on resilience and collateral protection and client money reforms, ASIC's release of final central clearing rules, ASX's consultation on CCP recovery, APRA's proposes changes to prudential framework for securitization, CFR's response to consultation on licensing regime for overseas CSFLs, and CFR's response to consultation on resolution regime for FMIs.

For India, ISDA provided an update on its December trip to Mumbai, SEBI's measures to curb commodity derivatives market volatility, SEBI's revision of position limits for currency derivative contracts, SEBI's requirements and exit policy for commodity derivatives exchanges, RBI's guidelines on trading of currency futures and exchange traded currency options in recognized stock exchanges, and SEBI's new compliance timeframes for commodity exchanges.

For Malaysia, ISDA provided an update on amendments to the PIDM Act that enhances PIDM's intervention and resolution powers.

For New Zealand, ISDA provided an update on RBNZ's conclusions of stocktake of prudential regulations applying to banks and non-bank deposit-takers.

For Singapore, ISDA provided an update on MAS' consultation on expanded trade reporting and MAS' responses to feedback on LCR disclosure requirements.

For Thailand, ISDA provided an update on its participation in BOT's seminar on trade reporting and new RQFII quota granted by PBOC to Thailand.

ISDA Initiatives
In both meetings in Hong Kong and Singapore, ISDA also updated members on the following latest ISDA initiatives: ISDA clearing opinions for reduced risk weightings, ISDA Market Analysis on Interest Rate Derivatives, statement jointly issued by ISDA, GFMA and IIF on BCBS's final FTRB Framework, ISDA's third BRRD implementation monitor, the MoU between ISDA and China Futures Association to facilitate cooperation in China, and Islamic cross-currency swap standards jointly issued by ISDA and IIFM.

Other Working Groups:

AEJ Data and Reporting Compliance Working Group
The WG had a meeting on 27 January. Discussions centred around the implications of the UTI go-live date extension to 1 February 2017 for Australia, Singapore and Hong Kong, strategic and other general issues relating to the commencement of reporting in Hong Kong in January 2016, developments in the Korean reporting taskforces, a debrief of ISDA's presentation to the Bank of Thailand on reporting, and updates to various spreadsheets and contact lists for UTI sharing and pairing and also Hong Kong trade linking and matching. Members noted the ongoing utility of the contact list for resolving HK unlinked and unmatched trade reports.

Asia Identifiers and Delegated Reporting Sub-Working Group
The Sub-WG had a call on 29 January. Participants discussed various issues, including UTI linking of structured trades in the absence of a mandated UTI until 1 February 2017, updates to various spreadsheets and contact lists, UTI usage from certain FX platforms and transmission of UTIs through certain SWIFT tags and ISDA's new initiatives on product symbology.

Members' and Other Activities:
On January 21, ISDA co-hosted with ASIFMA, FIA and EuroCham an industry meeting with Director General Olivier Ghersent of the European Commission's DG Financial Stability, Financial Services and Capital Markets Union.

Regulatory Developments

Asia-Pacific: Australia, Singapore, HK regulators defer UTI go-live
Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On January 29, the regulators of the Australian, Singaporean and Hong Kong markets released instruments which extend the commencement date of universal transaction identifier (UTI) share-and-pair obligations, from 1 February 2016 to 1 February 2017:

- Australia: ASIC Corporations (Amendment and Repeal) Instrument 2016/0043;
- HK: New version of the Supplementary Reporting Instructions; and

- Singapore: Securities and Futures (Reporting of Derivatives Contracts) (Amendment) Regulations 2016.

The commencement was deferred to allow reporting entities within those jurisdictions to await the release of final recommendations governing the UTI from the Committee on Payments and Market Infrastructures (CPMI) and the International Organisation of Securities Commission (IOSCO).

Australia: APRA consults on publication of liquidity statistics
Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On January 6, the Australian Prudential Regulation Authority (APRA) released a consultation package on the proposed publication of liquidity statistics for authorised deposit-taking institutions (ADIs).

APRA proposes to expand the current statistics published in the Quarterly Authorised Deposit-taking Institutions (ADI) Performance publication to include relevant information on the liquidity of ADIs. APRA proposes to introduce liquidity statistics for banks, and expand the existing liquidity statistics published for credit unions and building societies.

The deadline for submissions is March 30.

Hong Kong: HKMA announces countercyclical buffer
Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On January 14, the Hong Kong Monetary Authority (HKMA) announced that the countercyclical capital buffer for Hong Kong will increase to 1.25% from the current 0.625%, with effect from January 1, 2017. This increase is consistent with the Basel III phase-in arrangements for the countercyclical buffer.

In setting the rate for the buffer, the HKMA considered a series of quantitative indicators and qualitative information, including an ‘indicative buffer guide’ (which is a metric providing a guide for countercyclical buffer rates based on the gap between the ratio of credit to GDP and its long-term trend, and between the ratio of residential property prices to rentals and its long-term trend). The credit and property price gaps remain at elevated levels, and a simple mapping from the indicative buffer guide (calibrated against a range of 0% to 2.5% in the Basel III regulatory capital framework) would signal a countercyclical buffer of 2.5%, at the upper end of the Basel III range.

The HKMA also reviewed a range of other reference indicators. These included measures of bank, corporate and household leverage, debt-servicing capacity, profitability and funding conditions within the banking sector, and macroeconomic imbalances. The information drawn from these sources was consistent with the signal from the indicative buffer guide, the HKMA said.

The power to implement the countercyclical buffer in Hong Kong is provided by the Banking (Capital) Rules, which enable the HKMA to announce a buffer rate for Hong Kong if it believes a period of excessive credit growth in Hong Kong is leading to a build-up of risks in Hong Kong’s financial system.

India:

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SEBI seeks to curb volatility

On January 15, the Securities and Exchange Board of India (SEBI) announced it has decided to make a number of regulatory changes with regards to the trading of agricultural commodities to curb speculation and volatility in agricultural commodity prices. These include:

- Reducing position limits for near-month contracts for both the member and client level from 50% to 25% of the overall position limits for all contracts expiring in the month of March 2016 and onwards; and
- Reducing the daily price limits from 6% to 4%.

SEBI has also reviewed the performance and operation of forward contracts being traded on commodity derivatives exchanges, and has decided to stop participants entering into new forwards contracts until further notice. However, existing contracts will be allowed to be settled as per the terms of the contracts.

SEBI revises position limits for USD-INR

On January 15, SEBI announced it has decided to enhance the gross open position limits for bank stock brokers as authorised by the Reserve Bank of India (RBI) with respect to USD-INR.

Gross open positions across all contracts shall not exceed 15% of the total open interest or $100 million, whichever is higher. For bank stock brokers, as authorised by the RBI, the gross open position across all contracts shall not exceed 15% of the total open interest or $1 billion, whichever is higher.

The RBI will keep SEBI and the stock exchanges informed about the bank stock brokers that are authorised to have enhanced position limits.

SEBI issues requirements for commodity derivatives exchanges

On January 11, the Securities and Exchange Board of India (SEBI) published a circular to commodity derivatives exchanges, setting out the circumstances under which a commodity derivatives exchange would be liable to exit. This builds on an existing circular of May 19, 2015. In the new circular, SEBI stipulates that if there is no trading operation on the platform of any commodity derivatives exchange for more than 12 months, then the exchange shall be liable to exit. In addition, all national commodity derivatives exchanges must continuously meet the turnover criteria of Rs1000 crores per annum. Regional commodity exchanges must ensure they have at least 5% of the nation-wide market share of the commodity principally traded on their platform. In case the national and regional commodity exchanges fail to meet these criteria for two consecutive years, then they shall be liable to exit.

In the event a recognised commodity derivatives exchange, for any reason, suspends its trading operations, it may only resume trading after ensuring that adequate and effective trading systems, clearing and settlement systems, monitoring and surveillance mechanisms, and risk management systems are put in place. They must also comply with all other regulatory requirements stipulated by SEBI. In addition, these recognised commodity derivatives exchanges can only resume trading operations after obtaining prior approval from SEBI.

The circular also sets out requirements for commodity derivatives exchanges that want to voluntarily surrender their recognition.

Korea: FSC proposes financial reform amendments
Contact: Keith Noyes - knoyes@isda.org / Hyelin Han - hhan@isda.org

On January 20, the Financial Services Commission (FSC) posted proposed amendments (in Korean only) to the Enforcement Decree on Financial Investment Business and Capital Markets Act, Regulations on Financial Investment Business, Regulations on Issuance, Public Disclosure, etc of Securities.

These amendments cover a variety of policy areas, including boosting the financial investment and exchange-traded fund (ETF) markets and improving corporate disclosure. These policy directions follow those indicated in the first and second round of reports to the president and the findings by the Financial Reform Committee. Major changes include:

- Strengthening the function of comprehensive investment business entities;
- Expanding the definition of 'professional investors' and encouraging the private capital market;
- Easing the restriction on information exchange between business lines;
- Encouraging the ETF market;
- Amending credit extension regulations;
- Strengthening internal controls on ELS, ELB, DLS, etc;
- Allowing lending of securities for the purposes of posting collateral;
- Amending corporate disclosure requirements.

The notice for amendment is open for comments for 40 days, until February 29, 2016. The final amendments are planned for end-March or beginning of April 2016.

Malaysia: Bank Negara reduces reserve ratio
Contact: Keith Noyes - knoyes@isda.org / Rishi Kapoor - rkapoor@isda.org

On January 21, Bank Negara Malaysia announced a decrease in the statutory reserve requirement (SRR) ratio from 4.00% to 3.50%, effective from February 1.
The decision was taken as part of an initiative by Bank Negara Malaysia to ensure sufficient liquidity in the domestic financial system. Since early 2015, Bank Negara Malaysia has relied on its monetary operations, including the reverse repo facility, to provide liquidity to the banking system as net external outflows reduced the amount of liquidity in the system. As of January 21, this amounted to RM40 billion.

Singapore:
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MAS consults on expanded reporting
On January 18, the Monetary Authority of Singapore (MAS) released a consultation paper proposing amendments to the Securities & Futures (Reporting of Derivatives Contracts) Regulations to implement reporting of commodity and equity derivatives contracts, as well as other revisions to complete implementation of the derivatives trade reporting regime in Singapore. Under the proposed amendments, the MAS intends to implement the reporting of equity and commodity derivatives by banks and merchant banks on November 1, 2016. This is in addition to interest rate, credit and foreign exchange derivative trades already being reported. The MAS is also proposing revisions to fine-tune the reporting obligations for certain non-bank financial institutions, while maintaining effective data coverage of derivative activities in Singapore. The submission deadline is February 15.

MAS issues explanatory brief on banking amendments

On January 25, the Monetary Authority of Singapore (MAS) released an explanatory brief on the Banking (Amendment) Bill 2016, which has been moved for a first reading in parliament. These legislative amendments aim to enhance prudential safeguards and corporate governance and risk management controls in the banking industry, as well as strengthen and align the MAS's regulatory and supervisory framework with international best practice. Amendments are also being made to formalise the MAS's existing requirements and clarify policy intent. The MAS conducted public consultations on the significant policy changes (November 2013) and developed a draft bill (January 2015), and has incorporated the feedback into the bill where appropriate. The bill touches on three key areas:

- Prudential safeguards: including empowering the MAS to require foreign banks to locally incorporate all or part of their banking business. The MAS is also able to set prudential requirements that cap banks' leverage and ensure they maintain sufficient liquidity, in line with international standards;
- Corporate governance: including empowering the MAS to remove key appointment holders of banks if they are found to be not fit and proper, and providing protections to external auditors from liability associated with disclosures. The MAS is also able to direct banks to remove their external auditors and to prohibit, restrict or direct a bank to terminate any transaction it enters into with its related parties; and
- Risk management controls: including formalising the MAS's expectation for banks to institute risk management systems and controls that are commensurate with their business profiles and operations, with penalties for failing to do so. It also introduces a requirement for banks to obtain the MAS's approval to establish new places of business where non-banking activities (such as money changing and remittance) are conducted.

There are also a number of other amendments, including a duty to inform the MAS of any adverse material developments, and other amendments of a technical nature.

Taiwan: FSC announces new measures to regulate derivatives

Contact: Jing Gu – jgu@isda.org / Melody Ma - mma@isda.org

On December 29, Taiwan's Financial Supervisory Commission (FSC) announced new measures to strengthen the regulatory regime for the derivatives business of banks. The new measures include increasing the threshold for professional persons; imposing restrictions on banks dealing high-risk products with natural persons; imposing restrictions on rate derivatives (eg, maturity, leverage); enhancing disclosure requirements; imposing margin requirements; prescribing the transaction size of derivatives products offered to non-professional investors and/or high-net-worth individuals; and amending the calculation requirements for credit valuation adjustment (CVA). In particular, it proposes the following margining requirements for derivatives products offered to non-professional investors and/or high-net-worth individuals by banks:

- Initial margin (IM): For high-risk and complex products, IM will not be less than 2% of the notional amount. For certain rates products with a maturity of more than one year, IM will not be less than 5% of the notional amount. For other products, IM will be determined by the bank's risk management system.
- Variation margin will be determined by the bank's risk management system.

The FSC intends to finalise the proposed margining and CVA requirements as soon as possible.

Thailand: SEC revises mutual fund investment rules
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On January 26, the Securities and Exchange Commission of Thailand (SEC) revised several regulations concerning the investment policies of mutual funds and provident funds (PVDs), to enhance flexibility and compliance with international guidelines and market developments. Amendments include:

- Determination of the types and characteristics of investible assets based on principles instead of specific details;
- Permission for mutual funds to invest in a wide variety of assets according to a suitable risk profile. For example, funds offered to retail investors are now allowed to invest in non-listed infrastructure funds that may not have accepted retail investors, subject to pre-specified ratios. Previously, mutual funds were allowed to invest in Stock Exchange of Thailand-listed infrastructure funds or those offered to retail investors only;
- Relaxation of PVD rules by increasing the permissible investment proportion for PVDs in property funds and infrastructure funds, combined with alternative assets, such as commodities, from 15% to not more than 30% of the net asset value. In addition, the establishment of PVDs as a sector fund, the investment policy of which concentrates on securities of certain industry sectors, is allowed, provided there is an investment limit for each member;
- Promotion of investment diversification to be in line with international standards and market development. This includes determination of investment ratios for certain products (product limit) suitable for the market environment and relevant investment policies, and cancellation of the product limit for general mutual funds; and
- Derivative investment in accordance with international standards. This includes calculation of the ratio limit; categorisation of fund types to better reflect investment risks based on net exposure instead of investment value; and revision to the investment ratio in various types of assets to be more suitable and in line with different types of funds.

Committee and working group meetings/conferences

Members' Meeting – Jakarta	Feb 1
Asian Public Policy Meeting	Feb 2
APAC Legal Regulatory Advisory Group Meeting	Feb 2
APAC Equity Operations Working Group Meeting	Feb 18
NA L&R Meeting	Feb 23
APAC IRD Operations Working Group Meeting	Feb 24
AEJ Data and Reporting Compliance Working Group Meeting	Feb 24
APAC CCP Risk Call	Feb 24
SA L&R Meeting	Feb 25
Asia Identifiers and Delegated Reporting Sub-Working Group Meeting	Feb 26

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