ISDA | Safe, Efficient Markets

Capital Markets Policy Division
Markets Policy and Infrastructure Department

The Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117

By email: derivatives@mas.gov.sg

24 February 2016

Dear Sirs,

Re: Consultation Paper P002 – 2016: Proposed Amendments to the Securities and Futures (Reporting of Derivatives Contracts) Regulations ("Consultation Paper")

The International Swaps and Derivatives Association, Inc. ("ISDA") welcomes the opportunity to provide comments on this Consultation Paper.

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 68 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's web site: www.isda.org.

ISDA is actively engaged with providing input on regulatory proposals in the US, Canada, the EU and the Asian jurisdictions, including Hong Kong and Australia, among others. Our comments are derived from this international experience and constant dialogue, and reflect the views of firms in the Asia-Pacific region. As OTC derivatives tend to be cross-border in nature, we wish to highlight the importance of attaining efficiencies and minimising

regulatory divergence through globally-consistent requirements, methodologies and practices, to the extent possible. In particular, we would highlight our February 2015 principles paper, *Improving Regulatory Transparency of Global Derivatives Markets: Key Principles* [1], which sets out ISDA's recommendations on how to improve the quality of reporting, including a key recommendation that regulatory reporting requirements be harmonised as much as possible, both within and across borders, and the ongoing CPMI-IOSCO discussions with respect to guidelines on UPI, UTI and other data elements.

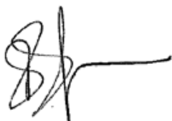
We therefore encourage the MAS to continue to have regard to the development of standards, methods and consistent reporting requirements in jurisdictions within this region and further afield, and to align its requirements as much as possible with those already in existence, utilising industry learnings to date and building on the experience of implementation in those regimes. We also kindly request that the MAS use this opportunity to revisit and deal with industry concerns raised in late 2015 in relation to the masking of counterparty identity information.

We hope to continue to facilitate the dialogue between the industry and the MAS to develop best practices and address any implementation issues that may arise from trade reporting.

We are happy for this response to be made public. Should your staff wish to discuss this response further, please do not hesitate to contact Rishi Kapoor at rkapoor@isda.org.

Yours faithfully,

For the International Swaps and Derivatives Association, Inc.



Rishi Kapoor

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[1] Available at http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/reporting/

RESPONSE TO SPECIFIC QUESTIONS IN THE CONSULTATION PAPER

Question 1: MAS seeks views on the proposal to subject commodity derivatives contracts to reporting obligations.

Our members are generally supportive of including commodity derivatives in the scope of reporting obligations in line with requirements in other jurisdictions, however they also have some concerns about the definition of "commodity derivatives contract" proposed by the MAS in section 2 (Definitions) of the proposed amendments to the SF(RDC)R – particularly around the proposed exclusions for commercial contracts which are intended to be physically settled. Our concerns are set out below.

We urge MAS to give further thought to refining the "commodity derivatives contract" definition to provide additional legal and operational certainty. One way MAS could significantly simplify the operational burden on market participants would be to expressly exclude all physically-settled commodity derivatives from the reporting requirements, and require reporting of only those commodity transactions that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event. The current exclusion linked to knowing, on a trade by trade basis, the actual intent of the counterparty and whether they are truly entering into the contract to fulfil their day-to-day operational needs, will be very difficult to operationally implement.

Should MAS decide to retain an exemption linked to the intent and purpose of the counterparty, the industry assumes that where a market participant is unable to ascertain the intent or purpose of its counterparty and is itself not trading to fulfil the needs of its day-to-day operations, it should report the contract. The industry would be grateful if MAS would confirm its understanding is correct.

The proposed definition of "commodity derivatives contract" also appears to be a reflection of discussions in the EU prior to the finalization of MiFID II and the related amendment to the definition of "financial instrument". However, we strongly encourage the MAS to take this opportunity to ensure that inconsistency will not result between what constitutes a commodity derivative in Singapore and elsewhere. As strong proponents of global harmonisation of reporting requirements, we feel that closer alignment of the proposed definition with those in other jurisdictions (such as, but not limited to, the EU) will better contribute to the development of a global data set, given the fact that many entities with local reporting obligations are subject to similar foreign obligations.

We also note the combined efforts of the industry and ISDA to develop the ISDA OTC Derivatives Product Taxonomies 2.0, which could serve as the basis for the classification of reportable derivatives for not only commodity and equity derivative contracts, but derivatives in all asset classes. [2] This initiative has benefitted from significant input from a wide cross-section of stakeholders, a robust consultation and documented governance process (which includes regulators of various jurisdictions), and we therefore strongly suggest that the MAS define the list of reportable products within each asset class by reference to these Taxonomies.

We would also note that physically-settled commodity contracts which are excluded from the definition of "financial instrument" under MiFID II are still proposed to be subject to reporting in the EU under the REMIT framework. We believe that for flexibility purposes, the reporting of such trades under the Singaporean regime should be optional (in which case there would need to be explicit banking secrecy carve-outs for banks that decide to report). We also believe that the test for "fulfilling the needs of the day to day operations" as proposed in section 2 (Definitions) of the proposed amendments to the SF(RDC)R is unnecessarily broad, and should be clarified further. In this respect, we note that the original text of MiFID contained a similar test, which caused a significant amount of confusion and, therefore, inconsistent application.

As highlighted above, including a test relating to the 'intent' of the parties in the rules is problematic. Using the example of a commodity derivative trade with optional physical delivery (ie; cash-settled with the option to physically deliver instead), members have noted that they would find it difficult to prove that they intended at the outset to physically deliver.

Our members have also raised some questions about the applicability of reporting to the following products, for which we would be grateful to receive clarification:

- Commodity inventory solutions trades (where a bank purchases a physical inventory of commodities for a fixed price from a seller at inception, sells it forward at a fixed or floating index price to a purchaser and carries it in the meantime). Our members would like to confirm whether the physical component of such a structure is considered "for the purpose of fulfilling the needs of the day to day operations" and thus not reportable;

- Precious metal listed options (based on our understanding that these would not be reportable);

[2] Further information can be found at http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/upi-and-taxonomies/.

- Transactions where delivery occurs in the form of certificates (on the assumption that this would be considered physical settlement); and
- Custom indices with commodity constituents.

Question 2: MAS seeks views on the proposal to subject equity derivatives contracts, other than exchange-traded equity derivatives contracts to reporting obligations.

Our members are generally supportive of this proposal, however also note that the manner in which "equity derivative contracts" are proposed to be brought within the scope of reporting may give rise to uncertainty.

We understand that the MAS' intention has always been that the reporting requirements apply to OTC derivative contracts only and not notes, certificates or warrants or other securitised products. We raise this issue as section 3.4 of the Consultation Paper indicates that the MAS intends to subject securities-based derivatives to reporting. The definition of a securities-based derivative has not yet been finalised within the SFA, and in the MAS' consultation on amendments to the SFA last year, market participants raised concerns that the proposed definition would potentially capture structured notes, certificates and warrants along with OTC derivatives linked to securities.

Further, given the industry does not have sight of the final underlying definitions within the SFA, they have concerns that rights over equity, equity borrowing and equity lending may inadvertently end up constituting a reportable "equity derivative contracts". Members would appreciate clarification from the MAS that notes, certificates, warrants and other securitised products are excluded from reporting (as is the case for the asset classes that are already subject to reporting).

Further uncertainty arises via the inclusion of a specific exemption with respect to "exchange-traded derivative contracts" with respect to "equity derivative contracts". Exchange-traded products are currently excluded with respect to all asset classes currently subject to reporting, as the MAS highlights in section 3.5 of the Consultation Paper. This is facilitated through "futures" not constituting a "derivatives contract" within the SFA. Given that the proposed definition of an "equity derivatives contract" is defined as being a subset of a "derivatives contract", the industry is unsure why MAS is proposing to provide a specific additional exchange-traded exclusion within the secondary reporting legislation specifically for equity derivative contracts. Market participants request that any such exclusion is uniformly applied within the SFA itself for all asset classes.

In respect of the proposed definition of an "exchange-traded derivative", our members note that this has changed from the definition proposed as part of the consultation last year on

amendments to the SFA. Our members would be grateful for confirmation that the proposed definition of an "exchange-traded derivative" within the reporting rules will ultimately align with the final definition in the SFA. As a general comment regarding the proposed definition of 'exchange-traded derivative', our members are of the view that paragraphs (a) and (b) should be sufficient for the purposes of the definition, and that paragraph (c) should be deleted as it adds unnecessary complexity.

As mentioned above, we also note again the combined efforts of the industry and ISDA to develop the ISDA OTC Derivatives Product Taxonomies 2.0, which could serve as the basis for the classification of reportable derivatives for not only commodity and equity derivative contracts, but derivatives in all asset classes. [3] As outlined earlier, this initiative has benefitted from a robust consultation and governance process (which includes regulators of various jurisdictions), and we therefore strongly suggest that the MAS define the list of reportable products within each asset class by reference to these Taxonomies. We would be very happy to provide further information on the history of the development of the Taxonomies, their adoption in other jurisdictions and the consultation and governance processes to date.

Question 3: MAS seeks views on the proposed data fields required for reporting of commodity and equity derivatives contracts.

At an overall level, we note that the MAS has not specified which data fields would be expected to be populated in which circumstances – that is, there does not appear to be clarity on whether a data field would be required to be populated, optionally populated or required to be populated if part of the terms of the trade (conditional optional) – noting that in most reporting regimes globally, certain data fields only apply to a subset of products. We understand that this may be because the MAS intends to allow these decisions to be made by licensed trade repositories by reference to their product templates, however would be grateful for clarification.

In keeping with our overarching theme of international alignment, we also strongly encourage the MAS to harmonise its proposed data fields and definitions as much as possible with those in reporting regimes overseas, which will minimize additional infrastructure build costs for Singaporean reporting. The ideal situation would be one where existing product reporting templates in use for other jurisdictions can be congruently leveraged for Singaporean reporting, meaning the requirements are aligned to the extent that no additional build is needed.

[3] Further information can be found at http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/identifiers/upi-and-taxonomies/.

We also appreciate the MAS' efforts to simplify the reporting of equity derivatives contract data fields by aligning the data fields with those required for credit derivatives contract reporting, however we note that there will be instances where certain data fields are only applicable to one asset class or the other, including in reporting templates provided by trade repositories to reporting entities. For example, data fields such as "Identifier of counterparty selling protection" and "Identifier of counterparty buying protection" appear to be relevant for credit derivatives but not for equity derivatives. Similarly, certain data fields may only be applicable for physically-settled transactions, as detailed in the below feedback on certain specific data fields. With this in mind, and to avoid confusion, we suggest creating a separate part within the SF(RDC)R which specifies the required data fields for the reporting of equity derivative contracts, rather than aligning the data fields of two different asset classes together at a high level.

Of course, the major dependency for reporting entities in the reporting of data fields will be the readiness and availability of support from licensed trade repositories. In this respect, members note that licensed trade repositories cannot release final specifications and templates until the amendments to the SF(RDC)R are finalised, after which lead time would be needed to ensure that not only the trade repository itself is in alignment with those regulations, but that reporting entities themselves are able to report the data fields successfully. We would suggest ensuring that a period of at least 6 months is available from the point that the finalised amendments to the SF(RDC)R have been published.

Lastly, we note that the proposed definition of "equity derivatives contracts" includes a derivative contract which "relates to any derivative of a unit in a business trust". Our members would appreciate clarification about whether this would include a derivative contract over an underlier in a collective investment scheme (CIS). More generally, we ask the MAS to consider exempting authorised CIS. The Code on Collective Investment Schemes prescribes rules on the use of, as well as exposure to, financial derivatives, which in members' views results in CIS posing minimal risk to the overall system from a derivatives trading perspective.

Our comments on certain specific data fields are below.

Commodity Data Field: Grade

Our members do not believe that this field is necessary, on the basis that the grade is specified as part of the description of the underlying commodity itself – in the ISDA 2005 Commodity Definitions (as updated), the short description of a commodity incorporates its grade. As an example, the description "COPPER-LME 3 MONTH" refers to Copper Grade A on the London Metal Exchange, displayed on Reuters Screen "MTLE". Therefore, a separate data field for "grade" is redundant.

At a systems level, we also add that since the grade makes up the description of the underlying commodity, it is not information which firms currently store in their systems, and therefore proceeding with this requirement would impose a significant compliance burden on the entities which would need to report this information. Further, we note that this data field is not required under US or EU reporting. On this basis, we recommend that the MAS remove this requirement completely.

Commodity Data Fields: Delivery Point or Zone, Delivery Start Date and Time and Delivery End Date and Time

We note that these data fields are only applicable in the case of physically-settled commodity derivatives. For cash settled trades, there is no delivery of the underlying commodity, and thus there is no delivery information. For this reason, we would propose that these fields be conditional, and applicable only for physically-settled transactions.

Commodity Data Field: Contract Capacity

We note that this field should be required only for gas and power derivatives.

Commodity Data Fields: Quantity, Quantity Frequency, Quantity Unit and Total Quantity

We note that in the case of quanto derivatives, these values may not be known upfront or at the time of trading. One member has also requested further guidance on the expected information for the "Quantity frequency" data field.

Equity Data Field: Information Identifying the Reference Entity

We note that this field appears to be more applicable to credit derivatives than equity derivatives, giving rise to ambiguity not only about whether reporting entities should populate the issuer of the equity in this field for equity derivative contracts, but also how this data field should be populated in the case of contracts over equity indices.

Question 4: MAS seeks views on the proposed inclusion of the two additional data fields of booking location and trading desk location data fields, required for all specified derivatives contracts.

Our members are generally agreeable with this proposal, however have a few questions around the mechanics and operation of the 2 data fields. At the outset, we would also acknowledge the work being done by the Legal Entity Identifier Regulatory Oversight Committee ("LEI-ROC") to incorporate a mechanism to identify the branch location within

the LEI, as seen in its recent consultation on this matter. [4] To ensure that the MAS booking location field is not made redundant in the near future after significant investment has been undertaken by the industry to support its reporting, we encourage the MAS to engage with the LEI-ROC to ensure reporting of this field is not duplicated.

Firstly, we would encourage the MAS to give thought to the interoperation between current ‘nexus’ reporting requirements and the new ‘trading desk’ data field – in particular, whether the reporting for the trading desk location is to be done in accordance with the definition of “traded in Singapore”, and whether there could be instances where misaligned information is reported. We would appreciate further guidance from the MAS on its intentions, noting the need to balance the benefits of new or enhanced information against system processes which have already been configured, based on the existing ‘nexus’ requirement and after lengthy discussions and significant investment, to examine the activities of individual traders, not trading desks.

Members have also raised the question of the interoperation of the ‘booking location’ field with block trades which are subsequently allocated, and the potential ambiguity that the data field description raises. For instance, if a block trade was traded in Singapore but subsequently allocated in London, it is unclear whether the booking location should be Singapore or London for the allocated trades.

As a broader comment, we would like to request that the MAS provide additional clarifications on its expectations for these data fields. Especially for entities that have little or no experience with the reporting of these data fields, translating these 2 data field requirements into their system architecture will be a significant challenge, and a number of potential scenarios raise questions about how these data fields should be populated, especially if the MAS does not expect the location of the trader determined for the purposes of ‘nexus’ reporting to drive the way market participants populate the “trading desk” field. Members would appreciate a more granular definition of each data field, description of the requirements and potentially some examples of how the field should be populated – for example, in the case of algorithmic and/or globally-managed trading books. We would be happy to provide further information on industry discussions about these scenarios to date.

We wish to also clarify that while the reporting of similar data fields is scheduled to commence from 10 July 2016 under the Hong Kong trade reporting regime, the US Securities and Exchange Commission (“SEC”) requirements referred to in s4.2 of the Consultation Paper are not live yet, and are not expected to take effect for some time. This means that for entities without Hong Kong reporting obligations (which may comprise a substantial part of

[4] Available at http://www.leiroc.org/publications/gls/lou_20151019-1.pdf. ISDA’s joint response can be found at http://www2.isda.org/functional-areas/technology-infrastructure/data-and-reporting/responses/.

the population of entities with Singaporean reporting obligations), these 2 new data fields will represent a completely new build, without experience nor implementations in other jurisdictions to leverage.

Adding to these considerations the difficulties experienced by reporting entities in preparing for 'nexus' reporting obligations in Asia-Pacific reporting jurisdictions, we do not consider that 1 July 2016 allows sufficient time for entities to design system processes, conduct testing and prepare for implementation in an orderly way which minimises errors. Further, we note again here the dependencies that reporting entities also have on middleware providers and trade repositories themselves, in that testing cannot begin until these infrastructures have implemented the data fields themselves. We suggest that a deferral of this date, to the later of 1 November 2016 and 6 months from the date the amendments to the SF(RDC)R are published, will give entities the necessary time to accurately redesign system logic, verify these fields can be reported correctly and ensure a smoother implementation.

We also wish to note the difficulty in capturing the required data fields for a reporting agent in a delegated reporting scenario. In such situations, the reporting party will not ordinarily have information on the booking and trading desk location of the party that has delegated its reporting obligation, making these data fields extremely difficult to report. We would therefore propose that the MAS considers retaining these fields as optional for delegated reporting scenarios, or giving further thought to how the regime can be simplified.

We also seek clarification on scenarios where an entity acts as execution and reporting agent. Specifically, we seek confirmation that if a specified person executes a trade in Singapore as agent on behalf of a Singaporean client, the booking location should be that of the client with the actual reporting obligation (ie; not that of the execution agent or any of its global affiliates), and that the 'nexus' reporting obligation rests on the execution agent (and the 'trading desk' location will be Singapore).

Keeping in mind ISDA's integral role in promoting the development of global standards, we do note some divergence on the form of standard to be used for these data fields. While US SEC and EU requirements require or will require the ISO 3166-1 2-alpha code, reporting requirements under the Hong Kong regime specify the ISO 3166-1 3-alpha code. The feedback received from members points to the 2-alpha code being the more widely used globally, and therefore we suggest that the MAS specify that it is the 2-alpha code standard that is to be used for Singaporean reporting.

We would also be grateful if the MAS would clarify whether these two data fields would only need to be populated for trades executed after the amended SF(RDC)R take effect, or also for any new amendments to trades which were outstanding before this time, noting that the latter requirement would entail a significant undertaking for the industry.

Question 5: MAS seeks views on the proposed data fields for reporting of collateral information.

First and foremost, we note the development of various collateral reporting requirements across multiple reporting regimes globally. In particular, we note that global best practices for the reporting of collateral do not appear to have been settled on yet, and members have experienced initial and ongoing difficulties with collateral reporting requirements under the EU, US and Australian regimes. Members question if now is the right time to be introducing collateral reporting. A delay would allow MAS to ensure its final collateral reporting requirements are consistent with the global data requirements. As such we recommend a standalone implementation date only for collateral reporting.

If the MAS proceeds with requiring the reporting of collateral information, in an effort to allow members to leverage the lessons learnt in meeting those requirements overseas, our members strongly request that the MAS monitor international developments, with the intention of aligning these ultimate requirements as much as possible – including with respect to data field names, definitions and requirements. This will not only make it easier for reporting entities to leverage existing requirements (and licensed trade repositories that already receive collateral reports in foreign jurisdictions), but will also avoid a jurisdiction-specific build for Singaporean reporting and result in a more consistent data set globally.

The Consultation Paper also states that one of the purposes for requiring the reporting of collateral information is to obtain relevant data for the implementation of margin requirements for non-centrally cleared OTC derivative contracts. However, based on our current understanding, derivatives traded in Singapore would not fall within the scope of future Singaporean margin requirements for non-centrally cleared derivatives, and therefore it is unclear how useful this information would be for the MAS' purposes. Additionally, this information may not be readily available to the reporting entity on an ongoing basis, and may have little relevant meaning where the collateral is posted on a portfolio basis. We therefore encourage the MAS to consider the implications of collateral reporting further, particularly with respect to the difficulties in reporting collateral fields for derivatives traded in Singapore, and consider whether relief may be appropriate in respect of these trades.

We also remind the MAS that for some reporting entities, the collateral amounts posted and received may fall under a portfolio which covers not only the entity's Singapore branch, but also all other overseas branches, and hence the amount reported may not solely pertain to trades relevant to the Singaporean regime.

In relation to the specific data fields for the proposed reporting of collateral information, at a general level we would suggest that (internationally-aligned) formal definitions and guidance are provided for each term used. Specific comments follow below.

Data Field: Level of Collateralisation

EU, US and Australian requirements all ask for "*Uncollateralised*", "*Fully*", "*Oneway*" and "*Partially*" only. None of the EU, US and Australian requirements make reference to "*Fully not posting*", "*OneWay not posting*" and "*Partially not posting*". Members strongly request that MAS aligns its requirements for this field with those in the EU, US and Australia.

Additionally, as most collateralization is performed at the portfolio level and not the individual contract level, the application of the above definition at contract level is not clear.

Data Field: Collateral Portfolio Indicator

We would appreciate more clarity on this requirement, particularly its intended manner of operation for situations where initial margin is exchanged on a trade-by-trade basis, while variation margin is exchanged on a portfolio basis.

Data Field: Collateral Portfolio Code for Specified Person

In line with the requirements in other jurisdictions such as the EU and Australia, members assume the requirement is to include an internal collateral agreement identifier, however request that the MAS clarify this in the Regulations.

Data Field: Value of Collateral for Specified Person

Given the possibility of having different values (for example, initial margin value, variation margin value and the type of value (market value, book value, mark-to-market value)) along with multiple portfolio codes per client, it is unclear whether this requirement would lead to consistent and accurate reporting. We also expect that this data field will be dropped from EU reporting and replaced by fields more closely related to the implementation of margin requirements for non-centrally cleared derivatives.

Data Field: Currency of Collateral for Specified Person

Here again, we note that multiple values could be entered here (for example, if the currency in which the trade is denominated is exchanged for the currency of the collateral portfolio), and encourage the MAS to provide further guidance on its expectations. We also expect that this data field will be dropped from EU reporting and replaced by fields more closely related to the implementation of margin requirements for non-centrally cleared derivatives.

Data Field: Date and Time of Collateral Valuation

We seek confirmation that where the time of valuation is unclear, the end of that trading day may be used as the field value. We also not that this field appears unique to MAS and is not required by any other jurisdiction.

Question 6: MAS seeks views on the proposed exemptions for non-bank FIs from reporting obligations: (a) subsidiaries of banks incorporated in Singapore, insurers and holders of CMS licenses, with annual aggregate gross notional amount of specified derivatives contracts of less than S$5 billion; and (b) all approved trustees and licensed trust companies.

While generally supportive of these proposed exemptions, our sellside members would like to confirm that there is no expectation on them to conduct due diligence with respect to a counterparty's level of derivatives activity for the purpose of the threshold calculation. Additionally, some of these members have highlighted potential shortcomings in offering delegated reporting services in these situations, as it would be difficult for them to know the trader desk location of their counterparty, thereby limiting their ability to accurately report the required information. We reiterate our recommendation in our response to Question 4, for the MAS to give further thought to how to the difficulties in obtaining certain information in delegated reporting scenarios, and to consider how the regime could be refined to minimise the compliance burden on these entities.

We also seek clarification on the intended coverage of the language in s10(2C)(e) of the draft SF(RDC)R with respect to specified derivative contracts that a trust company enters into "in its capacity as trustee". Trust companies enter into derivative transactions directly and indirectly (via structures established and managed by the trustee entity), and therefore our members seek confirmation that both types of activity would be covered by the exemption as defined. If so, consideration should be given to whether the language can be enhanced to make this clear.

Lastly, our asset manager members would like to clarify whether the MAS will distinguish between trades entered into in an asset manager's own capacity, versus agency capacity, for the purposes of the threshold calculation, with the belief that transactions entered into as agent for and on behalf of clients should not be included as they do not sit within the risk books or profile of the asset manager itself, and the asset manager itself is not an ultimate counterparty to the trade.

Question 7: MAS seeks views on the proposed exclusion from the reporting requirements for derivatives contracts where the counterparties to those derivatives contracts are not accredited investors or institutional investors.

Members have highlighted a number of difficulties with the proposal which may impose a high compliance burden, noting first that the terms used to describe the relevant investors are Singapore-specific (as defined in the SFA), and are not ordinarily recorded in firms' systems (for Singaporean clients nor foreign clients), nor changes in such an investor's status. This means that in practice and over time, complying with the exemption would be difficult, time-

consuming and expensive for members in respect of counterparties, both Singaporean and non-Singaporean.

Additionally, if members cannot, for system reasons, exclude these trades from reporting but the exclusion from reporting is formalised into law, this may give rise to banking secrecy concerns, as consent is only given by clients to report trades where there is a legal or regulatory requirement to do so (and if the exclusion remains, there would be no such requirement). No identical exemption exists in foreign reporting regimes, and where similar provisions do exist, they have been crafted in ways that enable easy identification of counterparties within client systems, such as the exemption from reporting trades with individuals under EU reporting.

It is therefore suggested that an alternative method is sought to simplify the intended regulatory benefit of the exemption – either by de-scoping all individuals from the regime explicitly, or by making the exemption optional for the reporting entity (in which case there would need to be explicit banking secrecy carve-outs for banks who decide to opt out of relying on this exemption). For example, the exemption could be based on trades undertaken in connection with an individual bank deposit account and not in connection to an investment, hedge, or speculative position.

We also note that in our response last year to the MAS Consultation Paper on Regulatory Framework for Intermediaries Dealing in OTC Derivative Contracts, Execution-Related Advice, and Marketing of Collective Investment Schemes, we proposed that, given the sophisticated nature of the derivatives market, certain provisions should not apply to transactions with accredited investors, institutional investors and investors managed by private banks under an exemption granted to them by the MAS under Section 100(2) of the FAA. We note the ongoing discussions around whether the exemption under Section 100(2) will be revoked in the future, but given that any change will take time to effect, we request that the MAS includes Section 100(2) clients within draft regulation 10(2A) at this stage.

Further, for the purposes of calculating the aggregate gross notional amount of the total specified derivatives contracts traded or booked in Singapore by a CMS licence holder to determine whether it qualifies for the exemption in draft regulation 10(2B), we request that the MAS introduce a similar concept to that of "excluded contracts" in Regulation 6(4A) for significant derivatives holders, so that only the specified derivatives contracts mandated to be reported by the CMS licence holder at any given point in time are included in the calculations of the aggregate gross notional amount. This will ensure that the reporting obligations are appropriately calibrated to only apply to the CMS licence holder where it is transacting significant volumes in reportable contracts.

Question 8: MAS seeks views on the proposed commencement dates for the additional data fields of booking location, trader desk location and collateral information.

We consider that there are significant opportunities for international alignment and harmonisation in the reporting of these fields. In particular, we would urge the MAS to consider aligning the timing of its implementation of these new data fields with US and EU requirements which are of a similar nature. As these data fields are not currently included in CPMI-IOSCO discussions, we encourage the MAS to raise these for consideration during the discussions to help ensure a globally-consistent outcome. SEC-promulgated rules for the reporting of security-based swaps are still in development and do not have an effective date, and equivalent requirements under MIFID II are expected to be delayed to 2018.

We also note here our previous comments on dependencies on middleware provider and trade repository readiness to support these data fields in an internationally-consistent way. Feedback received to date from such providers indicates that which data fields would be used for identifying the booking location and trader desk location have not been finalised, nor the format of those fields. We also understand that the licensed trade repository has not, to date, scheduled any of the proposed requirements for July 2016, nor would it be able to until the amendments to the SF(RDC)R have been and published.

We are also mindful an appropriate balance needs to be struck between ensuring implementations are manageable and minimising the number of different implementations. Therefore, and in summary, we request deferring the reporting of the booking location and trader desk location fields until the later of 1 November 2016 and 6 months from publishing the amendments to the SF(RDC)R, and deferring the reporting of collateral until greater international consensus around the standards for the reporting of this information has emerged.

Additionally, we seek clarification that the new requirements will only apply to trades entered into after the requirements are live, as this information will not have been stored for historic trades, regardless of whether they are still outstanding or not.

Question 9: MAS seeks views on the proposed commencement of reporting of commodity and equity derivatives contracts by banks and merchant banks from 1 Nov 2016.

Our members would like to raise the primary concern of dependence on service providers, middlewares, and perhaps most important, the licensed trade repository, as key considerations which could materially affect the 1 November 2016 proposed timeline. Service provider and trade repository final specifications cannot be discussed, released or published until the amendments to the SF(RDC)R have been published, and reporting entities cannot test that their functionality is available and operating correctly until these service providers and trade repositories have completed implementation. We reiterate our recommendation that reporting entities have a minimum timeframe of 6 months from the finalisation of the amendments to the SF(RDC)R, and that the MAS closely monitors the timing of release of final

specifications from the trade repository and service providers which will be critical in ensuring that the 1 November 2016 compliance date can be met successfully.

One of our members has additionally requested that the amended regulations clearly specify that the reporting obligation for banks and merchant banks starting on 1 November 2016 applies regardless of the nature of the counterparty to the trade (ie; regardless of the category of "specified person" under s124 of the SFA).

Question 10: MAS seeks views on the feasibility of the proposed commencement of reporting of new reporting phases for non-bank FIs, starting with interest rates and credit derivatives contracts which are traded in Singapore from 1 Nov 2017, followed by the reporting of FX, commodity and equity derivatives from 1 Nov 2018.

Our non-bank FI members have raised serious concerns about the proposed commencement dates, particularly in light of the removal of these obligations which was formalised in the Securities and Futures (Reporting of Derivatives Contracts) (Amendment) Regulations 2015. These members were under the impression that the MAS did not intend to proceed with its original requirement to report contracts traded in Singapore for these entities, which was seen as a very welcome relief from a very large compliance burden, and accordingly the large amount of system development work to meet this obligation was deprioritised. These members have advised that the requirement as restated will impose the following implementation issues.

Firstly, the extraterritorial nature of the 'nexus' reporting obligation means that a large potential volume of trades which asset managers undertake in various foreign markets, on behalf of both Singaporean and non-Singaporean clients, could become reportable trades. This potentially affects a very wide population of clients, numbering over 1900 alone for one asset manager, imposing a significant compliance burden to make necessary client and trading system enhancements. Additionally, tracking the life cycle of a trade originally reported under the Singaporean regime to ensure that all associated events are also reported under the Singaporean regime will have far-reaching implications on their trading, accounting and reporting processes.

Also relevant here is the current inoperation of the substituted compliance arrangements under s128-129 of the SFA. Trades undertaken on behalf of global clients may already be reportable under foreign regimes, and as substituted compliance is not currently available for Singapore, this may give rise to duplicative reporting. This is particularly onerous for global asset managers, given the reporting obligation for 'nexus' trades will likely be imposed directly on the asset manager itself, rather than on the institutional clients for whom it executes the relevant trades.

It must also be remembered that pure buyside firms may not have the level of dedicated resources to build reporting infrastructure. These members have advised that they are already grappling with reporting implementation issues putting a significant drain on limited resources (such as ongoing work on improving data quality, sharing and pairing of universal transaction identifiers and reconciliation of in-house data to trade repository data), and that such issues will become more pronounced given the high volume of accounts and trades reportable under the 'nexus' limb.

Particularly for global asset managers who will only trade in an agency capacity, and not themselves be counterparties to any trades entered into on behalf of clients, some have advised that they may be forced to restrict the opening of trades from being undertaken in Singapore. This could lead to a reduction in trade volume in Singapore if other asset managers encounter similar difficulty in compliance, which may not aligned with the MAS' objectives of promoting Singapore as a regional trading and asset management hub. The MAS may wish to consider the approach taken by the Hong Kong regulators, where licensed asset managers are only required to report transactions to which they are counterparty or which they have conducted in Hong Kong (ie. 'nexus') on behalf of their affiliates, but not on behalf of other third parties such as underlying funds.

We urge the MAS to give further consideration to the serious difficulties that non-bank FIs would encounter in the reporting of 'nexus' trades, and recommend that these obligations be deferred until a regulatory cost-benefit analysis is able to more decisively demonstrate that the effort and resourcing would be justified.

With respect to the expansion of reportable asset classes for non-bank FIs to include FX, equity and commodity derivatives by 1 November 2018, we would also like to urge the MAS to consider a deferral or exemption for these entities from reporting FX derivative contracts. This is because levels of market development for infrastructures and processes for other asset classes are more advanced than in the FX space, making the burden of compliance heavier for FX contracts. Specifically, no single utility or platform exists to perform UTI generation and regulatory reporting for FX derivative contracts (unlike other products such as swaps cleared through a CCP, or swaps traded bilaterally on a single industry intermediary platform), meaning that the options available to these members in respect of delegated reporting infrastructures are much more limited. Our members would be happy to share their experiences of the level of market development in the FX derivatives space further.

Question 11: MAS seeks views if the same timelines for non-bank FIs should also apply to SDHs.

One of our members would like to clarify whether the intention to require subsidiaries of banks incorporated in Singapore to report (subject to the threshold) would include overseas

subsidiaries which are incorporated outside of Singapore, in the belief that overseas subsidiaries incorporated outside of Singapore should not be subject to reporting.

Question 12: MAS seeks views on the proposed amendments to the SF(RDC)R attached in Annex B.

As part of our response to this question, please refer to our responses on specific data fields and definitions throughout this letter, with additional comments below.

Firstly, we note that the MAS intends to amend the definition of "booked in Singapore". Our members would like to check from what date the new definition is intended to be effective, and whether the MAS has any expectations for firms in terms of a different approach to identifying these trades within overall trade populations.

We note that the proposed amendment to the SF(RDC)R attached in Annex B of the consultation paper still contains a requirement to report a UTI to be agreed on with the counterparty to the contract for uncleared contracts that are not electronically confirmed and are entered into after 1 February 2016. We suggest that this should be amended in line with the Securities and Futures (Reporting of Derivatives Contracts) (Amendment) Regulations 2016, which extends the relief for UTI sharing and pairing until 1 February 2017.

Our members also understand from the draft SF(RDC)R that the MAS does not intend to require outstanding commodity derivatives to be 'backloaded', nor the data fields under Parts 1B and 1C of the First Schedule, however would appreciate confirmation of this.

In this spirit of encouraging cross-border harmonisation of reporting requirements, we also consider this to be an appropriate and opportune time for the MAS to enable the substituted compliance provisions within the Singaporean regime. We note that ss128-129 of the Securities and Futures Act (Cap. 289) ("SFA") allow the MAS to prescribe 'relevant reporting jurisdictions', the reporting under which reporting would satisfy Singaporean reporting requirements; however no jurisdictions have been prescribed to date. We encourage the MAS to undertake outcomes-based analyses of jurisdictions with reporting regimes such as Australia, Hong Kong, Japan, the US, the EU and Canada, with a view to deeming these jurisdictions as equivalent, so that entities with Singaporean reporting obligations can start to leverage existing foreign reporting processes and meet global reporting obligations in the most efficient, practical and cost-effective manner.

We also kindly request that the MAS uses this opportunity to revisit and deal with industry concerns raised in late 2015 in relation to the masking of counterparty identity information. While the industry was extremely appreciative of the MAS taking steps to extend the masking relief currently available under its regime, the industry would welcome MAS taking

this opportunity to address its concerns, as discussed in our letter of 13 October 2015, around having to unmask trades entered into during the masking window where they are unable to obtain sufficient consent from clients following the expiry of the masking window.

While not a new field, we would also note that the field values available for reporting the identifier of a beneficiary are different to those available for reporting identifiers of counterparties. Most significantly, we note that reporting entities do not have the option to report an internal client code, unlike for reporting the identifier of a counterparty. We request that the fields required for the reporting of identifiers be aligned as much as possible with each other and at a minimum, the option to report client code for a legal entity beneficiary be included.

We would also appreciate it if the MAS could confirm that the data required to be inputted in the 'Payment Multiplier' field for commodities is in line with the 'Payment Frequency Multiplier' fields for the other product classes. We note that this is a unique field to the MAS for the reporting of commodity derivatives contracts, and has not been explicitly required by other jurisdictions.