

MAS consults on draft regulations for clearing of OTC derivatives

The enactment of the Securities and Futures (Amendment) Act 2012 on 15 November 2012 introduced, amongst others, a regulatory framework for mandatory clearing of OTC derivatives contracts under Part VIB of the Securities and Futures Act (SFA). In line with the G20 objectives and recommendations by the Financial Stability Board, the Monetary Authority of Singapore (MAS) has proposed draft regulations to give effect to Part VIB of the SFA.

The draft Securities and Futures (Clearing of Derivatives Contracts) Regulations 2015 (SF(CDC)R) are discussed in more detail below.

Proposals outlined in the Consultation Paper

Specified derivatives contracts to be cleared

The MAS proposes to phase-in mandatory clearing by asset class, beginning with interest rate derivative contracts (IRS). The MAS' assessment of the type of OTC derivatives contracts that should be designated as "specified derivatives contracts" and subject to the clearing mandate was based on the factors set out in section 129G(2) of the SFA, such as the level of systemic risks posed by a product and the depth and the liquidity of the market for a product.

At the minimum, the MAS proposes to subject Singapore Dollar (SGD) fixed-to-floating swaps based on the Swap Offer Rate (SOR) and US Dollar (USD) fixed-to-floating swaps based on the London Interbank Offered Rate (LIBOR) to the clearing mandate.

In addition, the MAS is considering subjecting IRS denominated in Euro (EUR), Pound Sterling (GBP) and Japanese Yen (JPY) and other types of IRS (such as basis swaps, forward rate agreements and overnight index swap to clearing obligations) to the clearing mandate, depending on industry feedback. The MAS has asked for feedback as to whether including this wider range of contracts would allow market participants to achieve greater margining

Proposed initial clearing mandate

- **Who:** Banks which exceed a clearing threshold amount of S\$20 billion gross notional outstanding derivatives contracts booked in Singapore for each of the last 4 quarters are proposed to be subject to the clearing mandate.
- **What:** SGD fixed-to-floating IRS based on the SOR and USD fixed-to-floating IRS based on the LIBOR in which both transacting counterparties have *booked in* their Singapore-based operations are proposed to be subject to the clearing mandate. The MAS is also considering subjecting IRS denominated in EUR, GBP and JPY and other types of IRS (such as basis swaps, forward rate agreements and overnight index swap to clearing obligations) to the clearing mandate.
- **When:** The MAS aims to issue the final clearing regulations by end 2015 and will provide a minimum of six months' notice before the clearing mandate takes effect.
- **How:** Specified derivatives contracts must be cleared by central counterparties regulated by the MAS as ACHs or RCHs to fulfil the clearing mandate. No back-loading is required.

efficiencies.

Circumstances under which contracts are to be cleared

The MAS proposes to subject only IRS trades to the clearing mandate where both transacting counterparties have *booked* such trades *in* their Singapore-based operations (i.e. a Singapore-incorporated company or a Singapore branch of a foreign entity). The MAS does not at this stage propose to subject transactions which are *traded in* Singapore but booked elsewhere, such as into foreign subsidiaries or foreign branches of local banks, to the clearing mandate.

Specified derivatives contracts must be cleared by central counterparties (CCPs) regulated by the MAS as approved clearing houses (ACHs) or recognised clearing houses (RCHs) to fulfil the clearing mandate.

The MAS has stated that it expects to approve or recognise more CCPs as ACHs or RCHs that are able to clear IRS before the commencement of the clearing obligations. Clearing has to occur within the same day or, if not executed on a business day, the next business day.

Specified persons to be subject to the clearing mandate

The MAS proposes, at this stage, to subject only banks which exceed the clearing threshold amount of S\$20 billion gross notional outstanding derivatives contracts booked in Singapore for each of the last four calendar quarters to the clearing mandate.

Non-bank entities that fall within the meaning of "specified person" under section 129B of the SFA (e.g. merchant banks, finance companies, insurers, approved trustees and capital markets services licence holders) and banks that do not exceed the clearing threshold amount are not subject to the clearing mandate.

It is the MAS' intention that only the "most active" global,

regional or domestic banks trading OTC derivatives will be subject to the clearing mandate.

Other exemptions from the clearing mandate

Additionally, intra-group transactions and public bodies, including all central banks, governments and international multilateral organisations such as the Bank for International Settlements, the International Monetary Fund and the World Bank, are proposed to be exempted from the clearing mandate.

Implementation timeline

The MAS intends to issue the SF(CDC)R by end 2015 and proposes to provide a minimum of six months' notice before the clearing mandate takes effect. Banks which exceed the clearing threshold amount will only be required to clear specified derivatives contracts entered on or after the effective date. Back-loading will not be required.

Following the commencement of the clearing mandate, the MAS will continue to review industry readiness and international developments in considering whether to widen the scope of the clearing mandate by widening the range of products (such as foreign exchange derivatives), lowering the clearing threshold amount, extending to non-bank financial institutions and/or widening the nexus of trades (e.g. to cross-border transactions not booked in Singapore).

Feedback on the Consultation Paper

The Consultation Paper and draft SF(CDC)R are available from the MAS' website. The closing date for the public to submit comments and feedback is **31 July 2015**.

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