CONSULTATION PAPER

P005 - 2018

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Draft Regulations for Mandatory Trading of Derivatives Contracts

Monetary Authority of Singapore

Contents

1 Preface

1.1 The Securities and Futures (Amendment) Act 2017 ("SF(A) Act"), which was passed in Parliament on 9 January 2017, gave effect to policy proposals aimed at completing the legislative reforms for the regulation of over-the-counter ("OTC") derivatives. These proposals included:

(a) extending the markets regime to OTC derivatives market operators;

(b) introducing powers to mandate the trading of OTC derivatives on organised markets; and

(c) extending the capital markets services licensing regime to intermediaries dealing in OTC derivatives.

1.2 In line with the G20 objectives and Financial Stability Board ("FSB") recommendations on OTC derivatives reforms, the Monetary Authority of Singapore ("MAS") is consulting on the proposed regulations for the mandatory trading of OTC derivatives on organised markets. The draft Securities and Futures (Trading of Derivatives Contracts) Regulations ("SF(TDC)R") sets out the implementation details of the initial set of products and persons subject to derivatives trading obligations under the new Part VIC of the Securities and Futures Act (Cap. 289) ("SFA").

1.3 MAS invites interested parties to provide their comments and feedback on the draft SF(TDC)R.

Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request MAS not to do so. As such, if respondents would like (i) their whole submission or part of it, or (ii) their identity, or both, to be kept confidential, please expressly state so in the submission to MAS. In addition, MAS reserves the right not to publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.

1.4 Please submit written comments by 23 March 2018 to –

Capital Markets Policy Division
Markets Policy & Infrastructure Department
Monetary Authority of Singapore
10 Shenton Way, MAS Building
Singapore 079117

Email: capital_markets@mas.gov.sg

1.5 Electronic submission is encouraged. We would appreciate that you use this format for your submission to ease our collation efforts.

2 Introduction

2.1 In April 2017, MAS consulted on proposed regulations to operationalise the revised regulatory regime for market operators, including operators of trading facilities for the trading of OTC derivatives, under the SF(A) Act.[1] With the regulatory regime for market operators coming into place with the commencement of the SF(A) Act in 2018, MAS is now seeking views on proposed regulations to operationalise the new Part VIC of the SFA on mandatory trading of OTC derivatives contracts on organised markets i.e. exchanges or other centralised trading facilities.

2.2 The following sections set out MAS' policy considerations on key aspects of the mandatory trading regime, namely type of OTC derivatives contracts subject to trading obligations, persons who are subject to or exempt from trading obligations, circumstances under which trading obligations apply, and implementation details. The draft SF(TDC)R is set out in Annex B.

3 Specified derivatives contracts to be traded on an organised market

3.1 MAS assesses the OTC derivatives contracts suitable to be subject to trading obligations based on factors set out in the new section 129N(2) of the SFA. These factors include the level of product standardisation and liquidity, consistency with other jurisdictions in determining products suitable for trading obligations, and the availability of facilities for the trading of the products.

3.2 Since the commencement of the OTC derivatives reporting obligations in 2014, MAS has conducted various studies on the liquidity of OTC derivatives, including undertaking surveys to gauge market practice and market participants' ability to comply with trading obligations.[2] MAS is of the view that products with limited domestic or regional liquidity pool may not be appropriate to be subject to trading obligations at this time. Instead, globally-traded OTC derivatives are more likely to be appropriate for trading obligations to apply, in particular where the majority of international participants are already complying with their domestic trading obligations.

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[1] *Consultation Paper I on Draft Regulations Pursuant to the Securities and Futures Act* published on 28 April 2017. Operators of facilities for the trading of OTC derivatives will be regulated as market operators under the revised Part II of the SFA.

[2] See for example, *MAS Staff Paper No. 54 on Liquidity and Policy Analyses for Platform Trading of OTC Derivatives: A Perspective of Smaller Markets*.

3.3 Globally, trading obligations have commenced in the major derivatives trading centres.[3] Already, trading mandates for interest rate swaps ("IRS") denominated in US Dollar ("USD"), Euro ("EUR") and Pound Sterling ("GBP") are estimated to cover more than 90% of the global market for these derivatives.[4]

3.4 MAS notes that a significant level of OTC derivatives trading activity in Singapore involve US and EU counterparties. Trading of USD, EUR and GBP IRS in Singapore involving US or EU counterparties would have to take place on exchanges or centralised trading facilities to comply with the US or EU trading obligations. These organised markets are either overseas, or have local operations in Singapore.

3.5 With the commencement of the regulatory regime to regulate operators of OTC derivatives trading facilities as market operators, MAS expects operators of overseas and domestic organised markets commonly used by participants in Singapore to trade USD, EUR and GBP IRS to apply and be granted the appropriate licensing status in Singapore. To address potential concerns on liquidity fragmentation, MAS will also seek equivalence determinations for such organised markets that are based in Singapore. Most participants should therefore be able to comply with trading obligations on USD, EUR and GBP IRS by trading these products on these organised markets.

3.6 In consideration of the above, MAS proposes to subject the more liquid USD, EUR and GBP IRS to trading obligations in Singapore. These will be for tenors which are traded more significantly by participants in Singapore. The proposed contract specifications are as follows:

[3] In the US and the EU, USD, EUR and GBP IRS, as well as certain index credit default swaps, are subject to trading obligations. In Asia, Japan has commenced its trading obligations for IRS denominated in Japanese Yen.

[4] Estimated based on the Bank of International Settlements ("BIS") Triennial Central Bank Survey of the Interest Rate Derivatives Market Turnover in 2016.

Table 1: Contract specifications subject to proposed trading obligations

Settlement Currency	**USD**	**EUR**	**GBP**
Reference Index	LIBOR (3M or 6M)	EURIBOR (3M or 6M)	LIBOR (3M or 6M)
Types	Fixed-to-floating	Fixed-to-floating	Fixed-to-floating
Maturity	2, 3, 5, 7, 10 years	2, 3, 5, 7, 10 years	2, 3, 5, 7, 10 years
Optionality	No	No	No
Notional Type	Constant	Constant	Constant
Trade Start Type	Spot (T+2) or IMM[5] (next two IMM dates)	Spot (T+2)	Spot (T+0)
Fixed Leg			
Payment Frequency	Semi-annual or annual	Semi-annual or annual	Quarterly or semi-annual
Day Count Convention	30/360 or Actual/360	30/360 or Actual/360	Actual/365F
Floating Leg			
Reset Frequency	Quarterly (USD LIBOR 3M) Semi-annual (USD LIBOR 6M)	Quarterly (EURIBOR 3M) Semi-annual (EURIBOR 6M)	Quarterly (GBP LIBOR 3M) Semi-annual (GBP LIBOR 6M)
Day Count Convention	Actual/360	Actual/360	Actual/365F

Question 1. MAS seeks views on the proposal to subject IRS denominated in USD, EUR and GBP, with the contract specifications set out in Table 1, to trading obligations.

[5] IMM are International Monetary Market start dates which are typically on the third Wednesday of March, June, September and December.

4 Specified persons to be subject to trading obligations

4.1 Under section 129I of the SFA, all banks and other financial institutions such as insurers and capital markets services licence holders are specified persons subject to trading obligations upon commencement of our mandatory trading regime. MAS intends to initially subject the more active banks trading OTC derivatives in Singapore to the trading obligations. This approach is consistent with that for the proposed clearing obligations.[6]

4.2 Accordingly, MAS proposes to apply trading obligations only to banks that exceed a threshold of S$20 billion gross notional outstanding of OTC derivatives contracts booked in Singapore for each of the last four quarters. In effect, this will be the same group of banks that will be subject to MAS' clearing obligations. Operationally, this would simplify the process for banks to determine their obligations and avoids confusion among market participants regarding their counterparties' obligations.

4.3 All other specified persons will be initially exempted from trading obligations. MAS will review this and trading obligation thresholds regularly.

4.4 MAS also proposes to exempt public bodies from trading obligations, including all central banks and governments, as well as international multilateral organisations such as the Bank for International Settlements, the International Monetary Fund and the World Bank. The policy functions of public bodies may require them to maintain flexibility to respond to a variety of circumstances, which may be constrained if they are subject to trading obligations. This approach is also consistent with other major jurisdictions such as US and EU.

Question 2.	MAS seeks views on the proposal to impose trading obligations on banks that exceed a threshold of S$20 billion gross notional outstanding of OTC derivatives contracts booked in Singapore for each of the last four quarters.
Question 3.	MAS seeks views on the proposal to exempt public bodies from trading obligations.

[6] *Consultation Paper on Draft Regulations for Mandatory Clearing of Derivatives Contracts* published on 1 July 2015.

5 Circumstances under which contracts are subject to trading obligations

5.1 In line with the approach to apply trading obligations to banks that are also subject to clearing obligations, MAS proposes to impose trading obligations only where both counterparties are banks that exceed a threshold of S$20 billion gross notional outstanding of OTC derivatives contracts booked in Singapore for each of the last four quarters. Specifically, both counterparties will be subject to trading obligations should a mandated product be traded in Singapore[7] by both counterparties, i.e. traders based in Singapore – representing both counterparties – are responsible for the transaction involving the mandated product.

5.2 This approach has taken into account the trading obligations in the US and EU. As such, MAS' proposed trading obligations should not result in any conflicts in relation to cross-border transactions with US or EU banks that are also persons subject to the US or EU trading obligations. We will also continue to actively engage in international and bilateral discussions to address potential concerns on duplicative requirements on participants in Singapore that are involved in cross-border transactions.

5.3 MAS expect that about 80% of our market in USD, EUR and GBP IRS would have to be executed on organised markets following the commencement of our proposed trading obligations. While smaller counterparties in Singapore are not subject to MAS' proposed trading obligations as they do not exceed the threshold, they can still choose to trade these mandated products on organised markets if they wish to access this liquidity pool.

Question 4.	MAS seeks views on imposing trading obligations to products that are traded in Singapore by both counterparties that exceed the proposed threshold of S$20 billion gross notional outstanding of OTC derivatives contracts booked in Singapore.

[7] Traded in Singapore", is defined in regulation 2 of the Securities and Futures (Reporting of Derivatives Contracts) Regulations as the execution of the derivatives contract by a trader —

(a) whose place of employment is located in Singapore and who conducts, on behalf of a specified person, activities relating to the execution of derivatives contracts in Singapore;

(b) who —

(i) for a period of not less than 30 days immediately before the date of the execution of the derivatives contract, conducts or is authorised to conduct, on behalf of a specified person, activities relating to the execution of derivatives contracts in Singapore; and

(ii) is physically in Singapore at the time of the execution of the derivatives contract.

6 Exemptions from trading obligations

6.1 MAS proposes to exempt intra-group transactions from the scope of trading obligations. Such transactions do not transfer risks in or out of a corporate group and are best left to such groups to manage their group-wide risks in a manner most appropriate for their corporate structure. In addition, such transactions do not contribute to the price discovery process on organised markets. This approach is consistent with that in US and EU.

6.2 For the avoidance of doubt, package transactions will not be subject to trading obligations.

Question 5.	MAS seeks views on the proposal to exempt intra-group transactions from trading obligations.

7 Implementation of trading obligations

7.1 MAS intends to issue the SF(TDC)R in conjunction with the commencement of the SF(A) Act, which will include the commencement of the regulatory regime for market operators, including OTC derivatives trading facilities. The SF(A) Act, along with all implementing regulations, is targeted for commencement in 3Q 2018. Appropriate time will be provided so that market participants can make arrangements to access organised markets – domestic and overseas – that are licensed under our revised markets regime and therefore able to meet the trading obligations.

7.2 MAS invites feedback from market participants as to the relevant trading facilities they may access, or intend to access, for the trading of USD, EUR and GBP IRS. MAS also welcomes feedback on any other considerations and timing concerns that may affect market participants' ability to access trading facilities for the trading of USD, EUR and GBP IRS.

Question 6.	MAS seeks views on the proposed timing for the commencement of trading obligations in conjunction with the commencement of the SF(A) Act.
Question 7.	MAS seeks feedback on the trading facilities which market participants may access, or intend to access, for the trading of USD, EUR and GBP IRS.
Question 8.	MAS seeks feedback on any other considerations and timing concerns that may affect market participants' ability to access trading facilities for the trading of USD, EUR and GBP IRS.
Question 9.	MAS seeks comments on the draft SF(TDC)R in Annex B.

8 Proposed products subject to clearing obligations

8.1 MAS consulted in July 2015 on the proposed commencement of clearing obligations with USD and Singapore Dollar ("SGD") IRS, and also sought views on commencing clearing obligations in respect of EUR, GBP and Japanese Yen IRS.[8] In summary, the clearing obligations had been proposed to apply to banks exceeding a threshold of S$20 billion gross notional outstanding of OTC derivatives contracts booked in Singapore for each of the last four quarters, in respect of transactions that are booked in Singapore[9] by both counterparties.

8.2 In view of the proposed implementation of trading obligations, MAS is of the view that it may be appropriate for the products subject to clearing obligations to include those subject to trading obligations. As with the US and EU who have implemented both clearing and trading obligations, EUR and GBP IRS are subject to both obligations in the US and EU. MAS would like to seek feedback on the proposal to also commence clearing obligations in respect of EUR and GBP IRS as specified in Table 2. These contract specifications are also in common with those set out under the US and EU clearing obligations.

Table 2: Contract specifications subject to proposed clearing obligations

Settlement Currency	Reference Index	Types	Maturity	Optionality	Notional Type
EUR	EURIBOR	Fixed-to-floating	28 days to 10 years	No	Constant
GBP	LIBOR	Fixed-to-floating	28 days to 10 years	No	Constant

Question 10. MAS seeks views on the proposal to subject IRS denominated in EUR and GBP, with the contract specifications set out in Table 2, to clearing obligations.

[8] *Consultation Paper on Draft Regulations for Mandatory Clearing of Derivatives Contracts* published on 1 July 2015.

[9] "Booked in Singapore", is defined in regulation 2 of the Securities and Futures (Reporting of Derivatives Contracts) Regulations as the entry of the derivatives contract on the balance sheet or the profit and loss accounts of a person whose place of business is in Singapore.

Annex A

LIST OF QUESTIONS

Monetary Authority of Singapore