CONSULTATION PAPER

P002 - 2016

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Proposed Amendments to the Securities & Futures (Reporting of Derivatives Contracts) Regulations

MAS

Monetary Authority of Singapore

Contents

1 Preface

1.1 MAS commenced its reporting regime for over-the-counter ("OTC") derivatives contracts on 31 October 2013. The enabling provisions are set out in Part VIA of the Securities and Futures Act ("SFA"), and the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 ("SF(RDC)R"). Currently, interest rate, credit and foreign exchange derivatives contracts have to be reported to licensed trade repositories or licensed foreign trade repositories, pursuant to the SFA and SF(RDC)R.

1.2 In addition, MAS issued the Securities and Futures (Reporting of Derivatives Contracts) (Exemption) Regulations 2014 on 1 July 2014, providing temporary relief to certain categories of capital markets intermediaries from the requirement to report specified derivatives contracts.

1.3 MAS is now consulting on proposed amendments to the SF(RDC)R to implement reporting of commodity and equity derivatives contracts, as well as other revisions to complete the implementation of the OTC derivatives trade reporting regime in Singapore. MAS invites comments and feedback from interested parties on the draft regulations.

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 15 February 2016 to –

Capital Markets Policy Division
Markets Policy & Infrastructure Department
Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117
Fax: (65) 6225 1350
Email: derivatives@mas.gov.sg

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

2 Introduction

2.1 MAS is proposing to amend the SF(RDC)R to require the reporting of commodity and equity derivatives contracts, which would complete the implementation of the OTC derivatives trade reporting regime in Singapore. MAS is also proposing revisions to fine-tune the reporting obligations for certain non-bank financial institutions ("FIs").

3 Reporting of Commodity and Equity Derivatives Contracts

Commodity Derivatives Contracts

3.1 For commodity derivatives contracts, MAS proposes to require the reporting of all forwards, swaps, and options that are related to commodities or commodity indices, or contracts with cash flows determined by reference to one or more commodities.

3.2 Recognising that corporates may enter into commodity contracts for their day-to-day operations, MAS is proposing to exclude certain commodity contracts from the reporting requirements. The intent is to exclude physically-settled commodity derivatives contracts that are entered into for commercial purposes. In addition, certain commodity sale and purchase agreements which may contain some form of optionality would also be excluded from reporting, where such contracts are executed for commercial purposes and intended for physical settlement (e.g. contracts for the purchase of raw material containing options for non-delivery).

Equity Derivatives Contracts

3.3 For the purposes of the reporting regulations, MAS is proposing a definition for "equity derivatives contracts", which would refer to (i) rights, options or derivatives related to stocks or shares issued or proposed to be issued by a corporation or body unincorporated, (ii) contracts related to equities or equity indices, or (iii) derivatives of a unit in a business trust.

3.4 Securities-based derivatives (such as equity derivatives contracts) are generally thought to fall within the current definition of "securities", and not "derivatives contracts", under the SFA. However, the intent is to subject securities-based derivatives to reporting requirements, given the derivative nature of the contracts and the value reported data on these contracts will add to our understanding of the OTC derivative markets as a whole. MAS thus proposes to prescribe “equity derivatives contracts” under regulation 5 of the SF(RDC)R. Read with sections 124 and 129 of the SFA[1], the prescription will make it clear that equity derivatives contracts are subject to the trade reporting requirements.

3.5 In line with our current approach to exclude exchange-traded products from reporting, we similarly propose that exchange-traded equity derivatives contracts (e.g. structured warrants) be excluded from the reporting obligations.

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

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

4 Information to be Reported

4.1 In terms of the required information to be reported, MAS is proposing to introduce a new Part V within the First Schedule to the SF(RDC)R, which specifies the required information on commodity derivatives contracts. For equity derivatives contracts, MAS proposes that the required data fields for equity derivatives contracts be aligned with those for credit derivatives contracts, as set out in Part III of the First Schedule to the SF(RDC)R.

4.2 In addition, MAS proposes the inclusion of new data fields to identify the booking location and the location of the trader desk. These data fields are in line with those required by international regulators, such as US Securities and Exchange Commission and the Hong Kong Monetary Authority. These data fields would support MAS’ analysis of the trade reporting data by differentiating between derivatives contracts that are booked in Singapore and those traded in Singapore. The additional data fields of booking location and trading desk location are proposed to be required for all derivatives asset classes, and would be included in Part IB of the First Schedule.

[1] Section 124 of the SFA defines “specified derivatives contracts” as any derivatives contract that is, or that belongs to a class of derivatives contracts that is, prescribed by the Authority by regulations made under section 129. In turn, MAS has prescribed derivatives asset classes pursuant to section 129 of the SFA as “specified derivatives contracts” in regulation 5 of the SF(RDC)R.

4.3 MAS would also like to seek feedback on implementing the reporting of collateral information, which was first proposed in the 9 July 2014 Consultation Paper on Draft Regulations for Reporting of Foreign Exchange Derivatives Contracts[2]. The collateral information obtained from the reporting regime would provide MAS with relevant data as we implement margin requirements for non-centrally cleared OTC derivatives contracts[3], both for enforcing compliance of the margin requirements as well as for systemic risk surveillance purposes. However, MAS had deferred the reporting of collateral data to allow more time for industry to address the operational challenges in reporting collateral information, while we monitored international developments in this area. We note that reporting of collateral information has already commenced in Australia and Europe; entities with operations in these jurisdictions would by now be familiar with the reporting of such information.

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

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.

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

5 Reporting Obligations for Non-bank FIs

5.1 On 1 July 2014, MAS issued a temporary relief for holders of a capital markets services licence in fund management or real estate investment trust ("REIT") management (collectively, the "Asset Managers") with managed assets of less than S$8 billion. The exemption was also extended to approved trustees ("AT") in respect of collective investment schemes managed by Asset Managers who qualify for the relief or

[2] Consultation Paper on Draft Regulations for Reporting of Foreign Exchange Derivatives Contracts: http://www.mas.gov.sg/news-and-publications/consultation-paper/2014/consultation-paper-on-draft-regulations-for-reporting-of-foreign-exchange-derivatives-contracts.aspx

[3] Policy Consultation on Margin Requirements for Non-Centrally Cleared OTC Derivatives, issued 1 Oct 2015: http://www.mas.gov.sg/News-and-Publications/Consultation-Paper/2015/Policy-Consultation-on-Margin-Requirements-for-NonCentrally-Cleared-OTC-Derivatives.aspx

other fund management companies that are not subject to reporting obligations under section 125 of the SFA.

5.2 This temporary relief was provided to allow a more gradual phasing-in of the reporting start dates by capital market intermediaries while MAS reviewed how best to recalibrate the reporting obligations of non-banks FIs, while at the same time maintaining effective data coverage. As part of our review, MAS conducted a survey to gain a more in-depth understanding of the nature of non-bank FIs' OTC derivatives activities.

Reporting obligations only for active non-bank FIs in OTC derivatives

5.3 MAS conducted a survey on the types and volume of OTC derivatives booked and/or traded by non-bank FIs during the period 2013 to mid-2014. The survey results showed that the amount of managed assets, which was used as the basis for the temporary relief, may not always correspond to the level of OTC derivatives activity of an entity, and that the aggregate gross notional amount of OTC derivatives transactions was a better measure of the potential systemic risk posed by FIs to the OTC derivatives market. Our review also showed that OTC derivatives activity (by aggregate gross notional amount) among non-bank FIs is concentrated in 10% of non-bank FIs. As such, MAS is proposing a threshold of S$5 billion annual aggregate notional amount, which will subject these active non-bank FIs (including subsidiaries of banks incorporated in Singapore, insurers and holders of CMS licenses) to reporting requirements.

Exemptions for all Approved Trustees and Licensed Trust Companies

5.4 ATs are currently subject to reporting requirements, if they act as trustee for collective investment schemes ("CIS") managed by fund or REIT managers with managed assets of more than S$8 billion. LTCs, on the other hand, are not subject to reporting unless they become significant derivative holders, defined as entities with an aggregate gross notional amount of specified derivatives exceeding S$8 billion. However, in practice, ATs and LTCs face challenges in complying with the reporting requirements, as they largely perform administrative roles and do not make investment decisions. ATs and LTCs also do not possess the necessary information to report trades within two business days.

5.5 In consideration of the above, and in view that the trade data resides with the fund and REIT managers who are the investment decision makers for these CIS or trust assets, MAS is proposing to exempt both ATs and LTCs from the reporting requirements.

Exclusions for reporting of derivatives contracts transacted with retail investors

5.6 MAS also reviewed whether certain types of trades could be excluded from reporting, to increase the operational efficiencies for specified persons while not compromising the scope of data coverage. Some derivatives contracts are characterised by a high number of transactions with relatively small notional sizes, such as contracts for differences ("CFDs") or options on shares, generally offered by brokers to retail investors. In aggregate, the exposure of all derivatives transactions involving retail investors is low, posing low risk to the overall system.

5.7 MAS is therefore proposing to exclude brokers[4] and banks from having to report derivatives transactions where their counterparties are retail investors (i.e. non-accredited or non-institutional investors). For the purposes of risk monitoring and supervision, MAS would be able to obtain data on these transactions at the aggregate level, as part of our regulatory and supervisory regime.

Proper record keeping expected of all non-bank FIs

5.8 While certain non-bank FIs may be exempted from reporting, they should continue to ensure proper record keeping of their OTC derivatives activities, as MAS would still require entities excluded from reporting requirements to submit information regarding their trade activity on a periodic basis. This would ensure MAS continues to have sight over the OTC derivatives activities conducted by these entities. As mentioned in paragraph 5.7 above, we will require non-bank FIs to make periodic submissions of certain aggregated information relating to derivatives contracts. We will set out the format and frequency of these submissions in due course, as per the regulatory and supervisory regime for each class of FI.

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.

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.

[4] Holders of a Capital Markets Services licence to deal in capital market products.

6 Implementation Timeline

6.1 Comprehensive trade reporting data is pertinent to facilitate the implementation of other OTC derivative reforms (e.g. central clearing and margins for non-centrally cleared derivatives). Nevertheless, MAS notes that industry readiness in implementing reporting mechanisms varies.

New data fields

6.2 With regard to the proposed inclusion of new data fields to identify the booking location and the location of the trader desk (as discussed in paragraph 4.2) and the reporting of collateral information (as discussed in paragraph 4.3), MAS proposes to commence the reporting of these fields on 1 Jul 2016 and 1 Nov 2016 respectively.

New reporting phases for banks and merchant banks

6.3 To ensure MAS has derivative trade data across all the asset classes, MAS proposes to complete the implementation of reporting phases for banks and merchant banks across the remaining asset classes. Accordingly, MAS is proposing to require banks and merchant banks to commence reporting of commodity and equity derivatives contracts which are booked and traded in Singapore from 1 Nov 2016, thereby providing MAS access to 100% of data on trades booked and traded locally by banks in Singapore.

New reporting phases for non-bank FIs and SDHs

6.4 MAS intends to provide non-bank FIs adequate time to prepare for reporting obligations. MAS anticipates that a feasible arrangement would be to commence the next reporting phases for non-bank FIs from 1 Nov 2017, beginning with reporting of interest rates and credit derivatives contracts which are traded in Singapore. The final phase for the reporting of foreign exchange, commodity and equity derivatives by non-bank FIs could then commence from 1 Nov 2018.

6.5 In addition, MAS proposes to align the commencement schedule for significant derivatives holders, with the timelines for non-bank FIs.

6.6 To ensure a smooth transition for non-bank FIs, particularly for the existing requirements to report interest rate and credit derivatives contracts booked in Singapore, MAS will retain the current temporary relief provided to Asset Managers with managed assets of less than S$8 billion in place until the next reporting phase for non-bank FIs kicks in. This will run in parallel to the new exemption proposed in paragraph 5.3, and will cease to apply on 31 October 2016. The intention is to require only the following non-bank FIs to report interest rate and credit derivatives contracts booked in

Singapore, during the transition period between the issuance of the amendment regulations up until before the next reporting phase, currently proposed as 1 Nov 2017:

(a) all finance companies;
(b) Asset Managers with managed assets of more than S$8 billion <u>and</u> annual aggregate gross notional amount of specified derivatives contracts of more than S$5 billion; and
(c) all subsidiaries of banks incorporated in Singapore, insurers and holders of CMS licenses (other than Asset Managers), with annual aggregate gross notional amount of specified derivatives contracts of more than S$5 billion.

6.7 The proposed implementation schedule for the remaining reporting phases can be summarised as follows:

Date	**Reporting Phases**
1 Jul 2016	• Reporting of Booking Location and Trader Desk Location data fields by all specified persons.
1 Nov 2016	• Reporting of Equity Derivatives Contracts booked in Singapore and/or traded in Singapore by banks and merchant banks. • Reporting of Commodity Derivatives Contracts booked in Singapore and/or traded in Singapore by banks and merchant banks. • Reporting of Collateral data fields by all specified persons.
1 Nov 2017	• Reporting of Interest Rate Derivatives Contracts traded in Singapore by: o all finance companies; o subsidiaries of banks incorporated in Singapore, insurers and holders of CMS licenses, with annual aggregate gross notional amount of specified derivatives contracts of more than S$5 billion; and o all significant derivatives holders. • Reporting of Credit Derivatives Contracts traded in Singapore by: o all finance companies; o subsidiaries of banks incorporated in Singapore, insurers and holders of CMS licenses, with annual aggregate gross notional amount of specified

	derivatives contracts of more than S$5 billion; and ◦ all significant derivatives holders.
1 Nov 2018	• Reporting of Equity Derivatives Contracts booked in Singapore and/or traded in Singapore by: ◦ all finance companies; ◦ subsidiaries of banks incorporated in Singapore, insurers and holders of CMS licenses, with annual aggregate gross notional amount of specified derivatives contracts of more than S$5 billion; and ◦ all significant derivatives holders. • Reporting of Commodity Derivatives Contracts booked in Singapore and/or traded in Singapore by: ◦ all finance companies; ◦ subsidiaries of banks incorporated in Singapore, insurers and holders of CMS licenses, with annual aggregate gross notional amounts of specified derivatives contracts of more than S$5 billion; and ◦ all significant derivatives holders. • Reporting of Foreign Exchange Derivatives Contracts booked in Singapore and/or traded in Singapore by: ◦ all finance companies; ◦ subsidiaries of banks incorporated in Singapore, insurers and holders of CMS licenses, with annual aggregate gross notional amount of specified derivatives contracts of more than S$5 billion; and ◦ all significant derivatives holders.

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

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.

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.

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

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

Annex A

LIST OF QUESTIONS