



RESPONSE TO FEEDBACK RECEIVED – DRAFT REGULATIONS PURSUANT TO THE SECURITIES AND FUTURES ACT FOR THE REPORTING OF DERIVATIVES CONTRACTS

1 Introduction

1.1 On 26 June 2013, MAS issued a consultation paper inviting comments on the proposed Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013, pursuant to the Securities and Futures (Amendment) Act 2012 (Cap. 289) [“SF(A)A”]. The consultation was part of MAS’ move to regulate over-the-counter (“OTC”) derivatives. The consultation closed on 24 July 2013. The list of respondents can be found at Annex 1.

1.2 MAS thanks all respondents for their feedback. MAS has carefully considered the feedback received and where appropriate incorporated them into the [Securities and Futures \(Reporting of Derivatives Contracts\) Regulations 2013](#), issued on 30 October 2013. Comments of wider interest, together with MAS’ responses, are set out below.

2 Comments on Reporting of Derivatives Contracts

Reporting commencement date

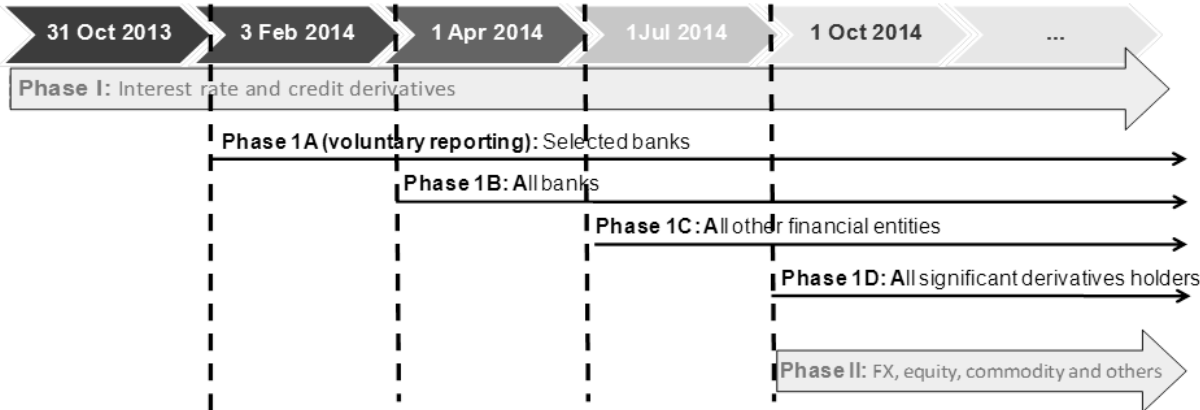
2.1 Respondents strongly urged MAS to provide a grace period for compliance for Phase I, as the industry may not be able to meet the proposed reporting commencement dates due to operational challenges. Firms generally require three to six months to prepare for reporting, which includes building connectivity to trade repositories (TRs), implementing technological infrastructure changes to their reporting systems, and conducting system testing. Furthermore, the industry faces challenges such as: i) resource constraints due to concurrent implementation of reporting obligations by several regimes and ii) limited support by TRs and middleware providers due to time constraints. Respondents highlighted that these challenges made it challenging to meet MAS’ proposed implementation timeline.

2.2 In addition, respondents also commented that the scope of the reporting requirements proposed by MAS may introduce additional complexity to the implementation of system changes. For example, they highlighted that a specified person may face difficulty in identifying derivatives contracts that are traded in Singapore (see response on “Definition of trading”). The industry is also still in the process of developing a workable solution to facilitate reporting of collateral information (see response on “Reporting of Collateral Information”). As such, respondents suggested that MAS implement a narrower scope of reporting requirements in the initial phase, or provide a longer grace period to phase in these reporting requirements. They also requested that MAS implement collateral reporting only after the industry has developed a suitable solution, and to align its implementation timeline with international developments.

MAS’ Response

2.3 MAS acknowledges the operational challenges faced by the industry, and will provide appropriate grace periods for compliance for each reporting phase, while ensuring that the reporting regime begins in a timely manner (refer to chart below).

2.4 With reference to the implementation timeline diagram below, the reporting regime will commence on 31 October 2013, starting with the reporting of interest rate and credit derivatives. While specified persons can comply with the reporting requirements upon the commencement of the reporting regime, they are not required to do so until their respective reporting commencement dates. The reporting commencement dates for banks, other financial entities, and significant derivatives holders are 1 April 2014, 1 July 2014, and 1 October 2014 respectively. The grace period is intended to allow specified persons sufficient time to resolve any technical issues or reporting errors. Reporting of other asset classes of derivatives contracts (including foreign exchange, equity and commodity derivatives contracts) will commence in Phase II, after October 2014.



2.5 MAS notes that some entities are better prepared to comply with the reporting requirements, and have indicated their preference to do so ahead of their reporting commencement dates.

Definition of trading

2.6 Several respondents sought clarification on the definition of “traded in Singapore” and requested that MAS provide greater clarity to ensure consistent understanding across the industry. Some respondents felt that it was unclear whether trades which are executed by traders located in Singapore but belonging to a trading desk located in a foreign jurisdiction, or vice versa, are within the required scope of transactions to be reported.

2.7 In addition, a number of respondents commented that traders could move between different locations due to secondments, making it difficult to track the execution location of the trades. They also suggested for MAS to align its trading nexus with other jurisdictions, so that the industry can implement a cost-effective and practical reporting arrangement across jurisdictions. Given that the introduction of the concept “traded in Singapore” adds complexity in the implementation of the system changes, they requested that MAS phase in the trading nexus at a later stage to allow them more time to customise their reporting systems.

MAS’ Response

2.8 In view of the respondents’ feedback, MAS has revised the definition of “traded in Singapore” to include trades which are executed by a trading desk or trader that is physically located in Singapore. MAS will provide further guidance in this regard to facilitate the reporting of derivatives contracts traded in Singapore.

2.9 MAS is also cognisant of the difficulties in implementing the trading nexus, and has provided an appropriate grace period in this regard.

Data fields

2.10 With regard to the data fields, respondents cited difficulties in reporting several fields relating to valuation and collateral information at this stage. Respondents also commented that the industry is in the midst of developing a suitable solution to facilitate reporting of collateral information. They urged MAS

to align the implementation of these data fields, and provide the industry time to customise their reporting infrastructures.

MAS' response

2.11 MAS notes the concerns raised by respondents, and will implement a narrower scope of data fields at this stage. MAS will take into consideration industry readiness and international developments before implementing the other data fields, such as those related to confirmation, mark-to-market value and collateral, in the later part of 2014.

Reporting timeframe

2.12 A number of respondents requested that the reporting timeframe be extended to T+2 (i.e. two business days following the execution, modification or termination of the specified derivatives contract), so as to facilitate reporting of cross-border trades which are executed after business hours, or pending allocation.

MAS' response

2.13 In view of the concerns raised, MAS will extend the reporting timeframe to T+2 (Singapore time) (i.e. information on specified derivatives to be reported within two business days after the execution, modification or termination of the specified derivatives contract).

Backloading

2.14 Some respondents commented that specified persons may not have captured information on the location of trading desks or traders previously; hence, they would not be able to retrospectively identify outstanding trades which were "traded in Singapore". As such, they requested that MAS impose the backloading requirement only on a booking basis.

2.15 In addition, a few respondents sought clarification on whether MAS allows all outstanding trades to be backloaded regardless of remaining maturity.

MAS' response

2.16 MAS notes that requiring backloading on a trading basis may not be practical for market participants, and is agreeable to require only trades which are booked in Singapore to be backloaded.

2.17 We also wish to clarify that over-reporting is permitted. A specified person can volunteer to report information beyond the required scope, and he is free to backload all outstanding trades regardless of maturity if he wishes to do so.

Privacy laws and confidentiality provisions

2.18 Most of the respondents strongly urged MAS to allow masking of counterparty information. They are concerned that specified persons could be in breach of legal restrictions (in the form of privacy laws, confidentiality provisions or blocking statutes) in jurisdictions where their counterparty is located in, when reporting counterparty information under MAS' reporting requirements.

2.19 With regard to the domestic confidentiality provisions¹, respondents welcomed MAS' consideration to make legislative amendments allowing banks to report customer information without breaching banking confidentiality. However, they were concerned that relevant entities could still be prohibited from reporting customer information without consent, if the legislative changes were effected only after the reporting commencement date, or if the legislative amendments are not sufficient to allow disclosure of customer information for backloaded trades. To accommodate both scenarios, they suggested that MAS allow customer information to be masked for transactions where customer consent is not obtained.

MAS' response

2.20 MAS recognises the potential conflicts between its reporting requirements and the foreign privacy laws or blocking statutes which might restrict or limit the disclosure of counterparty information. To address these conflicts, MAS will provide temporary exemptions to allow specified persons to mask counterparty information, in cases where they are prohibited by laws or requirements of recognised jurisdictions² from reporting such counterparty

¹ Section 47 of the Banking Act and section 49 of the Trust Companies Act

² Having regard to the ISDA letter to CFTC (dated 21 June 2013) and the CFTC no-action letter no. 13-41, MAS intends to prescribe France, Korea, Luxembourg, People's Republic of China, Switzerland, Taiwan, Belgium, India, Algeria, Singapore, Bahrain, Argentina, Hungary, Samoa, Austria, and Pakistan as recognised jurisdictions.

information. The masking exemption will expire on 31 October 2014, and specified persons would be required to unmask or report the counterparty information within two months thereafter. For the avoidance of doubt, MAS will not require trades to be unmasked retrospectively (i.e. transactions which have expired or are terminated before 31 October 2014 need not be unmasked).

2.21 MAS envisages that legislative changes would likely be made in due course to allow reporting requirements to override the confidentiality provision in the Banking Act. In the interim, relevant entities would be allowed to temporarily mask their customer information for reporting pursuant to MAS' regime.

2.22 MAS notes that the masking of counterparty information is an impediment to achieving the G20's objective of enhancing transparency in the OTC derivatives market. A masking exemption will provide a workable interim solution before the legislative changes are put in place.

Significant derivatives holder³ (SDH)

2.23 Several respondents sought clarification on the methodology for calculating the reporting thresholds.

2.24 A few of the respondents pointed out SDHs could be subject to undue reporting burden, if they are required to continue reporting any amendment, modification, variation or change to the information of all specified derivatives contracts that it had previously reported to the TRs after they cease to be SDHs. Moreover, the respondents pointed out that other specified persons are not subject to such ongoing reporting requirements, and SDHs may therefore be seen to be subject to stricter reporting requirements.

2.25 Another respondent requested that the notification period be extended to two months, citing that non-financial entities may require more time to finalise their quarter-end results due to the lack of a sophisticated accounting system.

MAS' response

2.26 With regard to the calculation of the reporting threshold, we note that a person would qualify as an SDH when either his aggregate gross notional amount

³ Non-financial specified person (NFSP) in the draft SF(RDC) has been renamed to significant derivatives holder (SDH) to better describe the nature of such persons.

of specified derivatives contracts booked in Singapore exceeds S\$8 billion, or when his aggregate gross notional amount of specified derivatives contracts traded in Singapore is greater than S\$8 billion.

2.27 MAS sees merit in implementing the reporting obligation in a manner which does not impose undue burden on smaller non-financial entities. In the same vein, MAS agrees to remove the ongoing reporting requirements imposed on SDHs, as we are of the view that the SDHs should not be subject to stricter requirements than other specified persons. The notification period for SDHs will also be extended to two months.

MONETARY AUTHORITY OF SINGAPORE

30 October 2013

ANNEX 1

LIST OF RESPONDENTS TO CONSULTATION PAPER ON DRAFT REGULATIONS PURSUANT TO THE SECURITIES AND FUTURES ACT FOR REPORTING OF DERIVATIVES CONTRACTS

1. Asia Capital Reinsurance Group Pte Ltd
2. The Association of Banks in Singapore
3. Bank of Singapore Ltd
4. BP Singapore Pte Ltd
5. Brightoil Petroleum (Singapore) Pte Ltd
6. China Citic Bank International Ltd
7. China Trust Bank
8. Christopher Chen
9. Citibank N.A., Singapore Branch
10. Citibank Singapore Ltd
11. Citicorp Investment Bank (Singapore) Ltd
12. Citigroup Global Markets Singapore Pte Ltd
13. Citigroup Global Markets Singapore Securities Pte Ltd
14. Daiwa Capital Markets
15. DBS Bank Ltd
16. The Depository Trust & Clearing Corporation
17. Deriv/SERV LLC
18. Deutsche Bank AG, Singapore Branch
19. Financial Product Markup Language (FpML)
20. Global Foreign Exchange Division of the Global Financial Markets Association
21. Great Eastern Life Assurance Co Ltd
22. IG Asia Pte Ltd
23. ING Bank N.V., Singapore Branch
24. International Swaps and Derivatives Association, Inc.
25. Investment Management Association of Singapore
26. Lion Global Investors Ltd
27. Mapletree Investments Pte Ltd
28. MarkitSERV
29. Maybank Singapore
30. Mizuho Bank Ltd

31. National Australia Bank, Singapore Branch
32. National Bank of Kuwait, Singapore Branch
33. Nordea Bank Finland Plc, Singapore Branch
34. OCBC Bank
35. Rabobank International, Singapore Branch
36. The Royal Bank of Scotland Plc
37. Shell International Eastern Trading Company
38. Shell Treasury Centre East Pte Ltd
39. Templeton Asset Management Ltd
40. UBS Global Asset Management (Singapore) Ltd
41. Wong Partnership LLP

*This list includes only the names of respondents who did not request that their submissions be kept confidential.