Recent Policy Developments in Financial Services

ACROSS THE POND

GLOBAL REGULATORY UPDATE – 21 JUNE, 2012

ASIA

Monetary Authority of Singapore

The MAS recently issued the first of a series of responses it will provide to address feedback received on its consultation for the regulation of OTC derivatives, originally published in mid-February. The report focuses on feedback it received on its proposed regulatory regime for trade repositories and clearing facilities. It is expected that the MAS will soon issue its legislative framework to support the TR regime.

What is Asia talking about?

Japanese PM reshuffles Cabinet – Prime Minister Noda recently replaced the Financial Services Minister, Shozaburo Jimi, though this is unlikely to usher in any change in JFSA policy.

China cuts interest rates – In an attempt to address concerns of an economic slowdown, the central bank of China recently announced a 25 point cut in short term interest rates. The announcement came shortly after China indicated that it was delaying the implementation of higher bank capital requirements.

EUROPE

Council of the EU

- The Danish Presidency has reached a compromise deal on the Capital Requirements Directive IV, with political agreement expected by early fall.
- Progress on MiFID/MiFIR is slow but steady and the Danes will soon prepare a report providing guidance to the incoming Cypriot Presidency. The main topics discussed include third country issues, high-frequency trading and market structure (in particular the new trading category of Organized Trading Facility-OTFs).
- The technical translations of EMIR are continuing and the final legislative text is expected to be released by the end of June.

European Parliament

- MEPs have submitted over 2,000 amendments to the original draft report on MiFID/MiFIR and will discuss them on June 18, aiming to vote on the draft parliamentary report by July 9. However, the sheer volume and controversial nature of some of the amendments could result in delays.

European Commission/European Securities Market Authority (ESMA)

- The European Commission presented its long-overdue framework on bank recovery and resolution, which outlines initiatives for recovery and resolution planning, funding the resolution of cross-border European banks, a possible merging of deposit guarantee schemes with resolution funds, as well as proposals for a bail-in regime whereby some bank creditors will have debt converted to equity in order to recapitalize a failing institution. The proposals will now be discussed by Parliament and Member States with the aim of having an agreement by mid/late 2013, with a long term run-in time of January 1, 2018.
- ESMA is working on the draft regulatory standards on EMIR and will issue its consultation by the end of June. The standards are expected to be ready by September 30 before being sent to the Commission for review and approval by Parliament and Council in early 2013.

What is 'Brussels' talking about?

A Make or break moment for the Eurozone? Following a whirlwind of developments, including a bailout agreement for Spanish banks, the Irish 'Yes' in its Fiscal Treaty referendum and the outcome of French and Greek national elections, Europe is set to make key decisions on its political future in the coming weeks. The EU Summit on June 28-29 will discuss a Growth Package to complement the austerity measures implemented across Europe, as well as the situation in Spain, Greece, Ireland and Portugal. Despite Germany's opposition, political proposals for more EU integration, including Eurobonds and an enhanced role for the ECB are gaining ground.

Greek and Spanish concerns: Greek pro-bailout parties have successfully formed a joint government, but Athens is not out of the woods yet. Greek conservative party head Antonis Samaras was sworn in as prime minister at the helm of a three-party coalition that will uphold the bailout commitments. The coalition is fragile and is likely to seek a renegotiation of the terms of the bailout, leading perhaps to a third version of a bailout package for Greece. The Spanish bank bailout has been a catalyst of a process that may end up in renegotiation of existing bailout packages (Greece, Portugal, Ireland) coupled with new bailout requests (Cyprus, Italy) and further EU integration in the form of a pan-EU banking union. The proposed banking union would be built on four pillars: a common deposit guarantee scheme; a common resolution authority and resolution fund; a single EU supervisor; and a single rule book for prudential supervision of all banks.

IN-FOCUS

TARGET2-Securities (T2S): *T2S is a project of the Eurosystem (Eurozone central banks) that aims to provide a common IT platform for delivering harmonized Delivery versus Payment (DvP) settlement in central bank money for securities. T2S will not be a CSD; rather, it will serve only as a technical platform for providing settlement services to those CSDs which choose to participate with CSDs responsible for opening and managing the accounts of their clients, as well as for providing various services related to settlement. In May 2012 a group of nine CSDs including German Clearstream, Spanish Iberclear and Italian Monte Titoli signed the T2S Framework Agreement. The platform will be built, owned and operated by the ECB and is expected to be operational by mid-2015.*

UNITED STATES

Securities and Exchange Commission

- The SEC recently released a statement outlining the proposed sequencing of compliance dates for new Dodd-Frank derivatives rules. Though the release does not offer specific compliance dates, it divides the remaining rulemakings into five broad categories and provides a general sequencing for the finalization of rules. According to the release, the five categories and the sequencing of rule compliance are:

(1) Definitions for SBS, SBS agreement, mixed swap, SBS dealer, major SBS participant, and eligible contract participant, and rules regarding the treatment of cross-border SBS transactions;

(2) Rules for registration and regulation of SDRs, the reporting of SBS transaction data to SDRs, and the public dissemination of SBS transaction data;

(3) Rules regarding the mandatory clearing process of SBS transactions, clearing agency standards, and the end-user exception from mandatory clearing;

(4) Rules regarding the registration and regulation of SBS dealers and major SBS participants; and

(5) Rules regarding the mandatory trading of SBS transactions, including rules regarding the registration and regulation of security-based swap execution facilities (SEFs).

Commodity Futures Trading Commission

- The CFTC released its Interpretive Guidance on the indemnification provisions, and although Commissioners Sommers and O'Malia voted to approve the Guidance, each publicly announced their support for a legislative solution. The final guidance is expected to be released June 21.

The Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation

- The OCC and FDIC voted to adopt three proposals designed to implement the Basel III capital requirements, originally proposed by the Federal Reserve on June 7. The new rules will be phased-in between 2013 and 2019.

Congressional Oversight

- The Senate Banking Committee held a series of hearings that focused on the implementation of derivatives rules, though the hearings served primarily as a platform for an examination of the losses incurred by JP Morgan Chase's Chief Investment Office in London. The lead witness for the final hearing was Jamie Dimon, JP's CEO, who stated that he could not publically defend the trades, while insisting that they stemmed from legitimate hedging activities. Dimon also testified before the House Financial Services Committee on June 19.
- The Senate Appropriations Committee and the House Appropriations Committee are set for a showdown after they forwarded two very different budget proposals for financial services regulators. A final compromise on the budget is not expected before late summer.

What is Washington Talking About?

JP Morgan & Dodd-Frank – The JP Morgan issue continues to dominate the legislative agenda on financial services in Congress and, for the moment, is crowding out consideration of other matters related to financial reform. Coupled with the approaching 2012 elections, these factors have the potential to stall progress on advancing technical corrections (such as indemnification) or other legislative changes that may be perceived as watering down the Dodd-Frank Act until the seating of a new Congress next year.

Los Cabos – After a weekend with all eyes on Greece, the attention quickly shifted to Los Cabos, Mexico, where leaders from the G20 met to discuss the implementation of Basel III, global derivatives reform and, most importantly, the ongoing crisis in the Eurozone.