Annex

Interim reporting requirements for OTC derivative transactions

Introduction

1. This Annex sets out the requirements issued by the Monetary Authority under section 63(2) of the Banking Ordinance for the interim reporting of over-the-counter (OTC) derivative transactions to the local trade repository operated by the HKMA (HKMA-TR). The interim reporting requirements will take effect from 5 August 2013 and will remain in effect until the relevant legislation implementing the local regulatory framework for the OTC derivative market comes into force.

Application

2. The interim reporting requirements are applicable to all licensed banks[1] (also referred to as reporting banks in this Annex).

Implementation

3. The implementation of the interim reporting requirements from 5 August 2013 is subject to the transitional arrangements provided for under paragraphs 22 to 30 below.

Scope of Reporting

4. Only OTC derivative transactions that fall within the scope of "reportable transactions" described in paragraphs 5 to 9 below are required to be reported to the HKMA-TR.

5. Reportable transactions are derivative transactions that meet the following criteria:

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[1] These refer to companies authorized by the Monetary Authority under section 16 of the Banking Ordinance to carry on banking business.

(i) the transaction is traded over-the-counter (i.e. exchange traded transactions are excluded) or is novated from an OTC transaction to a central counterparty (CCP);

(ii) the transaction is an interest rate swap or foreign exchange (FX) non-deliverable forward supported by the HKMA-TR[2];

(iii) the transaction is conducted by a counterparty which is a licensed bank, and is booked in its Hong Kong office (in the case of a locally incorporated bank) or in its Hong Kong branch (in the case of an overseas incorporated bank);

(iv) the other counterparty to the transaction is -

(a) a licensed bank, regardless of the location of the office or branch of the bank in which the transaction is booked; or

(b) if the transaction is novated from an OTC transaction to a CCP, that CCP provided that the other counterparty to the OTC transaction, before novation to the CCP, is a licensed bank; and

(v) the transaction is traded before, and remains outstanding on, 5 August 2013 (i.e. the implementation date of the interim reporting requirements) or the transaction is traded on or after 5 August 2013.

6. A licensed bank will have an obligation to report a reportable transaction only if the transaction is booked in its Hong Kong office or Hong Kong branch, as the case may be. If a reportable transaction is, for example, entered into between the Hong Kong Branch of Bank X and the UK Head Office of Bank Y, Bank X falls within paragraph 5(iii) while Bank Y falls within paragraph 5(iv). The transaction is reportable by Bank X but not by

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2 Only transactions in plain vanilla single currency interest rate swaps (including fixed against floating, basis swaps and overnight indexed swaps) and FX non-deliverable forwards are reportable. To avoid doubt, cross currency swaps are not reportable at this stage. Structured swaps with embedded options or any other derivative features (e.g. cancellable swaps, amortising / accreting swaps, etc.) are excluded. The list of interest rate swaps and FX non-deliverable forwards supported by the Reporting Service of the HKMA-TR is contained in the HKMA-TR Reporting Service Product Scope, which can be found in Annex 1 of the *OTC Derivatives Trade Repository Reporting Service Reference Manual.*

Bank Y. If however the transaction is booked in the Hong Kong Branch of Bank Y, the transaction is also reportable by Bank Y.

7. The transactions referred to in paragraph 5(iii) above include those that are booked in the Hong Kong office / branch of a licensed bank as a result of the transfer of booking (i.e. through novation) of contracts entered into with external parties by the head office or overseas branches of the bank. If such novated transactions are reportable (i.e. other criteria set out in paragraph 5 above are also met after novation), the reporting bank should report the external counterparty (another licensed bank) who has originally entered into the contract with the bank, instead of the office / branch from which the contract is transferred, as its counterparty to the transaction. In other words, a novated transaction that does not involve any external counterparty, is not reportable.

8. Reportable transactions do not include interbranch transactions (except those that fall within paragraph 7 above) and intrabranch transactions (e.g. transactions between different desks of the treasury function). An interbranch transaction refers to a principal-to-principal transaction (or a back-to-back transaction) conducted between different branches of the same institution, including any transaction undertaken to transfer the risk of the transaction (or a portfolio of transactions) from one branch to another. Appendix 1 sets out some examples illustrating the reporting obligations in relation to interbranch and novation transactions.

9. To avoid doubt, reportable transactions -

   (i) exclude "spot" FX transactions, which refer in this context to FX transactions that are settled via an actual delivery of the relevant currencies within two business days;

   (ii) exclude, from the perspective of a reporting bank, those transactions booked in its local or overseas subsidiaries (unless those subsidiaries are licensed banks and the reporting criteria in this Annex are met) and overseas branches; and

(iii) include, in the case of reportable transactions which are novated for central clearing, those new transactions entered into by reporting banks with CCPs (and where the other counterparties to the transactions before novation are licensed banks)[3].

Manner of Reporting

10. Reporting banks should refer to the *OTC Derivatives Trade Repository Reporting Service Reference Manual, Operating Procedures for Hong Kong Trade Repository Reporting Service, Hong Kong Trade Repository Administration and Interface Development Guide – Reporting Service* and other relevant documents issued by the HKMA-TR for the mode and format of reporting and the detailed reporting requirements. Unless otherwise stated by the HKMA (or the HKMA-TR), the relevant mode and format of reporting and the detailed reporting requirements will remain applicable when the mandatory reporting requirements are implemented under the forthcoming regulatory regime for OTC derivative transactions.

11. A reporting bank can report to the HKMA-TR directly or through an agent. Banks intending to report indirectly have to nominate their reporting agents to the HKMA-TR. Indirect reporting is acceptable provided that the reporting agent can satisfy the data submission requirements and any other applicable requirements issued by the HKMA-TR. The reporting agent can be a third party service vendor, another trade repository or another reporting bank, including the counterparty bank in the transaction.

12. All licensed banks must join the HKMA-TR as a member (HKMA-TR member) before 5 August 2013 (i.e. the implementation date of the interim reporting requirements), regardless of whether they have any reportable transaction[4] and whether they adopt direct or indirect reporting. An application for HKMA-TR membership must be made in writing to the

[3] If the current system design of a reporting bank cannot identify whether a centrally cleared trade is novated from a licensed bank or not, the bank may optionally report during the interim reporting period such trades even if the original counterparty to the trade may not be a licensed bank. Nevertheless, it is the responsibility of the reporting bank to assess any risk involved in reporting more trades than required in this Annex.

[4] It is not always the case that a licensed bank will have an obligation to report under the interim reporting requirements. For example, a foreign bank may not incur reporting obligations if it always conducts OTC derivative transactions through its Hong Kong branch and books the transactions in other overseas branches.

HKMA-TR. Prior to becoming an HKMA-TR member, each successful applicant is required to enter into a reporting service agreement with the HKMA. The forms and procedures for enrolment as an HKMA-TR member can be found in the *OTC Derivatives Trade Repository Reporting Service Reference Manual.*

13. The reporting service agreement signed by each licensed bank that becomes an HKMA-TR member with the HKMA contains a clause providing consent from the bank to the reporting of trade data to the HKMA-TR by its counterparties which are also licensed banks. This consent is essential to alleviate any potential concern on data confidentiality from bank counterparties, which may need to report trade data to the HKMA-TR relating to other bank counterparties that do not themselves have any such reporting obligation under the interim reporting requirements (see footnote 3). When the legislation for regulation of OTC derivative transactions comes into force, the full scope of mandatory reporting requirements will be implemented, in which case it will most probably be necessary, in any event, for all licensed banks to become HKMA-TR members.

14. Since reporting has to be made to the HKMA-TR by electronic means, the HKMA-TR members are required to set up system linkage and conduct user tests with the HKMA-TR. The user requirements and procedures for setting up system linkage with the HKMA-TR can be found in the *OTC Derivatives Trade Repository Reporting Service Reference Manual, Operating procedures for Hong Kong Trade Repository Reporting Service, Hong Kong Trade Repository Administration and Interface Development Guide – Reporting Service* and other relevant documents issued by the HKMA-TR. Reporting banks must complete the user tests to the satisfaction of the HKMA-TR before they will be accepted for reporting.

15. The HKMA-TR has designed specific templates[5] for reporting the details of a reportable transaction. A reporting bank must complete all the fields designated as mandatory in the templates, which primarily relate to the key

[5] Specific reporting templates are specified in *Hong Kong Trade Repository Administration and Interface Development Guide – Reporting Service*, which can be downloaded via the following web page: http://www.hkma.gov.hk/eng/key-functions/international-financial-centre/infrastructure/otc-derivatives-trade-repository.shtml

economic terms of a transaction and information essential for administrative purposes. Reporting of other fields can be done on a best effort basis. A list of the mandatory fields on the templates for reporting transactional data is set out in Section A of Appendix 2 for reference.

Reportable events

16. Subject to the requirements on backloading (set out in paragraphs 22 to 30 below), reporting to the HKMA-TR is compulsory -

    (i) when a reportable transaction is booked in the Hong Kong office / branch of a reporting bank for the first time; and

    (ii) whenever there are subsequent reportable business events until the transaction is fully terminated (which includes termination due to novation). A list of the reportable business events is set out in Section B of Appendix 2 for reference.

17. A reporting bank may report changes in the economic details of a reportable transaction by submitting amendments to update the transaction records of the HKMA-TR. Alternatively, the bank may update the records of the HKMA-TR by submitting specific templates designated for reporting individual business events.

18. Reportable business events can be reported by adopting either a life cycle approach or a snapshot approach. Under the life cycle approach, each business event will be reported according the T+2 reporting timeline referred to in paragraph 20 below. Under the snapshot approach, the day-end position pertaining to a reportable transaction will be submitted according to the T+2 timeline in a single report reflecting the net effect of all business events that happened on the same day.

19. After an original trade is novated for central clearing, the reporting bank should report business events with reference to the new trade entered into by the bank with the CCP concerned, and there is no need to trace back to the original trade. This recognises that once the original trade is novated for central clearing, the active record of the original trade will be removed

from the reporting bank's computer system, making it difficult to identify the original trade with which a business event is associated.

Timing of reporting

20. To facilitate the reporting of cross-border transactions, a reportable transaction, including where appropriate any subsequent business events, should be reported to the HKMA-TR within two business days from the date of transaction / event (i.e. on a T+2[6] basis). For the purposes of this reporting requirement, Saturdays, Sundays and general holidays under Hong Kong law do not count as business days. The HKMA-TR is however always available to receive reports, including on general holidays.

21. Reporting is not required if a reportable transaction that has yet to be reported to the HKMA-TR is cancelled or fully terminated within the T+2 reporting timeline. This however does not apply to the cancellation or full termination of a transaction for the sake of subjecting the transaction to central clearing. In such cases, the original reportable transaction pending central clearing (and the business events arising from central clearing) should all be reported according to the T+2 reporting timeline, unless the transaction is cancelled or fully terminated before it is reported to the HKMA-TR within the T+2 timeline.

Transitional arrangements

22. To enable reporting banks to have sufficient time to prepare for reporting -

(i) an approximately four-month grace period (i.e. from 5 August 2013 to 8 December 2013) will be allowed for setting up system linkage and reporting channels with the HKMA-TR; and

(ii) an approximately six-month grace period (inclusive of the grace period referred to in paragraph 22(i) above) (i.e. from 5 August 2013 to 4 February 2014) will be allowed for completing any

[6] The cut-off time for T+2 reporting is 11:59pm Hong Kong Time. The submission of reports for any reportable transaction / event after the cut-off time is regarded as late reporting.

backloading[7] or reporting of reportable transactions entered into on or before 8 December 2013 (i.e. the expiry of the grace period referred to in paragraph 22(i) above).

23. Reporting banks should start the reporting to the HKMA-TR of reportable transactions (including any post-trade business events) entered into on and after 9 December 2013[8] (i.e. after the expiry of the grace period referred to in paragraph 22(ii) above) according to the T+2 reporting timeline.

24. Under the transitional arrangements, reporting banks should submit trade reports to the HKMA-TR in respect of reportable transactions entered into (i) before 5 August 2013 and which remains outstanding at the day-end of 5 August 2013 and (ii) between 5 August 2013 and 8 December 2013, no later than 4 February 2014 (i.e. the expiry of the grace period referred to in paragraph 22(ii) above), unless the transactions have already matured or been fully terminated on the date of reporting to the HKMA-TR.

25. For trade reports submitted between 5 August 2013 and 8 December 2013 in respect of transactions referred to in paragraph 24 above, reporting banks are only required to include the trade positions as of the reporting date only. In other words, there is no need to report business events that occurred before the reporting date for these transactions.

26. For trade reports submitted between 9 December 2013 and 4 February 2014 in respect of transactions referred to in paragraph 24 above, reporting banks are required to include both the trade positions as of 9 December 2013 and all reportable business events subsequent to 9 December 2013 up to the reporting date.

27. The key difference in the reporting requirements set out in paragraphs 25 and 26 above is that the reporting of historical business events is not required during the grace period allowed for system set-up and linkage with the HKMA-TR (i.e. between 5 August 2013 and 8 December 2013),

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[7] Backloading refers to the reporting of reportable transactions entered into by a reporting bank before the implementation date (i.e. 5 August 2013) but which remain outstanding on that date.

[8] To allow system changes to be conducted over the weekend, the first Monday after the end of the approximately four-month grace period (i.e. 9 December 2013) is chosen as the reporting "start date" for reportable transactions not covered by the transitional arrangements.

but such reporting is required for reports submitted after the end of the grace period (i.e. on and after 9 December 2013).

28. The reporting of business events should be made in a chronological order. These business events refer, where applicable, to those set out in Section B of Appendix 2, including those relating to central clearing.

29. Once a transaction is backloaded / reported, any subsequent business events should be reported on the normal T+2 reporting basis.

30. A table summarising the transitional arrangements is set out in Appendix 3.

31. If a reporting bank encounters any major practical difficulty in meeting the interim reporting requirements according to the implementation timeline mentioned above, the bank may approach its usual contact at the HKMA to apply for an extension of the grace period. Such applications will be considered on a case-by-case basis, and should be supported by valid justifications.

Reporting error amendment

32. Guidance on reporting error amendment can be found in Appendix 4.

Non-compliance with reporting requirements

33. If a licensed bank is found to have breached the interim reporting requirements, the HKMA will look into the circumstances leading to the non-compliance on a case-by-case basis, and consider whether any supervisory action should be taken.

Technical support

34. Enquiries relating to technical aspects of the reporting requirements can be forwarded to the HKMA-TR by:

- telephone: (852) 8100 3115
- facsimile: (852) 2878 1679
- e-mail: hktr@hkma.gov.hk