

24 July 2013

Macroeconomic Surveillance Department
Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117

Submitted to derivatives@mas.gov.sg

Re: **Draft Regulations Pursuant to the Securities and Futures Act for Reporting of Derivatives Contracts**

Dear Sir/Madam:

Markit is pleased to submit the following comments to the Monetary Authority of Singapore (“**MAS**”) in response to its Consultation Paper on *Draft Regulations Pursuant to the Securities and Futures Act for Reporting of Derivatives Contracts* (the “**Consultation Paper**” or the “**CP**”).¹

Introduction

Markit² is a provider of financial information services to the global financial markets, offering independent data, valuations, risk analytics, as well as processing services across regions, asset classes and financial instruments. Our products and services are used by a large number of market participants to reduce risk, increase transparency, and improve the operational efficiency in their financial markets activities.

Most of Markit’s processing services are provided by MarkitSERV,³ a company that offers confirmation, connectivity, and reporting services to the global OTC derivatives markets, making it easier for participants in these markets to interact with each other. Specifically, MarkitSERV provides trade processing, confirmation, matching, and reconciliation services for OTC derivatives across regions and asset classes, as well as universal middleware connectivity for downstream processing such as clearing and reporting. Such services, which are offered also by various other providers, are widely used by participants in these markets today and are recognized as tools to increase efficiency, reduce cost, and secure legal certainty. With over 2,500 firms globally using the MarkitSERV platforms, including agents for over 26,000 buy-side fund entities, our legal, operational, and technological infrastructure plays an important role in supporting the OTC derivatives markets in the Asia-Pacific region, North America, and Europe. In 2012, over 20 million OTC derivative transaction processing events were processed using MarkitSERV.

Markit has a substantial local presence in Singapore with currently more than 110 employees. Our MarkitSERV platforms have supported a large and rising number of local market participants in Singapore with confirmation services for many years. We have actively worked with SGX and the relevant

¹ Monetary Authority of Singapore Consultation Paper: “Draft Regulations Pursuant to the Securities and Futures Act of Derivatives Contracts.” June 2013.

² Markit is a financial information services company with over 3,000 employees in Europe, North America, and Asia Pacific. The company provides independent data, valuations and processing services for financial products across asset classes in order to reduce risk and improve operational efficiency. Please see www.markit.com for additional information.

³ MarkitSERV, a wholly owned subsidiary of Markit Group Limited, provides a single gateway for OTC derivatives trade processing. The company offers trade processing, confirmation, matching, and reconciliation services across regions and asset classes, including interest rate, credit, equity, and foreign exchange derivatives. MarkitSERV also connects dealers and buy-side institutions to trade execution venues, CCPs, and trade repositories. Please see www.markitserv.com for additional information.

stakeholders in preparing for the introduction of central clearing of OTC derivatives in Singapore. Specifically, we dedicated substantial resources to establishing the necessary connectivity that enabled the clearing of interest rate derivatives from October 2010 and of NDFs from October 2011.

Markit has been actively and constructively engaged in the discussion regarding regulatory reform of financial markets. We regularly provide regulatory authorities with our insights on current market practice, for example in relation to the confirmation of derivative transactions, efficient means of reporting transactions to Trade Repositories, clearing connectivity, or portfolio reconciliation practices. We have also advised regulatory bodies on approaches to enable timely and cost-effective implementation of newly established requirements, for example through the use of multi-layered phase-in or by providing participants with a choice of means for satisfying regulatory requirements. Additionally, we work closely with the industry and other relevant third-party providers to ensure adequate preparation, testing and data loading. Over the last several years, Markit has submitted over 80 comment letters⁴ to regulatory authorities around the world and we participated in numerous roundtables.

We welcome the publication of MAS' CP on the reporting of derivatives contracts and we appreciate the opportunity to provide MAS with our comments.

General comments

Based on significant development work over the last several years, MarkitSERV today provides market participants with a universal solution for compliance with their regulatory and real-time reporting obligations based on its established connectivity between counterparties, execution venues, clearing houses and Trade Repositories (“**TRs**”). Many major derivative dealers use MarkitSERV to comply with their Dodd Frank reporting obligations⁵ and all of them rely on MarkitSERV to meet their ODRF reporting requirements for interest rate, credit and equity derivatives.

In our previous comment letters to MAS⁶ we have supported the pragmatic approach that it has taken in designing a regulatory regime for OTC derivatives in Singapore and we recommended that MAS follow several principles when implementing such requirements.⁷ We also commend MAS for recognizing the global nature of the OTC derivatives markets⁸ and agree that it should aim for the local requirements in Singapore to be consistent with reporting regimes for OTC derivative transactions that are established in other jurisdictions. This is because international harmonization of regulatory requirements will be crucial to enable a timely and cost effective implementation of the relevant G20 commitments around the globe.

That said, we believe that the implementation of the reporting requirements in Singapore as proposed by MAS might prove to be challenging. This is not only because similar reporting requirements are scheduled to be implemented in several other jurisdictions over the coming 6 to 9 months but also because we expect many firms will have difficulties to comply with several elements of MAS' regime. We therefore respectfully

⁴ This number includes responses that have been submitted by MarkitSERV.

⁵ Real Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 (Jan. 9, 2012); Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012); and Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 Fed. Reg. 35200 (June 12, 2012).

⁶ MAS Consultation Paper II on Proposed Amendments to the Securities and Futures Act on Regulation of OTC Derivatives. Markit letter to MAS regarding consultation paper (31 August 2012) available [here](#). MAS Consultation Paper on Proposed Regulation of OTC Derivatives. Markit letter to MAS regarding consultation paper (26 March 2012) available [here](#).

⁷ Firstly, the reporting rules should provide counterparties with sufficient flexibility to simplify the task of reporting to TRs as much as possible. Secondly, any reporting requirements should take into account the market practices that have been established in the global OTC derivatives markets over the years and permit that, where appropriate, such practices can be used to satisfy the newly created regulatory requirements. By following these principles, MAS will not only enable a timely implementation but it will also help avoiding the creation of unnecessary cost.

⁸ “As some of these objectives require MAS to have access to data on derivatives contracts that are traded in but not necessarily booked in Singapore, MAS proposes to require derivatives contracts which are traded in Singapore and/or booked in Singapore by specified persons to be reported to a licensed trade repository.” (“LTR”) or licensed foreign trade repository (“LFTR”). MAS CP: Specified Derivatives Contracts.

suggest some modifications to MAS' proposals that, we believe, would help enabling a timely and orderly implementation of the reporting regime in Singapore.

(A) Specified Derivatives Contracts - Backloading of outstanding derivatives contracts

MAS proposed to require derivatives contracts that are traded in Singapore and/or booked in Singapore by specified persons to be reported to a licensed TR or licensed foreign TR.⁹ It would also require the backloading of outstanding derivative contracts with a remaining maturity of not less than one year into a licensed TR or licensed foreign TR within 6 months from the relevant reporting start date.¹⁰

Our experience with the reporting of “historical swaps”, or backloading, in other jurisdictions¹¹ has shown that such requirements, if not appropriately designed, can create significant challenges. We therefore commend MAS for taking a pragmatic approach to the backloading of outstanding derivatives contracts by not requiring the backloading of contracts that have already expired. We also generally agree that limiting the backloading to contracts with a certain minimum maturity seems to be a sensible measure to reducing the burden of this requirement.¹² However, we expect that some firms might find it challenging to sub-divide their outstanding derivatives transactions into different maturity categories. We therefore encourage MAS to allow firms to report *all* of their relevant derivatives transactions that are outstanding on the reporting start date, i.e. including those that have maturities shorter than 1 year, if they wanted to do so.¹³

We further believe that market participants should be provided with sufficient time to establish the necessary capabilities and procedures for the backloading of derivatives contracts. Our experience has shown that agreeing on some of the required fields, such as an UTI, can take a significant amount of time for historic trades. Also, it might well be that the nature and the contents of the reporting requirements in Singapore evolve over several months before they reach their final state.¹⁴ We therefore recommend for MAS to provide market participants with some more time to complete the backloading, for example 12 months. Finally, we support MAS' approach to phasing-in the backloading requirement by asset class, with the most standardised products (i.e. credit and interest rate derivatives) to be backloaded prior to the other asset classes.¹⁵

(B) Non-Financial Specified Person - Reporting Threshold

We commend MAS for its stated goal to design the reporting obligation as such that it does not impose an undue burden on smaller non-financial entities. To achieve this objective, MAS proposed to subject nonfinancial specified persons (“*NFSPs*”) to the reporting obligation only when their aggregate gross notional amount of specified derivatives contracts traded or booked in Singapore exceeds a specified “reporting threshold”.¹⁶

We generally believe that the use of a threshold amount to determine whether a reporting obligation should apply to a counterparty is sensible. However, we encourage MAS to clarify whether “threshold amount”¹⁷ refers to the total notional amount of derivatives contracts outstanding at a specific point in time or to the total activity over a period of time. Further, we believe that market participants will find it challenging to generate the relevant specific details of derivatives contracts that they executed in the past that they will need for the calculation of such threshold. Specifically, based on the information that is typically stored in

⁹ MAS CP (A) Specified Derivatives Contracts, par. 3.

¹⁰ MAS CP (A) Specified Derivatives Contracts, par. 4.

¹¹ For example by the CFTC. See Swap Data Recordkeeping and Reporting: Pre-Enactment and Transition Swaps, 77 Fed. Reg. 35200 (June 12, 2012)

¹² MAS CP, Annex: First Schedule – Specified Derivatives Contracts.

¹³ This would result in “over-reporting”, or more information being captured in TRs than would have been the case otherwise.

¹⁴ Please see our below comments on data fields for details of this additional level of phasing-in.

¹⁵ Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transitions Swaps. 77 Fed. Reg. 35200 (12 June 2012).

¹⁶ MAS CP (B) Non-Financial Specified Person, par. 5.

¹⁷ “The proposed reporting threshold is S\$8 billion.” MAS CP (B) Non-Financial Specified Person, par. 5.

their systems, many counterparties will not be in a position to determine whether a transaction was “traded” in Singapore.

MAS also proposed to require an NFSP to “continue reporting any amendment, modification, variation or change to the information of all specified derivatives contracts that it had previously reported to the LTR or LFTR, even after it has ceased to be subject to the reporting obligation.”¹⁸ We respectfully question the appropriateness and usefulness of such ongoing reporting requirement given that the threshold is used to identify those counterparties whose derivatives notional amounts are significant enough to be required to report.¹⁹ We therefore recommend that, once an NFSP’s relevant notional amount of outstanding derivatives transactions has fallen below the threshold for four consecutive quarters, it would no longer need to report any updates to its contracts to a TR.²⁰

(C) Information to be Reported

Data aggregation standards

MAS sought “as far as possible to adopt the guidelines set out by the Committee on Payment and Settlement Systems and the International Organization of Securities Commissions (CPSS-IOSCO) and review the scope of information to be collected by other major jurisdictions.”²¹ We agree with MAS that there should be international consistency of the data fields that are reported to TRs and we therefore welcome MAS’ proposal to make use of international data standards to the extent possible.²² We believe that such approach will enable TRs to more easily and accurately aggregate datasets and provide information to regulatory authorities that is relevant for various purposes, be it the monitoring of systemic risk or the detection of insider trading or market abuse.

In this context, MAS proposed to require specified persons to report, where available, (i) Legal Entity Identifiers (“LEIs”), (ii) Universal Transaction Identifiers (“UTIs”), and (iii) Universal Product Identifiers (“UPIs”).²³ We agree with MAS that the use of these specific identifiers that have been (or are expected to be) adopted globally should be encouraged. However, recent experience has shown that, for a variety of reasons, industry participants might agree on using alternative versions of these identifiers. Some of these alternatives might be used just for an interim period while others could be identified as the most appropriate solution for specific jurisdictions or asset classes.

We therefore recommend that MAS also allow for the use of other standards where this was appropriate. Specifically, we suggest that MAS only refer to a high level taxonomy and require that “relevant identifiers for counterparties, the transaction, or the product that have been agreed upon for reporting purposes (UTI, LEI, and UPI where they have been widely adopted) shall be reported to TRs”.²⁴

Domestic confidentiality provision

¹⁸ MAS CP (B) Non-Financial Specified Person, par. 6.

¹⁹ Imagine a situation where a firm, after the total notional of its outstanding positions has fallen below the threshold, only holds one remaining contract with a small notional amount but a long remaining maturity. We do not believe that it would be appropriate or necessary to require the reporting of any updates for such contract for many years, as the cost of reporting would significantly outweigh any benefit of receiving updates.

²⁰ Further, firms should be required to remove those previously reported trades from the TR to avoid outdated information languishing in the TR.

²¹ MAS CP (C) Information to be Reported, par. 7.

²² “MAS supports international initiatives to adopt unique identifiers to facilitate data aggregation.” MAS CP: Data aggregation standards.

²³ MAS CP (C) Information to be Reported, par. 10.: Data aggregation standards.

²⁴ Specifically, given the current status of the various identifier-related initiatives, MAS’ regime should result in the following outcome: a) the use of UTIs as transaction identifiers would be required from the start, b) the use of LEIs as entity identifiers would be required when adopted while alternative entity identifiers could be reported in the interim, and c) the use of the industry-agreed high level ISDA product taxonomy as product identifiers would be permitted unless a UPI is subsequently created and adopted on a global basis.

We acknowledge that the provision of a specific client consent can, in principle, enable the reporting of derivatives transactions to TRs as proposed by MAS. However, MAS should note that the existence of a domestic confidentiality provision creates significant legal uncertainty, not only for the counterparties to the transaction but also for any other entities that are involved in the process of reporting to TRs.

We therefore strongly encourage MAS to proceed with any necessary legislative changes that would allow banks to report the client identity in OTC derivatives transactions without breaching banking confidentiality. We also believe that MAS should provide temporary exemptions where necessary.

(D) Form and Manner of Reporting – Phases of implementation

MAS proposed to require newly executed specified derivatives contracts to be reported from October 2013.²⁵ Additionally, the backloading of outstanding contracts would be required within six months from the date at which a specified person is required to start reporting trades in the prescribed asset class.²⁶

Based on our experience in assisting market participants to comply with requirements to report their derivatives transactions to TRs in various jurisdictions, we know about the significant burden that the introduction of such requirements imposes on them.²⁷ We believe that the provision of sufficient time to allow market participants to prepare for new requirements ultimately enables a timely and cost-efficient implementation. We therefore commend MAS for proposing to phase in the reporting obligations in Singapore²⁸ and we encourage MAS to work closely with the industry and relevant middleware providers to ensure that sufficient time is given for preparation, testing and data loading. More specifically, our experience in facilitating confirmation of derivatives transactions across asset classes and regions has demonstrated that, for various reasons, the level of standardization and electronification differs significantly between asset classes. We therefore agree that compliance in the asset classes of foreign exchange, equity and commodity derivatives should be required only several months after compliance for interest rate and credit derivatives, which is also consistent with other jurisdictions.²⁹ We also generally support a further phasing in of the reporting obligations by nature of the market participant, as “different segments of market participants may require different transition periods to prepare for trade reporting.”³⁰ We believe that such approach can reflect the varying level of preparedness, depending on whether the counterparties are active dealers, banks that use the product less frequently, or commercial entities that enter into derivatives transactions only occasionally to hedge. MAS should note that multi-pronged phase-in approaches have been used in other jurisdictions³¹ and we believe that their use is equally appropriate in Singapore.

However, MAS’ proposal to require the reporting of derivatives transactions to TRs to start from October 2013 might prove to be overly demanding for many market participants. Firstly, with MAS’ final rules unlikely to be published before late-August or early-September market participants would only be left with a very limited amount of time to design, implement and test their reporting procedures before they would be expected to comply with them. Secondly, similar requirements to report derivatives transactions to TRs are scheduled to become effective over the coming 9 months in several other major jurisdictions, including Hong Kong, Australia, and Europe. On that basis, the relevant dedicated resources will already be tied up at many counterparties that would also be required to prepare for the introduction of the reporting requirements in Singapore.

²⁵ MAS CP (D) Form and Manner of Reporting, par. 16.

²⁶ MAS CP (D) Form and Manner of Reporting, par. 15.

²⁷ This is particularly true as such reporting requirements are being introduced in numerous jurisdictions at almost the same time.

²⁸ MAS CP (D) Form and manner of reporting.

²⁹ For example, the CFTC required first reporting in the asset classes of credit and interest rates first, reflecting their higher degree of standardization and automation, followed by equity, FX, and commodities only several months later. See Real Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 (Jan. 9, 2012) and Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

³⁰ MAS CP (D) Form and manner of reporting.

³¹ In the United States, the CFTC’s final real-time and swap data reporting rules phased-in compliance with the reporting requirements by category of market participant, by asset class, and over time. See Real Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 (Jan. 9, 2012) and Swap Data Recordkeeping and Reporting, 77 Fed. Reg. 2136 (Jan. 13, 2012).

We therefore recommend for MAS to provide firms with an extended grace period as appropriate, to be determined in consultation with the industry, to come into compliance with the reporting requirements following the publication date of MAS' final rules. The initial start date should apply to the reporting of derivatives in the more standardized asset classes of interest rates and credit while reporting in other asset classes would be required 6 months thereafter. We would also recommend phasing the reporting of valuations and collateral by 6 months, which is consistent with the approach that has been taken in other jurisdictions.

We believe that the phasing in of the reporting requirements in Singapore in such manner would provide market participants, TRs and the relevant middleware providers with more time to prepare, which will be needed given the preparatory work that many of them have already committed to implement TR reporting in several other jurisdictions during the remainder of 2013.

Annex: Derivatives Information to be Reported

MAS proposed to require counterparties to report contract information in relation to the counterparty, clearing, confirmation, trade execution, transactional data, timestamp, and collateralisation in addition to data fields specific to each asset class. To facilitate the implementation of the reporting requirements in Singapore we respectfully suggest for MAS to consider some modifications to the data fields that it requires to be reported, to be agreed based on further consultation with industry participants:

- We believe that it will prove operationally challenging for firms to generate some of the proposed data fields, such as "trading capacity", "compression indicator" or "identifier of beneficiary".³² We therefore suggest that MAS does not require the reporting of these, and potentially other fields in the initial stage.
- The "Master agreement date" is not usually included in confirmations, often not stored in relevant systems at firms and is therefore difficult to generate. It also seems to be of little apparent value and as such we recommend that MAS does not require the reporting of this field. If it was required, it should allow for an extended phase-in for this requirement. Equally, the reporting of collateral is a new requirement that will require significant development work from counterparties. We therefore suggest it should only be required 6 to 12 months after the reporting start date.³³
- For the reporting of historic trades, some of the data fields required to be reported, such as the "execution timestamp" and "level of collateralisation", are unlikely to have been stored by the counterparties at the time that they entered into the transaction. We therefore recommend that certain data fields should not be required for the backloading of transactions.

Reporting of transactions that are centrally cleared

Regulatory authorities will generally require both centrally cleared and non-centrally cleared OTC derivative transactions to be reported to TRs to ensure that a complete picture of activity in the derivatives markets is captured. In this context we encourage MAS to provide further clarification on how its reporting requirements would apply to "transactions that are centrally cleared".

Specifically, we believe that MAS should specify the reporting obligations for common situations where, at the time of execution, the counterparties have not yet made any decision on whether this transaction will be

³² While market participants will need to generate these data fields for reporting under EMIR, MAS should consider that this is only expected to start in early 2014.

³³ While market participants will need to generate valuations and collateral information under EMIR, MAS should note that this is only expected to start in the second half of 2014, i.e. 6 months after the general reporting requirement.

cleared at a later stage³⁴ or where transactions that have been agreed to be submitted to clearing have not yet been submitted to or accepted by the CCP.

Derivatives transactions that are centrally cleared typically consist of an initial, pre-cleared transaction between the two original counterparties (alpha trade) and the post-cleared transactions (beta and gamma trades) between the counterparties and the CCP created through novation. To ensure that TRs capture an accurate reflection of current risk at all times and store a complete picture of all stages of the life of derivatives transactions regulatory authorities will often require the reporting of both alpha *and* beta/gamma trades. However, while an obligation to report the original transaction generally exists for transactions that are centrally cleared, this might not always be the case depending on the timeliness of the acceptance for clearing.³⁵

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Markit appreciates the opportunity to comment on MAS' Consultation Paper on the *Draft Regulations Pursuant to the Securities and Futures Act of Derivatives Contracts*. We would be happy to elaborate or further discuss any of the points addressed above. In the event you may have any questions, please do not hesitate to contact the undersigned or Julian Chesser at julian.chesser@markitserv.com.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'J. Gooch', written in a cursive style.

Jeff Gooch
Chief Executive Officer
MarkitSERV

³⁴ The latter situation is particularly relevant where no mandatory clearing requirement has been established yet and clearing hence happens on a voluntary basis whenever the counterparties decide to do so.

³⁵ If a transaction is accepted for clearing before the deadline for reporting expires it might be acceptable to only require reporting of the cleared transactions, i.e. the beta and gamma trades.