

ESMA Pulls Back from Mandatory Clearing for FX NDFs

The European Securities and Markets Authority announced on Feb. 4 that it has decided against moving forward with a proposal to mandate central clearing for non-deliverable currency forwards.

ESMA said it may propose clearing requirements for NDFs at a future date, but explained that more time is needed to address certain issues identified by market participants in their feedback on the proposal. These issues included concerns about the number of clearinghouses with the ability to clear NDFs and the lack of experience of NDF clearing.

The announcement marked an important change in ESMA policy on this issue. The European regulator issued a consultation paper in October that proposed a detailed set of regulatory technical standards for clearing NDFs and an implementation schedule starting in the fourth quarter of 2015.

In its February statement, ESMA also noted the importance of “international consistency” in the implementation of such a clearing obligation. The Commodity Futures Trading Commission is also considering whether to mandate clearing for NDFs but has not yet issued a proposal or determined when such a mandate should be implemented.

Canadian Regulators Seek Comment on Mandatory Clearing Rules

The Canadian Securities Administrators, which coordinates regulation for the Canadian capital markets, on Feb. 12 published proposed rules mandating central clearing of over-the-counter derivatives. The proposals describe the requirements for central clearing and are divided into two rule-making areas. This includes rules outlining which contracts will be subject to mandatory clearing and rules governing when the requirements will take effect and to whom they will apply, including rules related to exemptions for non-financial hedgers and intragroup transactions. Comments on the proposed clearing rules must be submitted by May 13.

OCC Bolsters Capital with Pension Fund Repo Facility

The OCC, the clearinghouse that supports U.S. options exchanges and several other markets, on Feb. 20 announced the establishment of a \$1 billion committed repurchase facility. The facility, which will be provided by a pension fund, will increase the clearinghouse’s liquidity resources to \$3 billion from \$2 billion.

The OCC said the arrangement, which was approved by the SEC on Jan. 2, provides the clearinghouse with an additional source of liquidity without increasing its exposure to clearing members and their affiliates. The program will be structured like a “typical repurchase arrangement” under which the pension fund will buy govern-

ment securities from OCC in exchange for immediately available funds. This will include government securities in clearing member contributions and margin deposits.

Singapore Backs Away from Mandatory Exchange Trading of Swaps

In an important divergence from the direction of financial reforms in Europe and the U.S., the Monetary Authority of Singapore has decided against requiring that swaps must be traded on a regulated exchange.

On Feb. 12 MAS issued a consultation on proposed amendments to Singapore’s Securities and Futures Act that extend and expand its authority over OTC derivatives. The proposed amendments establish a legislative framework to implement a trading mandate, but only at a later date if deemed appropriate. MAS explained that it will conduct a detailed analysis of this issue “taking into consideration the state of development of the OTC derivatives market in Singapore and the region.”

MAS also proposed transferring jurisdiction over commodity derivatives from the Commodity Trading Act to the Securities and Futures Act, clarifying the reporting requirements for derivatives booked in Singapore but traded elsewhere, and changing confidentiality requirements so that financial institutions can include customer information in their derivatives reporting in Singapore and abroad.

CME Issues White Paper on Clearinghouse Risk

CME Group issued a white paper on Jan. 20 spelling out its views on how much funding clearinghouses should contribute to their default protections. The seven-page paper stressed that clearinghouses are market risk neutral and do not engage in trad-

ing, lending or other market risk-creating activities. The paper criticized suggestions that clearinghouses should make larger contributions to their default protections, saying this would create “negative incentive effects” by subsidizing risks taken by clearing members. The paper noted that CME’s contribution to the default protections at its clearinghouses in the U.S. and the U.K. was \$525 million at the end of the third quarter, which was equivalent to 5.25% of the total default fund contributions.

FIA Issues Recommendations for Efficient Swap Clearing

FIA on Feb. 4 released a set of recommendations aimed at improving important operational elements of the new clearing infrastructure for over-the-counter derivatives. The recommendations, which were developed by FIA’s Clearing Swaps Operations Committee, are designed to address inefficiencies in the cleared swaps infrastructure, encourage standardization of trade records and assist clearing firms in managing limit screening in real-time. The recommendations are targeted primarily for swap execution facilities and derivatives clearing organizations and are intended to improve processes for clearing client trades executed on SEFs.

ISDA Proposes CCP Recovery and Continuity Framework

The International Swaps and Derivatives Association on Jan. 26 released a position paper setting out a proposed recovery and continuity framework for central counterparties. ISDA said that in the event of a default by one or more clearing members, recovery and continuity of clearing services would be preferable to closure, and recovery efforts should continue even if the CCP’s pre-funded resources have been

exhausted. The paper also recommends that recovery measures should be “clearly defined” to provide transparency and predictability during the default management process, and recommended a set of tools that can be used to re-establish a matched book following the default of one or more clearing members.

Deutsche Börse Receives Approval for Singapore Clearinghouse

Deutsche Börse group on Jan. 19 received “in-principle” regulatory approval from the Monetary Authority of Singapore to establish Eurex Clearing Asia, a Singapore-based clearinghouse. The new clearinghouse is expected to begin operating in 2016 and will initially clear selected European benchmark derivatives listed at Eurex that are traded during Asian market hours. Deutsche Börse said it will seek recognition for the new clearinghouse with the European Securities and Markets Authority, making Asian clearing services accessible to European market participants.

CME to Shutter Open Outcry Futures Trading in Chicago, New York

CME Group announced on Feb. 4 that it will close the majority of its futures trading pits in Chicago and New York by July 2. In addition, the exchange plans to concentrate the trading pits for options on futures in Chicago on a single floor by September. The exchange noted that open outcry trading has fallen to one percent of total futures volume. The exchange also said, however, that it plans to continue floor-based trading of S&P 500 futures because of its importance in sustaining the trading of options on S&P 500 futures.

CME Revamps Clearing for Credit Default Swaps

CME Group has overhauled its margin model for credit default swaps and extended its clearing services to European CDS. The new margin model went into production on Feb. 2. CME said it provides a “more holistic model” of risk in a CDS portfolio that is “more accurately aligned” with the market and can be applied to a broad range of credit instruments. In addition, on Feb. 2 CME began clearing credit default swaps based on the iTraxx Main and iTraxx Crossover indices, both of which are subject to the CFTC’s mandatory clearing requirements. CME’s CDS clearing services previously were limited to North American indices.

Court Orders U.S. Bank to Pay \$18 Million to Peregrine Customers

The Commodity Futures Trading Commission announced that a federal court in Iowa ordered U.S. Bank N.A. to pay \$18 million, which will be returned to Peregrine Financial Group customers, as part of the bank’s settlement on charges it helped move customer funds in violation of CFTC rules. The court order enjoins U.S. Bank from committing future violations of the Commodity Exchange Act and CFTC regulations that prohibit any depository institution, like U.S. Bank, from holding, disposing of or using funds that belong to customers of an FCM as though they belong to anyone other than the customers, and also prohibits the extension of credit based on such funds to anyone other than the customers.