

## 7. Finance: Over-the-Counter Derivatives

### Commitment [#65]

“We reaffirm our commitment that all standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012, OTC derivative contracts should be reported to trade repositories and non-centrally cleared contracts should be subject to higher capital requirements.”

*Los Cabos Summit Final Declaration*

### Assessment

Country	Lack of Compliance	Work in Progress	Full Compliance
Argentina			+1
Australia			+1
Brazil			+1
Canada		0	
China		0	
France		0	
Germany		0	
India			+1
Indonesia		n/a	
Italy		0	
Japan			+1
Korea		0	
Mexico		0	
Russia			+1
Saudi Arabia			+1
South Africa		0	
Turkey		0	
United Kingdom		0	
United States			+1
European Union		0	
Average Score		+0.37	

### Background

At the Los Cabos Summit, G20 leaders reaffirmed their commitment to implement FSB and IOSCO recommendations regarding the regulation of OTC derivative markets. This commitment entails that standardized OTC derivatives contracts should be traded on exchanges and electronic trading platforms, where applicable, and reported to trade repositories. Furthermore, the commitment specifies that non-centrally cleared contracts should be subject to higher capital requirements.<sup>1806</sup>

The 15 June 2012 Financial Stability Board (FSB) report *OTC Derivatives Market Reforms, Third Progress Report on Implementation* assessed G20 members’ progress towards implementation of OTC derivative recommended reforms. The report noted “encouraging

<sup>1806</sup> OTC Derivatives Market Reforms: Third Progress Report on Implementation, Financial Stability Board 15 June 2012. Date of Access 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_120615.pdf](http://www.financialstabilityboard.org/publications/r_120615.pdf)

progress had been made in setting international standards, the advancement of national legislation and regulation by a number of jurisdictions and practical implementation of reforms to market infrastructure and activities.”<sup>1807</sup> However, a concern remained as the full implementation of market changes need to be completed by end-2012 to meet the G20 commitments. In the June 2012 report, G20 leaders agreed that substantial progress had been achieved in the four safeguards for a resilient and efficient global framework for central clearing and called on jurisdiction to rapidly finalize their decision-making and put in place the legislation and regulation needed to meet the end-2012 commitment to central clearing.<sup>1808</sup>

The 31 October 2012 FSB report *OTC Derivatives Market Reforms, Fourth Progress Report on Implementation* reported that market infrastructure is in place and should not be an impediment on progress. Furthermore, international policy work on central clearing is essentially completed and should be implemented further on a national level.<sup>1809</sup>

### **Commitment Features**

In the Los Cabos Summit Declaration, G20 leaders acknowledged that substantial progress had been achieved in the four safeguards; standardization, central clearing, organized platform trading, and reporting to trade repositories. A new commitment feature that was not assessed in previous reports is implementation of higher capital requirements for non-centrally cleared contracts.<sup>1810</sup> Uncertainty regarding regulation still remains a major impediment on progress whereby regulators need to work together to identify conflicts by end-2012.<sup>1811</sup>

The *Fifth Progress Report* is to be distributed after the end-2012 deadline, in that report the FSB will seek to complement this past report and provide an assessment of all aspects related to the implementation of the G20 reforms of OTC derivatives markets. New risks may arise with the changes in market structure and the FSB shall continue to monitor the extent to which reform meets the G20’s underlying goals of making derivatives markets more transparent, of mitigating systemic risk, and of protecting the overall financial system against market abuse.<sup>1812</sup>

It is important to note that the G20 Research Group does not evaluate the regulations implemented by a country, but determines whether they have acted in compliance with agreements reached at the G20 summit.

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<sup>1807</sup> OTC Derivatives Market Reforms: Third Progress Report on Implementation, Financial Stability Board 15 June 2012. Date of Access 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_120615.pdf](http://www.financialstabilityboard.org/publications/r_120615.pdf)

<sup>1808</sup> OTC Derivatives Market Reforms: Third Progress Report on Implementation, Financial Stability Board 15 June 2012. Date of Access 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_120615.pdf](http://www.financialstabilityboard.org/publications/r_120615.pdf)

<sup>1809</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1810</sup> G20 Leaders Declaration, Los Cabos, Mexico 19 June 2012. Date of Access 8 December 2012.

<http://www.g20.utoronto.ca/2012/2012-0619-loscabos.html>

<sup>1811</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1812</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

**Table 7-1: Recommendations for OTC Derivatives Market**

Area	Recommendations
Standardization	Much diversity exists with OTC derivatives thus they can range from being highly standardized to being complex. <sup>1813</sup> “When a high volume product is not standardized, it limits the extent to which existing market infrastructure and transparency can be used effectively.” <sup>1814</sup> This can potentially lead to inefficiencies in the price discovery process. <sup>1815</sup> Members must continue to take legislative steps to increase the use of standardized products. The standardization of reporting formats is key to aggregation and they require further development. Work must be done with regards to the 2011 roadmap — including development, publication, and use of standardized product documentation.
Central Clearing	Central clearing is the process whereby a single party clears financial transactions. This allows for the risk of default involved with such an exchange to be significantly reduced. The BCBS and IOSCO are responsible for recommending international standards on margin requirements for non-centrally cleared derivatives, and as agreed upon by G20 leaders — central counterparties should clear all standardized derivatives contracts by end-2012.
Exchange or electronic trading platform	By automating the execution process, the trading process electronically reduces commission prices and other human costs, lowering the overall cost-per-trade. Electronic trading will increase transparency, liquidity, and operational efficiency. <sup>1816</sup>
Reporting to trade repositories	Trade Repositories are electronic platforms that maintain information regarding any transactions of OTC derivatives. The CPSS and IOSCO are responsible for working on further access to data reported by TRs.
Higher capital requirements for non-centrally cleared contracts	Regulators should design and implement rules that subject parties in an OTC Derivatives contract to higher capital requirements if the contract is not centrally cleared.

**Table 7-2: Updates for OTC Derivatives Market**

Area	Updates
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<sup>1813</sup> Reforming OTC Derivative Markets: A UK Perspective, Financial Services Authority and HM Treasury 2 December 2009. Date of Access: 9 December 2012.

[http://www.fsa.gov.uk/pubs/other/reform\\_otc\\_derivatives.pdf](http://www.fsa.gov.uk/pubs/other/reform_otc_derivatives.pdf).

<sup>1814</sup> Reforming OTC Derivative Markets: A UK Perspective, Financial Services Authority and HM Treasury 2 December 2009. Date of Access: 9 December 2012.

[http://www.fsa.gov.uk/pubs/other/reform\\_otc\\_derivatives.pdf](http://www.fsa.gov.uk/pubs/other/reform_otc_derivatives.pdf).

<sup>1815</sup> Reforming OTC Derivative Markets: A UK Perspective, Financial Services Authority and HM Treasury 2 December 2009. Date of Access: 9 December 2012.

[http://www.fsa.gov.uk/pubs/other/reform\\_otc\\_derivatives.pdf](http://www.fsa.gov.uk/pubs/other/reform_otc_derivatives.pdf).

<sup>1816</sup> Deriv|Alert. Date of Access 9 December 2012. <http://www.derivalert.org/faq>

Standardization	The ODSG was responsible for the March 2011 roadmap that submitted Standardization matrices for Q3 and Q4 2011 for all asset classes.
Central Clearing	The majority of FSB members have adopted mandatory clearing requirements and incentives to meet the G20 commitment; the jurisdictions must now rapidly put in place the needed legislation and regulations before end-2012. <sup>1817</sup>
Exchange or electronic trading platform	The establishment of legislative and regulatory frameworks that require trading on organized trading platforms has not been as advanced as other reform areas. Some of the challenges reported by infrastructure providers have been the development of organized trading platforms that allow a wide range of products to be offered and the need for satisfactory liquidity to support the accurate pricing of new products. <sup>1818</sup>
Reporting to trade repositories	Authorities need to do more work on the standardization of data formats and the implementation of product classification systems as many trade repositories (TR) have data formats that are not compatible with other TRs. Current estimates suggest that about 90 per cent of OTC interest rate and credit derivatives are being reported to TRs, along with about 50 per cent of foreign exchange derivatives. <sup>1819</sup> More works needs to be done with regards to information reported for commodities and equity derivatives transactions.
Higher capital requirements for non-centrally cleared contracts	This commitment feature will be assessed for the first time in the G20 Research Group's 2012 Los Cabos report.

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<sup>1817</sup> Jurisdictions' declared approaches to central clearing of OTC derivatives, Financial Stability Board 5 November 2012. Date of Access: 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1818</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1819</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access 8 December 2012.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

## Scoring Guidelines

-1	Member takes active steps to comply with applicable FSB recommendations to strengthen regulation and supervision of OTC derivatives markets in a non-discriminatory manner with respect to LESS THAN TWO of the following recommendation areas: Standardization, Central Clearing, Exchange and Platform Trading, Reporting to Trade Repositories, and Higher capital requirements for non-centrally cleared contracts.
0	Member takes active steps to comply with the applicable FSB recommendations to strengthen regulation and supervision of OTC derivatives markets in a nondiscriminatory manner with respect to TWO to FOUR of the following recommendation areas: Standardization, Central Clearing, Exchange and Platform Trading, and Reporting to Trade Repositories, and Higher capital requirements for non-centrally cleared contracts.
+1	Member takes active steps to comply with applicable FSB recommendations to strengthen regulation and supervision of OTC derivatives markets in a nondiscriminatory manner with respect to ALL FIVE of the following recommendation areas: Standardization, Central Clearing, Exchange and Platform Trading, and Reporting to Trade Repositories, and Higher capital requirements for non-centrally cleared contracts.

*Lead Analyst: Germán Cairo*

### Argentina: +1

Argentina has fully complied with its commitments to strengthen regulation of OTC derivatives markets with the following areas: (1) increasing standardization; (2) central clearing; (3) exchange/ electronic platform trading; (4) reporting to trade repositories; (5) higher capital requirement for non-centrally cleared contracts.

Argentina remains on its path of compliance by taking legislative steps that increase the use of standardized products and has reported that a substantial portion of OTC derivative trading is currently being centrally cleared and traded on the “Mercado Abierto Electronico S.A.” electronic platforms.<sup>1820</sup> Argentina has declared an approach to central clearing and anticipates the use of domestic central counterparties (CCP) supervised by their central bank.<sup>1821</sup>

On 9 November 2012, the central bank of Argentina reported that they would be establishing higher capital requirements for non-centrally cleared contracts due to their risk.<sup>1822</sup> Argentina also continues to report trading activity to an Argentine market regulator that essentially acts as a trade repository.<sup>1823</sup>

In its 15 April 2013 OTC Derivatives Market Reforms Fifth Report on Implementation, the Financial Stability Board notes that “Argentina issued regulations in 2007 to provide incentives

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<sup>1820</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access 2 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1821</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives: Secretariat information note 5 November 2012. Date of Access 2 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1822</sup> Comunicacion “A” 5369, Banco Central de la Republica Argentina 9 November 2012. Date of Access 2 January 2013. <http://www.bcra.gov.ar/pdfs/comytexord/A5369.pdf>

<sup>1823</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access 2 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

for trading derivatives on organized platforms that offer central clearing. Argentina reports that a significant portion of derivatives trading is currently centrally cleared and traded on organized platforms as a result of existing regulation. Argentina reports that it will continue to consider whether additional legislation is needed.”<sup>1824</sup> The report further notes that Argentina has regulations “in force and operative” regarding Higher Capital Requirements for non-centrally cleared derivatives. Furthermore, the Argentinian derivatives market is “dominated by standardized derivatives.”<sup>1825</sup>

Argentina has taken steps toward compliance with all of the FSB recommendation areas for OTC derivatives market reforms and has therefore earned a score of +1.

*Analyst: German Cairo*

### **Australia: +1**

Australia has fully complied with its commitments to strengthen regulation of OTC derivatives markets with the following areas: (1) increasing standardization; (2) central clearing; (3) exchange/ electronic platform trading; (4) reporting to trade repositories; (5) higher capital requirement for non-centrally cleared contracts.

The 11 October 2011 FSB report noted that “main OTC derivatives instruments traded in Australian markets are interest rate and FX products, which are already fairly standardized.”<sup>1826</sup>

On 12 September 2012, the Australian Government introduced the Corporations Legislation Amendment (Derivative Transactions) Bill 2012 in response to the G20 discussions on derivatives transactions. The Derivative Bill establishes a legislative framework which allows the government to require that certain prescribed classes of derivatives be subject to one or more mandatory obligations relating to trade reporting, central clearing, and trade execution. In addition, the bill introduces a new licensing regime for derivatives trade repositories (i.e. the entities that will be licensed to provide trade reporting facilities).<sup>1827</sup>

In October 2012, the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, and the Reserve Bank of Australia together published a report on the Australian OTC Derivatives Market and it discusses the desirability of reforms to the functioning of the Australian over-the-counter (OTC) derivatives markets. In the paper, the regulators give some recommendations regarding (1) trade reporting: “the regulators recommend the government consider a broad-based mandatory trade reporting should the Derivative Transactions Bill be passed.” (2) Risk management for non-centrally cleared trades: “Participants should ensure that

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<sup>1824</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access 2 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1825</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access 2 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1826</sup> OTC Derivatives Market Reforms: Progress on Implementation, Financial Stability Board (Basel) 11 October 2011. Date of Access: 23 July 2013.

[http://www.financialstabilityboard.org/publications/r\\_111011b.pdf](http://www.financialstabilityboard.org/publications/r_111011b.pdf)

<sup>1827</sup> Corporations Legislation Amendment (Derivative Transactions) Bill 2012, The Parliament of the Commonwealth of Australia 2012.

[http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r4879\\_third-reps/toc\\_pdf/12149b01.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r4879_third-reps/toc_pdf/12149b01.pdf;fileType=application%2Fpdf)

adequate credit support arrangements are in place for all OTC derivatives transactions.” “Market participants should understand the increased counterparty exposure generated by posting collateral over and above mark-to-market (variation margin) requirements, and ensure that the resultant risks are adequately managed.” (3) Trade execution: “The regulators see in-principle benefits in a greater utilization of trading platforms in the Australian OTC derivatives market.” (4) Central clearing: “The regulators are of the view that central clearing of the Australian dollar-denominated interest rate derivatives market would bring substantial benefits to the efficiency, integrity and stability of the Australian financial system. This benefit would be most immediately realized if larger market participants, such as the large Australian-based banks, were to participate in central clearing.”<sup>1828</sup> Another key area of progress has been the further development of standardization when recording transaction details for OTC derivatives.<sup>1829</sup>

In its 15 April 2013 OTC Derivatives Market Reforms Fifth Report on Implementation, the Financial Stability Board notes that Australia has adopted legislation on Central Clearing, Trading on Electronic Platforms or Exchange, Reporting to Trade Repositories, requiring Higher Capital Requirements for non-centrally-cleared OTC derivatives.<sup>1830</sup>

Australia has fully complied with all five FSB recommendation areas regarding the regulation of OTC Derivative markets and therefore earned a score of +1.

*Analyst: Chen Qu*

#### **Brazil: +1**

Brazil has fully complied with its commitment to strengthen regulation of OTC Derivative Markets and has therefore earned a score of +1.

The 31 October 2012 FSB Progress Report on OTC Derivatives Market Reforms notes that Brazil has adopted legislation on Capital and Reporting to Trade Repositories reforms. The implementation of Higher Capital requirements has not yet been achieved.<sup>1831</sup>

The 31 October 2012 FSB Progress Report on OTC Derivatives Market Reforms notes, “Two TRs established in Brazil, where derivatives activity has been regulated since 1994 reported that all relevant institutions are ready to meet trade reporting obligations.”<sup>1832</sup>

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<sup>1828</sup> Report on the Australian OTC Derivatives Market, Australian Prudential Regulation Authority, Australian Securities and Investments Commission, and Reserve Bank of Australia October 2012 <http://www.rba.gov.au/payments-system/clearing-settlement/otc-derivatives/201210-otc-der-mkt-rep-au/pdf/201210-otc-der-mkt-rep-au.pdf>

<sup>1829</sup> Report on the Australian OTC Derivatives Market, Australian Prudential Regulation Authority, Australian Securities and Investments Commission, and Reserve Bank of Australia October 2012 <http://www.rba.gov.au/payments-system/clearing-settlement/otc-derivatives/201210-otc-der-mkt-rep-au/pdf/201210-otc-der-mkt-rep-au.pdf>

<sup>1830</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access 2 January 2013. [http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1831</sup> OTC Derivatives Market Reforms Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access: 13 January 2013. [http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1832</sup> OTC Derivatives Market Reforms Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access: 13 January 2013. [http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

The 31 October 2012 FSB Progress Report on OTC Derivatives Market Reforms notes that Brazil “consider access to CCPs in their jurisdiction to be fair and open.”<sup>1833</sup>

The government of Brazil’s response to the FSB survey of August 2012 on Declared Approaches to Central Clearing of OTC Derivatives was that “Regulations [are] already in place. No time frame given for additional amendments.”<sup>1834</sup>

On 4 December 2012, The Securities and Exchange Commission’s Office of International Affairs reached an understanding with leaders on OTC Derivatives regulation. In a joint statement “the OTC derivatives market is a global market and [we] firmly support the adoption and enforcement of robust and consistent standards in and across jurisdictions.”<sup>1835</sup>

In its 15 April 2013 OTC Derivatives Market Reforms Fifth Report on Implementation, the Financial Stability Board notes that Brazil has adopted and implemented legislation on Central Clearing through BM&F Bovespa or CETIP, two electronic central clearing platforms.<sup>1836</sup> The report further mentions that “In Brazil, banks incur a capital surcharge when entering into a non-centrally cleared OTC derivative transaction” and that “The Brazilian Law n°12,543 requires transactions (exchange-traded or OTC) to be reported to a TR.” Furthermore, the Brazilian derivatives market is “dominated by standardized derivatives.”<sup>1837</sup>

Brazil has taken some steps toward compliance with all five FSB recommendation areas on OTC derivatives market reform and has therefore been awarded a score of +1.

*Analyst: Igor Samardzic*

## **Canada: 0**

Canada has failed to comply with its commitment that all standardized OTC derivative contracts be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012. Furthermore, regulation on additional capital requirements for non-centrally cleared products has been delayed.

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<sup>1833</sup> OTC Derivatives Market Reforms Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access: 9 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1834</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives, Financial Stability Board-Secretariat 5 November 2012. Date of Access: 10 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1835</sup> Joint Press Statement of Leaders on Operating Principles and Areas of Exploration in the Regulation of the Cross-Border OTC Derivatives Market, Securities and Exchange Commission Office of International Affairs 4 December 2012. Date of Access: 14 January 2013. <http://www.sec.gov/news/press/2012/2012-251.htm>

<sup>1836</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access 2 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1837</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access 2 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

Regarding the commitment for central clearing of standardized OTC derivatives, Canada committed to completing its implementation within the framework of Basel III reforms by 1 January 2013.<sup>1838</sup> However, the implementation is still undergoing.

On 13 October 2012, Mark Carney, Chairman of the Financial Stability Board to the International Monetary and Financial Committee, issued a statement, saying “...members expressed concern about unresolved issues in the cross-border application of regulation.”<sup>1839</sup>

On 31 October 2012, the FSB published its Fourth Progress Report on Implementation, stating “Industry, with the support of regulators, should accelerate their work on issues relating to the standardization of both products and processes.”<sup>1840</sup>

In the last quarter of 2012, several documents were released, indicating progress in the area of standardization and clearing of OTC derivatives.<sup>1841,1842,1843</sup>

On 18 April 2013, the Canadian Securities Administrators released CSA Consultation Paper 91-407 — Derivatives: Registration.<sup>1844</sup> According to Bill Rice, Chair of the CSA, “...CSA has developed key recommendations on the regulation of key participants in Canada’s derivatives markets that will allow Canada to comply with international standards.”<sup>1845</sup> Certain industry groups disagree, arguing that such stringent regulation does not exist in other jurisdictions and so it may lead to the Canadian derivatives market becoming too burdensome for investors.<sup>1846</sup>

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<sup>1838</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives, Financial Stability Board (Basel) 5 November 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1839</sup> Statement of Mark Carney Chairman of the Financial Stability Board to the International Monetary and Financial Committee (Tokyo) 13 October 2012. Date of Access: 8 January 2013.

<http://www.imf.org/External/AM/2012/imfc/statement/eng/fsb.pdf>

<sup>1840</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1841</sup> Statement by the Canadian authorities on clearing of standardized OTC derivatives contracts, Autorité des marchés financiers (Toronto) 1 October 2012. Date of Access: 8 January 2013.

[http://www.lautorite.qc.ca/en/press-releases-2012-pro.html\\_2012\\_csa-2012-10-01.html](http://www.lautorite.qc.ca/en/press-releases-2012-pro.html_2012_csa-2012-10-01.html)

<sup>1842</sup> Canadian Securities Regulators Seek Comment on Model Rules Relating to Derivatives: Product Determination and Derivatives Trade Repositories and Data Reporting, Autorité des marchés financiers (Toronto) 6 December 2012. Date of Access: 8 January 2013.

[http://www.lautorite.qc.ca/en/press-releases-2012-pro.html\\_2012\\_csa-model-rules-derivatives-repositories-data-reporting.html](http://www.lautorite.qc.ca/en/press-releases-2012-pro.html_2012_csa-model-rules-derivatives-repositories-data-reporting.html)

<sup>1843</sup> The Canadian Approach to Central Clearing for Over-the-Counter Derivatives, Bank of Canada (Ottawa) December 2012. Date of Access: 8 January 2013.

<http://www.bankofcanada.ca/wp-content/uploads/2012/12/fsr-1212-chande.pdf>

<sup>1844</sup> Canadian Securities Administrators Consultation Paper 91-407 Derivatives: Registration, Ontario Securities Commission (Toronto) 18 April 2013. Date of Access: 24 June 2013.

[http://www.osc.gov.on.ca/documents/en/Securities-Category9/csa\\_20130418\\_91-407\\_derivatives-registration.pdf](http://www.osc.gov.on.ca/documents/en/Securities-Category9/csa_20130418_91-407_derivatives-registration.pdf)

<sup>1845</sup> CSA seeks comment on proposals for derivatives market registration and regulation, Autorité des marchés financiers (Toronto) 18 April 2013. Date of Access: 24 June 2013.

[http://www.lautorite.qc.ca/en/press-releases-2013-pro.html\\_2013\\_csa-91-407.html](http://www.lautorite.qc.ca/en/press-releases-2013-pro.html_2013_csa-91-407.html)

<sup>1846</sup> Re: Canadian Securities Administrators (CSA) Consultation Paper 91-407 on Derivatives: Registration (the Registration Consultation Paper), International Swaps and Derivatives Association, Inc. (New York) 17 June 2013. Date of Access: 24 June 2013. <http://assets.isda.org/media/94e6409a/2192dbe9.pdf/>

On 6 June 2013, The Ontario Securities Commission published for comment OSC Rule 91-506 Derivatives: Product Determination and OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, which aim to implement Canada's G-20 commitment to require all OTC derivative transactions to be reported to trade repositories and to provide the OSC with an essential tool to identify and address systemic risk and market abuse.<sup>1847, 1848</sup> Canada's commitment with regard to trade repositories is scheduled to be fulfilled by Q2 2014 in Ontario, Quebec, and Manitoba.<sup>1849</sup> Authorities have indicated they are waiting for comprehensive trade repository information before requiring any specific products to be traded on organised trading platforms.<sup>1850</sup>

On 28 June 2013, BCBS and IOSCO published a consultative paper on Capital treatment of bank exposures to central counterparties. Changes to the interim standard, which was initially published in July 2012, will not be made before late 2013. Regulation in this area is, therefore, still a work in progress.<sup>1851</sup>

The 15 April 2013 FSB Progress report on OTC Derivatives Market Reforms notes that "additional capital requirements for the risk of credit valuation adjustments (CVA) to derivatives" is delayed until January 2014.<sup>1852</sup> As of the time of writing of this report, Ontario, Quebec and Manitoba have adopted legislative frameworks for central clearing, but will not implement mandatory clearing requirements until Q4 2014 at the earliest.<sup>1853</sup>

Canada has taken steps towards compliance with its commitment to strengthen regulation of OTC derivatives by: (1) increasing standardization; (2) establishing central counterparties for central clearing of OTC derivatives contracts; (3) establishing exchange or electronic platform trading; (4) establishing trade repositories for OTC derivatives transactions; (5) Higher capital

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<sup>1847</sup> Ontario Securities Commission Seeks Comment on Derivatives: Product Determination and Derivatives Trade Repositories and Data Reporting Rules, Ontario Securities Commission (Toronto) 6 June 2013. Date of Access: 25 June 2013. [http://www.osc.gov.on.ca/en/NewsEvents\\_nr\\_20130606\\_osc-rfc-derivatives.htm](http://www.osc.gov.on.ca/en/NewsEvents_nr_20130606_osc-rfc-derivatives.htm)

<sup>1848</sup> Notice and Request for Comment, Ontario Securities Commission (Toronto) 6 June 2013. Date of Access: 25 June 2013. [http://www.osc.gov.on.ca/documents/en/Securities-Category9/rule\\_20130606\\_91-506\\_91-507\\_rfc-derivatives.pdf](http://www.osc.gov.on.ca/documents/en/Securities-Category9/rule_20130606_91-506_91-507_rfc-derivatives.pdf)

<sup>1849</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013. [http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1850</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 28 June 2013. [http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1851</sup> Capital treatment of bank exposures to central counterparties - consultative document, Bank for International Settlements (Basel) 28 June 2013. Date of Access: 30 June 2013. <http://www.bis.org/publ/bcbs253.htm>

<sup>1852</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 28 June 2013. [http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1853</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 28 June 2013. [http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

requirements for non-centrally cleared contracts. However, Canada has not met the end-2012 deadline<sup>1854,1855</sup> and has therefore earned a score of 0.

*Analyst: Theodora Mladenova*

### **China: 0**

China has taken active steps to comply with the applicable FSB recommendations to strengthen regulation and supervision of OTC derivatives markets in a nondiscriminatory manner with respect to three recommendation areas: standardization, central clearing, and exchange and platform trading.

On 28 June 2012 Zhen Xu, Chairman of the Shanghai Clearing House, stated that “Since 2012, the centralized registration service of the interest rate swap transactions as well as exchange rates, commodity, credit, equity and other OTC derivatives transactions has turned to DTCC in order to better resolve the unified information collection problem for many of the world’s central counterparty clearing organizations.” In addition, he stated “The Hong Kong Exchanges and Clearing Limited (HKEX) will develop a new centralized clearing organization for the OTC offshore RMB derivatives at the end of 2012.” He also mentioned the needs of increasing standardization and developing an electronic trading platform for OTC derivatives markets.<sup>1856</sup>

China has taken steps toward compliance with three of the five FSB recommendation areas regarding the regulation of OTC Derivative markets and therefore earned a score of 0.

*Analyst: Chen Qu*

### **France: 0**

France has partially complied with its commitment to strengthen regulation of OTC derivatives by: (1) increasing standardization; (2) establishing central counterparties for central clearing of OTC derivatives contracts; (4) establishing trade repositories for OTC derivatives transactions.

On 4 July 2012, European Market Infrastructure Regulation (EMIR) was implemented.<sup>1857</sup> The regulation states that “information on all European derivative transactions will be reported to trade repositories and be accessible to supervisory authorities,” which complies with the G20 commitments on OTC derivatives.<sup>1858</sup>

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<sup>1854</sup> Canadian Securities Administrators Consultation Paper 91-403 Derivatives: Surveillance and Enforcement, Ontario Securities Commission (Toronto) 25 November 2011. Date of Access: 8 January 2012.

[http://www.osc.gov.on.ca/en/SecuritiesLaw\\_csa\\_20111125\\_91-403\\_cp-derivatives.htm](http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20111125_91-403_cp-derivatives.htm)

<sup>1855</sup> 2012 ASC Annual Report, Ontario Securities Commission (Ottawa) Date of Access: 8 January 2013.

[http://www.osc.gov.on.ca/static/\\_/AnnualReports/2012/pdf/08-OSC-AR2012-EN.pdf](http://www.osc.gov.on.ca/static/_/AnnualReports/2012/pdf/08-OSC-AR2012-EN.pdf)

<sup>1856</sup> Improve the Centralized Clearing System of OTC Derivatives Markets, International Finance News 20 July 2012

<http://finance.sina.com.cn/roll/20120720/005912618212.shtml>

<sup>1857</sup> Derivatives, European Commission (Brussels), 19 December 2012. Date of Access: 5 January 2013.

[http://ec.europa.eu/internal\\_market/financial-markets/derivatives/index\\_en.htm](http://ec.europa.eu/internal_market/financial-markets/derivatives/index_en.htm)

<sup>1858</sup> Derivatives, European Commission (Brussels), 19 December 2012. Date of Access: 5 January 2013.

[http://ec.europa.eu/internal\\_market/financial-markets/derivatives/index\\_en.htm](http://ec.europa.eu/internal_market/financial-markets/derivatives/index_en.htm)

On 7 August 2012, the Financial Market Authority (AMF) in France showed its attention to the adoption of the EMIR, because this regulation directly applies to French financial market.<sup>1859</sup> AMF also represents its willingness to adopt these reforms, which are “a key component in enhancing stability and financial security.”<sup>1860</sup>

On 15 February 2013, BCBS and IOSCO published their near-final proposal on Margin requirements for non-centrally cleared derivatives. As of the time of the writing of this report, the EU has not implemented any special regulation to comply with the G20 commitment of higher capital requirements for non-centrally cleared contracts. The aforementioned paper, released by BCBS and IOSCO, proposes that initial margin requirements be phased-in over four years, beginning 2015.<sup>1861</sup>

On 23 February 2013, key regulatory technical standards (RTS), which were first adopted on 19 December 2012 as part of EMIR, were published. They came into effect on 15 March 2013.<sup>1862,1863</sup>

According to the standards published by the European Parliament on 23 February 2013, all OTC derivatives should be reported to TRs by the beginning of 2014.<sup>1864</sup> Furthermore, on 11 April 2013, the Committee on Payment and Settlement Systems (CPSS) and IOSCO published a consultative report on authorities’ access to trade repositories data. The purpose of the report is to provide guidance to the EU and the rest of the G20 members on the principles that should guide authorities’ access to data held in TRs.<sup>1865</sup>

In the EU, legislation introducing a mandatory trading framework is in the final stages of negotiation.<sup>1866</sup>

Legislation and detailed technical rules providing for central clearing are now in force in the EU, although no products are currently required to be cleared. The first phase of the EU central clearing regime is for CCPs to be re-authorised or recognised under EMIR, and this process is

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<sup>1859</sup> The AMF draws attention to publication of the European “EMIR” Regulation (Paris) 7 August 2012.

Date of Access: 5 January 2013. [http://www.amf-france.org/documents/general/10550\\_1.pdf](http://www.amf-france.org/documents/general/10550_1.pdf)

<sup>1860</sup> The AMF draws attention to publication of the European “EMIR” Regulation (Paris) 7 August 2012.

Date of Access: 5 January 2013. [http://www.amf-france.org/documents/general/10550\\_1.pdf](http://www.amf-france.org/documents/general/10550_1.pdf)

<sup>1861</sup> Margin requirements for non-centrally cleared derivatives - Second consultative document, Basel Committee on Banking Supervision and the Board of IOSCO (Basel) 15 February 2013. Date of Access: 27 June 2013. <http://www.bis.org/publ/bcbs242.pdf>

<sup>1862</sup> Commission Delegated Regulation (EU) No 148/2013, Official Journal of the European Parliament (Brussels) 23 February 2013. Date of Access: 30 June 2013.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:052:FULL:EN:PDF>

<sup>1863</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1864</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1865</sup> Authorities' access to trade repository data - consultative report, CPSS and IOSCO (Basel/Madrid) 11 April 2013. Date of Access: 27 June 2013. <http://www.bis.org/publ/cpss108.htm>

<sup>1866</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

underway as of March 2013. Once a CCP has been re-authorised or recognised in respect of the products it clears, ESMA will assess whether the relevant OTC derivatives products should be subject to a mandatory clearing obligation, with the possibility of phase-in according to the categories of counterparties. It is anticipated that the first mandatory clearing obligations will be determined by the end of 2013, and will come into force in early 2014.<sup>1867,1868</sup>

In its 23 February 2013 publication in the OJ, the EU Parliament indicated that the European Commission has asked the European Securities and Markets Authority (ESMA) for advice on equivalence for non-EU CCPs, TRs as well as on equivalence for the purpose of exemption from clearing, reporting, and risk mitigation obligations. ESMA is scheduled to provide advice for all non-EU jurisdictions by 15 July 2013.<sup>1869</sup>

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes that even though the European Union is “among the most advanced in implementing legislative and regulatory reform, with several key regulatory measures in force,” it has yet to pass required reforms Electronic Platform Trading and on Higher Capital Requirements for non-centrally-cleared OTC Derivatives products.<sup>1870</sup>

On 28 June 2013, BCBS and IOSCO published a consultative paper on Capital treatment of bank exposures to central counterparties. Changes to the interim standard, which was initially published in July 2012, will not be made before late 2013. Regulation in this area is, therefore, still a work in progress.<sup>1871</sup>

France (via the EU) has taken steps toward compliance with three of the five FSB recommendation areas for OTC derivatives reform and has therefore earned a score of 0.

*Analyst: HyunAh (Heidi) Shim*

### **Germany: 0**

Germany has partially complied with its commitments to strengthen regulation of OTC derivatives markets with the following areas: (1) increasing standardization; (2) central clearing; (4) reporting to trade repositories.

On 4 July 2012, European Market Infrastructure Regulation (EMIR) adopted the Regulation on OTC Derivatives, Central Counterparties and Trade Repositories. The Regulation became effective on 16 August 2012. The Regulation ensures that information on all European derivative

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<sup>1867</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1868</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1869</sup> <sup>1869</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1870</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1871</sup> Capital treatment of bank exposures to central counterparties - consultative document, Bank for International Settlements (Basel) 28 June 2013. Date of Access: 30 June 2013.

<http://www.bis.org/publ/bcbs253.htm>

transactions will be reported to trade repositories and be accessible to supervisory authorities, in order to give policy makers and supervisors a clear overview of the current markets situation. The Regulation also requires standard derivative contracts to be cleared through Central Counterparties (CCPs), it sets margin requirements for non-centrally cleared trades, and establishes stringent organizational business conduct and prudential requirements for the CCPs.<sup>1872</sup>

On 19 December 2012, the European Commission adopted regulatory standards and implemented technical standards to complement the obligations defined under the Regulation on OTC derivatives, Central Counterparties and Trade Repositories. The regulatory technical standards specify the clearing obligation procedure, requirements for CCPs, risk mitigation techniques for OTC derivatives contracts not cleared by a CCP, minimum details of the data to be reported to trade repositories etc. In other words, “adoption of these technical standards finalizes requirements for the mandatory clearing and reporting of transactions.”<sup>1873</sup>

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes that even though the European Union is “among the most advanced in implementing legislative and regulatory reform, with several key regulatory measures in force,” it has yet to pass required reforms Electronic Platform Trading and on Higher Capital Requirements for non-centrally-cleared OTC Derivatives products.<sup>1874</sup>

Germany has taken steps toward compliance with three of the five FSB recommendation areas for OTC derivatives reform and has therefore earned a score of 0.

*Analyst: Qing Zeng*

#### **India: +1**

India has fully complied with its commitment to strengthen regulation of OTC Derivative Markets and has therefore earned a score of +1.

The 31 October 2012 FSB Progress Report on OTC Derivatives Market Reforms notes that India, has adopted legislation on: Central Clearing, Exchange/Platform trading, Reporting to TRs, Capital, and Standardization. Implementation of the reforms has been adopted for Central Clearing, Exchange/Platform trading, Reporting to TRs, and Capital. Standardization has been partially adopted.<sup>1875</sup>

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<sup>1872</sup> Derivatives Legislative Proposals, European Commission (Brussels), 19 December 2012. Date of Access 3 January 2013. [http://ec.europa.eu/internal\\_market/financial-markets/derivatives/index\\_en.htm](http://ec.europa.eu/internal_market/financial-markets/derivatives/index_en.htm)

<sup>1873</sup> EUROPA- Commission adopts technical standards for the Regulation on OTC derivatives, central counterparties and trade repositories 19 December 2012. Date of Access: 3 January 2013. [http://europa.eu/rapid/press-release\\_IP-12-1419\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-12-1419_en.htm?locale=en)

<sup>1874</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013. [http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1875</sup> OTC Derivatives Market Reforms Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access: 8 January 2013. [http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

In its 23 August 2013 Annual Report, The Reserve Bank of India notes that reform packages have been introduced to “reduce systemic risk in derivative markets by moving OTC derivatives to central clearing and settlement mechanisms.”<sup>1876</sup>

The government of India’s response to the FSB survey of August 2012 on Declared Approaches to Central Clearing of OTC Derivatives was, “Q4 2012 for mandatory clearing requirements for USD/INR forwards.”<sup>1877</sup>

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes that India has adopted or partially adopted reforms in all five FSB recommendation areas.<sup>1878</sup>

India has taken steps toward compliance with all FSB recommendation areas on OTC derivatives market reform and has therefore been awarded a score of +1.

*Analyst: Igor Samardzic*

### **Indonesia: N/A**

Indonesia does not have an OTC derivatives market and cannot be scored for this commitment.

### **Italy: 0**

Italy has partially complied with its commitment that all standardized OTC derivative contracts be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012.

On 13 October 2012, Mark Carney, Chairman of the Financial Stability Board to the International Monetary and Financial Committee, issued a statement, saying “...members expressed concern about unresolved issues in the cross-border application of regulation.”<sup>1879</sup>

On 31 October 2012, the FSB published its Fourth Progress Report on Implementation, stating “Industry, with the support of regulators, should accelerate their work on issues relating to the standardization of both products and processes.”<sup>1880</sup>

Regarding the commitment for central clearing of standardized OTC derivatives, Italy, like the other EU members, will follow the approach set forth by EMIR.<sup>1881</sup> On 5 November 2012 the

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<sup>1876</sup> Reserve Bank of India Annual Report 2011-2012 23 August 2012. Date of Access 9 January 2013.  
<http://rbidocs.rbi.org.in/rdocs/AnnualReport/PDFs/01ANR230812FL.pdf>

<sup>1877</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives, Financial Stability Board-Secretariat 5 November 2012. Date of Access: 10 January 2013.  
[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1878</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.  
[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1879</sup> Statement of Mark Carney Chairman of the Financial Stability Board to the International Monetary and Financial Committee (Tokyo) 13 October 2012. Date of Access: 8 January 2013.  
<http://www.imf.org/External/AM/2012/imfc/statement/eng/fsb.pdf>

<sup>1880</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013.  
[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

FSB issued the Jurisdictions' declared approaches to central clearing of OTC derivatives. The European Union declared "additional implementing rules (standards and decisions) to be finalized primarily in H1 2013."<sup>1882</sup>

On 15 February 2013, BCBS and IOSCO published their near-final proposal on Margin requirements for non-centrally cleared derivatives. As of the time of the writing of this report, Italy, like other EU members, has not implemented any special regulation to comply with the G20 commitment of higher capital requirements for non-centrally cleared contracts. The aforementioned paper, released by BCBS and IOSCO, proposes that initial margin requirements be phased-in over four years, beginning 2015.<sup>1883</sup>

On 23 February 2013, key regulatory technical standards (RTS), which were first adopted as part of EMIR on 19 December 2012, were published. They came into effect on 15 March 2013.<sup>1884,1885</sup>

According to the standards published by the European Parliament on 23 February 2013, all OTC derivatives should be reported to TRs by the beginning of 2014.<sup>1886</sup> Furthermore, on 11 April 2013, the Committee on Payment and Settlement Systems (CPSS) and IOSCO published a consultative report on authorities' access to trade repositories data. The purpose of the report is to provide guidance to the EU and the rest of the G20 members on the principles that should guide authorities' access to data held in TRs.<sup>1887</sup>

In the EU, legislation introducing a mandatory trading framework is in the final stages of negotiation. It would then have to be adopted by Italy and other EU members.<sup>1888</sup>

Legislation and detailed technical rules providing for central clearing are now in force in the EU, although no products are currently required to be cleared. The first phase of the EU central clearing regime is for CCPs to be re-authorised or recognised under EMIR, and this process is

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<sup>1881</sup> Jurisdictions' declared approaches to central clearing of OTC derivatives, Financial Stability Board (Basel) 5 November 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1882</sup> Jurisdictions' declared approaches to central clearing of OTC derivatives, Financial Stability Board (Basel) 5 November 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1883</sup> Margin requirements for non-centrally cleared derivatives - Second consultative document, Basel Committee on Banking Supervision and the Board of IOSCO (Basel) 15 February 2013. Date of Access: 27 June 2013.

<http://www.bis.org/publ/bcbs242.pdf>

<sup>1884</sup> Commission Delegated Regulation (EU) No 148/2013, Official Journal of the European Parliament (Brussels) 23 February 2013. Date of Access: 30 June 2013.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:052:FULL:EN:PDF>

<sup>1885</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1886</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1887</sup> Authorities' access to trade repository data - consultative report, CPSS and IOSCO (Basel/Madrid) 11 April 2013. Date of Access: 27 June 2013. <http://www.bis.org/publ/cpss108.htm>

<sup>1888</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

underway as of March 2013. Once a CCP has been re-authorised or recognised in respect of the products it clears, ESMA will assess whether the relevant OTC derivatives products should be subject to a mandatory clearing obligation, with the possibility of phase-in according to the categories of counterparties. It is anticipated that the first mandatory clearing obligations will be determined by the end of 2013, and will come into force in early 2014.<sup>1889,1890</sup>

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes that even though the European Union is “among the most advanced in implementing legislative and regulatory reform, with several key regulatory measures in force,” it has yet to pass required reforms Electronic Platform Trading and on Higher Capital Requirements for non-centrally-cleared OTC Derivatives products.<sup>1891</sup>

On 28 June 2013, BCBS and IOSCO published a consultative paper on Capital treatment of bank exposures to central counterparties. Changes to the interim standard, which was initially published in July 2012, will not be made before late 2013. Regulation in this area is, therefore, still a work in progress.<sup>1892</sup>

Italy has taken some steps toward compliance with some of the FSB recommendation areas regarding the regulation of OTC Derivative markets and therefore earned a score of 0.

*Analyst: Theodora Mladenova*

#### **Japan: +1**

Japan has taken active steps to comply with the applicable FSB recommendations to strengthen regulation and supervision of OTC derivatives markets in a nondiscriminatory manner with respect to all five recommendation areas: standardization, central clearing, exchange and platform trading, reporting to trade repositories, and higher capital requirements for non-centrally cleared contracts.

On 12 September 2012 Japan’s Financial Service Agency promulgated the Outline of 2012 Financial Instruments and Exchange (Amendment) Act. The outline includes regulations regarding: (1) Facilitating the Establishment of a “Comprehensive Exchange”; (2) Improving the fairness and transparency of OTC derivatives transactions; (3) Ensuring appropriate regulations against market misconducts. These regulations aim to develop standardization, electronic trading platforms, reporting to trade repositories and higher capital requirements for non-centrally cleared contracts.<sup>1893</sup>

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<sup>1889</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1890</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1891</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1892</sup> Capital treatment of bank exposures to central counterparties - consultative document, Bank for International Settlements (Basel) 28 June 2013. Date of Access: 30 June 2013.

<http://www.bis.org/publ/bcbs253.htm>

<sup>1893</sup> Outline of 2012 Financial Instruments and Exchange (Amendment) Act, Japan’s Financial Service Agency 12 September 2012. <http://www.fsa.go.jp/en/refer/legislation/20121012/01.pdf>

The outline also mentions that legislation concerning “mandatory central clearing” and “mandatory storage and reporting of trade data” has been promulgated in the amendment of the Financial Instruments and Exchange Act in 2010.<sup>1894</sup>

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes that even though Japan is “among the most advanced in implementing legislative and regulatory reform, with several key regulatory measures in force,” it has yet to pass implementing regulation on Exchange or Electronic Platform Trading.<sup>1895</sup> Japan has however adopted legislation on Exchange or Electronic Platform Trading and has passed implementing legislation on Central Clearing, Reporting to Trade repositories, and Higher Capital Requirements for non-centrally cleared OTC derivatives.<sup>1896</sup>

Japan has taken steps toward compliance with all five FSB recommendation areas regarding the regulation of OTC Derivative markets and therefore earned a score of +1.

*Analyst: Chen Qu*

### **Korea: 0**

Korea has partially complied with its commitments to strengthen regulation of OTC derivatives markets with the following areas: (1) increasing standardization; (2) central clearing; (3) exchange/ electronic platform trading; (4) reporting to trade repositories; (5) higher capital requirement for non-centrally cleared contracts.

On 25 June 2012, the Financial Services Commission (FSC) of Korea submitted a proposed amendment to the Financial Investment Services and Capital Markets Act in the 19th National Assembly. The amendment introduces central counterparty (CCP), so that the transactions of OTC derivatives capable of causing a significant impact on domestic capital market would be required to clear through the CCP. The amendment is designed to reform Korean’s capital market infrastructure and to strengthen investor protection.<sup>1897</sup>

On 31 October 2012, the Financial Stability Board published the OTC Derivative Market Reform: Fourth Progress Report on Implementation. The report reviewed OTC Derivative progress in Korea: “1) The Financial Investment Services and Capital Markets Act (FSS) and the Foreign Exchange Transactions Act (BoK) require reporting of all OTC derivatives transactions to authorities; 2) Legislation has not yet proposed toward implementing a trading requirement for all or any subset of standardized derivatives to be traded on exchanges or electronic trading platform.”<sup>1898</sup>

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<sup>1894</sup> Outline of 2012 Financial Instruments and Exchange (Amendment) Act, Japan’s Financial Service Agency 12 September 2012. <http://www.fsa.go.jp/en/refer/legislation/20121012/01.pdf>

<sup>1895</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013. [http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1896</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013. [http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1897</sup> Foreign Investors Learn to Love Korea, IFLR1000 (Seoul) 25 June 2012. Date of Access 3 January 2013. <http://www.iflr.com/Article/3072368/Foreign-investors-learn-to-love-Korea.html>

<sup>1898</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access 3 January 2013. [http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

However on 22 November 2012, Korean legislators failed to pass the OTC derivative clearing bill to meet the 2012 deadline agreed upon by G20 members to clear standardized OTC derivatives. Mandatory clearing in Korea has been postponed to commence in October 2013.<sup>1899</sup>

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes that regulation requiring reporting of OTC Derivatives transactions to Trade Repositories was implemented.<sup>1900</sup> The FSB further notes that by end-2012, Korea had already adopted legislation on Central Clearing, even though this legislation was not yet in force when the report was published. Furthermore, “proportion of OTC derivatives composed of standardized derivatives substantially increased.” The FSB further notes that regulation regarding Exchange or electronic platform trading has yet to be proposed: “review of policy options underway.”<sup>1901</sup>

Korea has not undertaken actions on FSB recommendation areas: (1) exchange/electronic platform to trade OTC derivatives; (2) higher capital requirements for non-centrally cleared contracts. Furthermore, Korea has yet to implement the legislation passed on Central Clearing. Korea has therefore earned a score of 0.

*Analyst: Qing Zeng*

## **Mexico: 0**

Mexico has partially complied with its commitment that all standardized OTC derivative contracts be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012.

On 13 October 2012, Mark Carney, Chairman of the Financial Stability Board to the International Monetary and Financial Committee, issued a statement, saying “members expressed concern about unresolved issues in the cross-border application of regulation.”<sup>1902</sup>

On 31 October 2012, the FSB published its Fourth Progress Report on Implementation, stating “Industry, with the support of regulators, should accelerate their work on issues relating to the standardisation of both products and processes.”<sup>1903</sup>

The Fourth Progress Report, published by the FSB, also states that “... significant data gaps remain concerning the extent of reporting and central clearing of products, in particular for the commodities, equities and foreign exchange asset classes. These data gaps need to be filled.”<sup>1904</sup>

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<sup>1899</sup> Korea to Start Mandatory Clearing in October 2013, Risk.net. Date of Access 3 January 2013  
<http://www.risk.net/asia-risk/news/2226870/korea-to-start-mandatory-clearing-in-october-2013>

<sup>1900</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.  
[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1901</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.  
[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1902</sup> Statement of Mark Carney Chairman of the Financial Stability Board to the International Monetary and Financial Committee (Tokyo) 13 October 2012. Date of Access: 8 January 2013.  
<http://www.imf.org/External/AM/2012/imfc/statement/eng/fsb.pdf>

<sup>1903</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013.  
[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

On 5 November 2012 the FSB issued the Jurisdictions' declared approaches to central clearing of OTC derivatives. Mexico declared that it would institute mandatory clearing requirements for "standardized" OTC derivatives and incentives for other derivatives by H1 2013.<sup>1905</sup>

In November 2012, Comision Nacional Bancaria y de Valores released "El Mercado de Derivados Mexicano: Características, Regulación, Supervisión y Reformas derivadas de los acuerdos del G-20." According to the document, regulation should be released in December 2012, MOUs with international authorities should be in place by the end of the first trimester of 2013, and a bill should be drafted in the first half of 2013.<sup>1906</sup>

On 15 February 2013, BCBS and IOSCO published their near-final proposal on Margin requirements for non-centrally cleared derivatives. As of the time of the writing of this report, Mexico has not implemented any regulation to comply with the G20 commitment of higher capital requirements for non-centrally cleared contracts. The aforementioned paper, released by BCBS and IOSCO, proposes that initial margin requirements be phased-in over four years, beginning 2015.<sup>1907</sup>

On 11 April 2013, the Committee on Payment and Settlement Systems (CPSS) and IOSCO published a consultative report on authorities' access to trade repositories data. The purpose of the report is to provide guidance to Mexico and the rest of the G20 members on the principles that should guide authorities' access to data held in TRs.<sup>1908</sup>

Mexico noted that it anticipates central clearing obligations to be brought into force by the summer of 2013.<sup>1909</sup>

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes that Mexico did not need legislative changes.<sup>1910</sup> However, the

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<sup>1904</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1905</sup> Jurisdictions' declared approaches to central clearing of OTC derivatives, Financial Stability Board (Basel) 5 November 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1906</sup> El Mercado de Derivados Mexicano: Características, Regulación, Supervisión y Reformas derivadas de los acuerdos del G-20, Comision Nacional Bancaria y de Valores (Mexico City) November 2012. Date of Access: 8 January 2013.

[http://www.iimv.org/actividades2/Antigua2012-2/martes13/LuisLeyvaEl%20Mercado%20de%20Mercado%20de%20Derivados%20Mexico%20y%20Reformas%20al%20OTC\\_LLM\\_%2012NOV2012%20IIMV%20LA%20ANTIGUA%20GUAT.pdf](http://www.iimv.org/actividades2/Antigua2012-2/martes13/LuisLeyvaEl%20Mercado%20de%20Mercado%20de%20Derivados%20Mexico%20y%20Reformas%20al%20OTC_LLM_%2012NOV2012%20IIMV%20LA%20ANTIGUA%20GUAT.pdf)

<sup>1907</sup> Margin requirements for non-centrally cleared derivatives - Second consultative document, Basel Committee on Banking Supervision and the Board of IOSCO (Basel/Madrid) 15 February 2013. Date of Access: 27 June 2013.

<http://www.bis.org/publ/bcbs242.pdf>

<sup>1908</sup> Authorities' access to trade repository data - consultative report, CPSS and IOSCO (Basel/Madrid) 11 April 2013. Date of Access: 27 June 2013. <http://www.bis.org/publ/cpss108.htm>

<sup>1909</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1910</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

report also notes that regulation implementing higher capital requirements for non-centrally-cleared contracts had been partially adopted, while regulation implementing Central Clearing, Exchange or Electronic Platform Trading, and Reporting to Trade Repositories was up for public consultation, and therefore not implemented yet.<sup>1911</sup>

Mexico has taken some steps toward compliance with some of the FSB recommendation areas regarding the regulation of OTC Derivative markets and therefore earned a score of 0.

*Analyst: Theodora Mladenova*

## **Russia: +1**

Russia has fully complied with its commitment on strengthening regulation and supervision of OTC derivatives markets.

Federal Laws No. 7-FZ on clearing and clearing activities<sup>1912</sup> and pursuant amendments to this law, aimed at enhancing effectiveness of its implementation and increasing the use of standardized OTC products in the Russian market,<sup>1913</sup> created the legal basis for OTC contracts standardization. According to the Federal Law No. 8-FZ close-out netting in Russia covers only standardized products.<sup>1914</sup> Federal Law No. 281-FZ provides for tax preferences for derivatives agreements on standardized terms.<sup>1915</sup>

This legislation can also be considered as a move towards the goal of clearing OTC derivatives contracts through central counterparties. However, there is no requirement that all standardized OTC derivatives are cleared through CCPs in force in Russia.

According to the FSB OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Russia has adopted “regulation requiring all or any subset of standardized derivatives to be traded on exchanges or electronic trading platforms.” However, Russian authorities need to adopt implementing regulations for this requirement.<sup>1916</sup>

On 26 October 2012, the order of the Russian Federal Service for Financial Markets providing for the establishment of trade repositories and defining the procedure of collecting data on OTC

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<sup>1911</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1912</sup> Federal Law of 7 February 2011 No. 7-FZ on Clearing and Clearing Activities, Office of the President (Moscow) 9 February 2011. Date of Access: 27 March 2013. <http://kremlin.ru/acts/10284>.

<sup>1913</sup> Federal Law of 21 November 2011 No. 327-FZ on Making Amendments to Certain Legislative Acts of the Russian Federation in Connection with the Adoption of Federal Law on Organised Trading, Office of the President (Moscow) 21 November 2011. Date of Access: 27 March 2013. <http://graph.document.kremlin.ru/page.aspx?1582356>.

<sup>1914</sup> Federal Law of 7 February 2011 No. 8-FZ on Making Amendments to Certain Legislative Acts of the Russian Federation in Connection with the Adoption of Federal Law on Clearing and Clearing Activities, Office of the President (Moscow) 9 February 2011. Date of Access: 27 March 2013.

<http://graph.document.kremlin.ru/page.aspx?1544574>.

<sup>1915</sup> Federal Law of 25 November 2009 No. 281-FZ on Making Amendments to Parts 1 and 2 of the Tax Code and Certain Legislative Acts of the Russian Federation, Office of the President (Moscow) 25 November 2009. Date of Access: 27 March 2013. <http://graph.document.kremlin.ru/page.aspx?1035347>.

<sup>1916</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access 27 March 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf).

derivative transactions entered into force.<sup>1917</sup> However, this order has not obliged market participants to report to trade repository on OTC derivative transactions. According to the FSB Secretariat information note, Russian authorities will make “decision on whether mandatory requirements are needed ... after TR requirements are in effect, providing data to better analyze the market.”<sup>1918</sup>

According to the FSB OTC Derivatives Market Reforms, Fifth Progress Report on Implementation, Russia is among those jurisdictions that “have noted that they are implementing Basel III capital requirements and are monitoring the progress of the Working Group on Margining Requirements (WGMR) for guidance on developing margining requirements”. Thus, margining requirements for OTC derivative transactions were at that moment considered as “not applicable” for Russia.<sup>1919</sup>

On 12 July 2013, Russia Central Bank provided for additional capital requirements for the risk of credit valuation adjustments (CVA) to derivatives and OTC contracts to become effective starting from 1 October 2014.<sup>1920</sup>

Russia has taken steps to comply with the FSB recommendations to strengthen regulation and supervision of OTC derivatives markets with respect to four of the recommendation areas, while legislative changes in the area if margining requirements are not considered to be necessary in Russia. Thus, Russia receives a score of +1.

*Analyst: Andrey Shelepov*

#### **Saudi Arabia: +1**

Saudi Arabia has complied with its commitment to strengthen regulation of OTC Derivatives Markets and has therefore earned a score of +1.

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes that legislative changes are not needed in the jurisdiction. The report further notes that the implementing regulation is effective for both Reporting to Trade Repositories and for Higher Capital Requirements for non-centrally-cleared contracts. Regarding Standardization, Saudi Arabia declared that “Banks in Saudi Arabia already use standardized and plain vanilla products (primarily foreign exchange and interest rate products).” Central Clearing has not been implemented, as “current and future trading volumes are unlikely to justify establishment of a domestic CCP.” The trade repository “is expected to serve as the future

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<sup>1917</sup> Russian Federal Service for Financial Markets Order of 28 December 2011 No. 11-68/pz-n , Rossijskaya Gazeta 16 October 2012. Date of Access: 27 March 2013. <http://www.rg.ru/2012/10/16/fin-reeestr-site-dok.html>.

<sup>1918</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives, Secretariat information note, Financial Stability Board 5 November 2012. Date of Access 27 March 2013. [http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf).

<sup>1919</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access 27 March 2013. [http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf).

<sup>1920</sup> Information on introducing regulation of lending agencies in accordance with Basel III, Bank of Russia 12 July 2013. Date of Access: 20 August 2013. [http://cbr.ru/press/Plugins/Archive\\_get\\_blob.aspx?doc\\_id=130712\\_143900intern1.htm](http://cbr.ru/press/Plugins/Archive_get_blob.aspx?doc_id=130712_143900intern1.htm).

foundation for any electronic trading on exchanges [...] should the need for such mechanisms arise.”<sup>1921</sup>

Saudi Arabia has complied with all recommendations applicable to its jurisdiction and has therefore earned a score of +1.

*Analyst: HyunAh (Heidi) Shim*

### **South Africa: 0**

South Africa has complied with its commitment to strengthen regulation of OTC Derivative Markets, but implementing regulation is still needed to make legislative changes come into force. South Africa has therefore earned a score of 0.

The 31 October 2012 FSB Progress Report on OTC Derivatives Market Reforms notes that South Africa proposed legislation on Central Clearing, Reporting to TRs, and Standardization.

The 31 October 2012 FSB Progress Report on OTC Derivatives Market Reforms notes that South Africa’s “legislative and regulatory frameworks to require trading of standardized derivatives on organized trading platforms, where appropriate, is not as advanced as other reform areas.”<sup>1922</sup> South Africa is “reportedly taking a wait and see approach regarding requirement trading on organized trading platforms.”<sup>1923</sup>

The 6 November 2012 National Assembly in Parliament adopted the Financial Markets Bill that accepted several OTC derivative reforms in Standardization, Central Clearing, and Reporting to TRs.<sup>1924</sup>

The government of South Africa’s response to the FSB survey of August 2012 on Declared Approaches to Central Clearing of OTC Derivatives was that the timeframe for implementation would be January 2013.<sup>1925</sup>

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board notes South Africa adopted legislation on Central Clearing, Exchange or Electronic Platform Trading, and Reporting to Trade Repositories. Implementing regulation on the latter was under public consultation at the time the FSB report was published. The FSB report further noted that higher Capital Requirements for non-centrally cleared

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<sup>1921</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1922</sup> OTC Derivatives Market Reforms Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access: 9 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1923</sup> OTC Derivatives Market Reforms Fourth Progress Report on Implementation, Financial Stability Board 31 October 2012. Date of Access: 9 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1924</sup> Legislation, Department of National Treasury (South Africa) 6 November 2012. Date of Access: 11 January 2013 <http://www.treasury.gov.za/legislation/bills/2012/FMB/>

<sup>1925</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives, Financial Stability Board-Secretariat 5 November 2012. Date of Access: 10 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

derivatives contracts was already effective. South Africa declared the FSB that “A significant portion of the market is already fairly standardized.”<sup>1926</sup>

On 29 May 2013, President Jacob Zuma promulgated the Financial Markets Act (No. 19 of 2012), which further regulated the financial markets and OTC derivatives market. The introduction of the new law is to bring South Africa in line with international standards.<sup>1927</sup>

South Africa has taken significant steps toward compliance with all five FSB recommendation areas on OTC derivatives market reforms but has yet to implement these legislative and regulatory steps. South Africa has therefore been awarded a score of 0.

*Analyst: Igor Samardzic*

### **Turkey: 0**

Turkey has partially complied with its commitment to strengthen regulation of OTC derivatives with the following areas: standardization; central clearing; reporting to TRs. However, Turkey has not taken steps toward compliance with two FSB recommendation areas for OTC derivatives reform: Exchange/platform trading; Higher capital requirements for non-centrally cleared Contracts.

On 31 October 2012, the Financial Stability Board released the OTC Derivative Market Reform: Fourth Progress Report on Implementation. The report noted “under current legislation, investment firms are prohibited from dealing in OTC derivatives in Turkey; banks use mainly plain vanilla products with standardized features.”<sup>1928</sup> The report reviewed that Turkey has proposed to adopt the new Capital Markets Law and Turkey has prepared to introduce OTC derivatives as a capital market instrument. The new Capital Markets Law will allow the Capital Market Boards of Turkey to designate clearing agents to centrally clear OTC derivatives transactions or to require the establishment of a central counterparty clearing in certain markets. The Law will also give the Capital Market Boards authority to require transactions to be reported directly to authorized trading repositories<sup>1929</sup>.

In its 15 April 2013 OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, the Financial Stability Board confirms that Turkey has adopted legislation on Central Clearing and reporting to Trade Repositories. Turkey stated that “Under current legislation, investment firms are prohibited from dealing in OTC derivatives in Turkey; banks use mainly plain vanilla products with standardized features.” Furthermore, Turkey declared that “sub-legislation [on

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<sup>1926</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1927</sup> Financial Markets Act to come into effect in June, South African Government News Agency 29 May 2013. Date of Access: 21 July 2013. <http://www.sanews.gov.za/south-africa/financial-markets-act-come-effect-june>

<sup>1928</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access 3 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1929</sup> OTC Derivatives Market Reforms: Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access 3 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

Central Clearing] is expected to be adopted by end of Q2 2013.” Regarding Exchange or electronic platform trading, “Policy options are under review.”<sup>1930</sup>

Turkey has taken steps to comply with three of the five recommendation areas for OTC derivative reform and has therefore earned a score of 0.

*Analyst: Qing Zeng*

### **United Kingdom: 0**

The United Kingdom has partially complied with its commitment that all standardized OTC derivative contracts be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012.

On 13 October 2012, Mark Carney, Chairman of the Financial Stability Board to the International Monetary and Financial Committee, issued a statement, saying that “...members expressed concern about unresolved issues in the cross-border application of regulation.”<sup>1931</sup>

On 31 October 2012, the FSB published its Fourth Progress Report on Implementation, stating “Industry, with the support of regulators, should accelerate their work on issues relating to the standardization of both products and processes.”<sup>1932</sup>

Regarding the commitment for central clearing of standardized OTC derivatives, the UK, like the other EU members, will follow the approach set forth by EMIR.<sup>1933</sup> On 5 November 2012 the FSB issued the Jurisdictions’ declared approaches to central clearing of OTC derivatives. The European Union declared “additional implementing rules (standards and decisions) to be finalized primarily in H1 2013.”<sup>1934</sup>

On 15 February 2013, BCBS and IOSCO published their near-final proposal on Margin requirements for non-centrally cleared derivatives. As of the time of the writing of this report, the UK, like other EU members, has not implemented any special regulation to comply with the G20 commitment of higher capital requirements for non-centrally cleared contracts. The

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<sup>1930</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 23 July 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1931</sup> Statement of Mark Carney Chairman of the Financial Stability Board to the International Monetary and Financial Committee (Tokyo) 13 October 2012. Date of Access: 8 January 2013.

<http://www.imf.org/External/AM/2012/imfc/statement/eng/fsb.pdf>

<sup>1932</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1933</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives, Financial Stability Board (Basel) 5 November 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1934</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives, Financial Stability Board (Basel) 5 November 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

aforementioned paper, released by BCBS and IOSCO, proposes that initial margin requirements be phased-in over four years, beginning 2015.<sup>1935</sup>

On 23 February 2013, key regulatory technical standards (RTS), which were first adopted as part of EMIR on 19 December 2012, were published. They came into effect on 15 March 2013.<sup>1936,1937</sup>

According to the standards published by the European Parliament on 23 February 2013, all OTC derivatives should be reported to TRs by the beginning of 2014.<sup>1938</sup> Furthermore, on 11 April 2013, the Committee on Payment and Settlement Systems (CPSS) and IOSCO published a consultative report on authorities' access to trade repositories data. The purpose of the report is to provide guidance to the EU and the rest of the G20 members on the principles that should guide authorities' access to data held in TRs.<sup>1939</sup>

In the EU, legislation introducing a mandatory trading framework is in the final stages of negotiation. It would then have to be adopted by the UK and other EU members.<sup>1940</sup>

Legislation and detailed technical rules providing for central clearing are now in force in the EU, although no products are currently required to be cleared. The first phase of the EU central clearing regime is for CCPs to be re-authorised or recognised under EMIR, and this process is underway as of March 2013. Once a CCP has been re-authorised or recognised in respect of the products it clears, ESMA will assess whether the relevant OTC derivatives products should be subject to a mandatory clearing obligation, with the possibility of phase-in according to the categories of counterparties. It is anticipated that the first mandatory clearing obligations will be determined by the end of 2013, and will come into force in early 2014.<sup>1941,1942</sup>

On 28 June 2013, BCBS and IOSCO published a consultative paper on Capital treatment of bank exposures to central counterparties. Changes to the interim standard, which was initially

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<sup>1935</sup> Margin requirements for non-centrally cleared derivatives - Second consultative document, Basel Committee on Banking Supervision and the Board of IOSCO (Basel) 15 February 2013. Date of Access: 27 June 2013.

<http://www.bis.org/publ/bcbs242.pdf>

<sup>1936</sup> Commission Delegated Regulation (EU) No 148/2013, Official Journal of the European Parliament (Brussels) 23 February 2013. Date of Access: 30 June 2013.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:052:FULL:EN:PDF>

<sup>1937</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1938</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1939</sup> Authorities' access to trade repository data - consultative report, CPSS and IOSCO (Basel/Madrid) 11 April 2013. Date of Access: 27 June 2013. <http://www.bis.org/publ/cpss108.htm>

<sup>1940</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1941</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1942</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

published in July 2012, will not be made before late 2013. Regulation in this area is, therefore, still a work in progress.<sup>1943</sup>

The United Kingdom has taken some steps toward compliance with some of the FSB recommendation areas regarding the regulation of OTC Derivative markets and therefore earned a score of 0.

*Analyst: Theodora Mladenova*

### **United States: +1**

The United States has fully complied with its commitment to strengthen regulation of OTC derivatives markets by: (1) increasing standardization; (2) establishing central counterparties for central clearing of OTC derivatives contracts; (3) establishing exchange or electronic platform trading; (4) establishing trade repositories for OTC derivatives transactions; (5) higher capital requirements for non-centrally cleared contracts.

On July 21, 2010, the United States launched the Dodd-Frank Act, which is compatible with the G20 commitment on over-the-counter (OTC) derivatives.<sup>1944</sup> This act supports the G20 commitment of the United States on OTC derivatives during the Los Cabos Summit cycle.

On 11 June 2012, the Securities and Exchange Commission announced a detailed plan with dozens of new rules governing over-the-counter swaps in order to erase ambiguity on the previous Dodd-Frank Act (2010).<sup>1945</sup> The S.E.C. outlined that “the rules require companies to trade most derivatives contracts through regulated exchanges — or a new creation known as a swap execution facility — and force most derivatives deals to go through clearinghouses, which act as a backstop in case one trading party defaults.”<sup>1946</sup>

On 16 November 2012, at the 15<sup>th</sup> Annual International Banking Conference, Secretary Miller emphasized the effect of the Dodd-Frank Act in stabilizing the financial markets. He mentioned that market participants have started to adopt many of these changes in the act.<sup>1947</sup> Moreover, he also stated “most swaps trading activity will increasingly move onto clearinghouses and trading facilities over the next few years.”<sup>1948</sup>

On 3 January 2013, Gary Gensler, chairman of the Commodity Futures Trading Commission, announced a new policy for banks with regard to derivative markets, stating “Real-time reporting brings transparency to the formerly opaque swaps market.” The banks are required to register and

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<sup>1943</sup> Capital treatment of bank exposures to central counterparties - consultative document, Bank for International Settlements (Basel) 28 June 2013. Date of Access: 30 June 2013.  
<http://www.bis.org/publ/bcbs253.htm>

<sup>1944</sup> 2012 Financial Development (Washington) 20 July 2012. Date of Access: 5 January 2013.  
[http://www.treasury.gov/initiatives/fsoc/Documents/2012 Financial Developments.pdf](http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Financial%20Developments.pdf)

<sup>1945</sup> Regulator Releases ‘Road Map’ on Swaps Overhaul (New York) 11 June 2012. Date of Access: 24 January 2013. <http://dealbook.nytimes.com/2012/06/11/regulator-releases-road-map-on-swaps-overhaul/>

<sup>1946</sup> Regulator Releases ‘Road Map’ on Swaps Overhaul (New York) 11 June 2012. Date of Access: 24 January 2013. <http://dealbook.nytimes.com/2012/06/11/regulator-releases-road-map-on-swaps-overhaul/>

<sup>1947</sup> Remarks of Under Secretary Miller at the 15th Annual International Banking Conference Hosted by the Federal Reserve Bank of Chicago (Washington) 16 November 2012. Date of Access: 5 January 2013.  
<http://www.treasury.gov/press-center/press-releases/Pages/tg1771.aspx>

<sup>1948</sup> Remarks of Under Secretary Miller at the 15th Annual International Banking Conference Hosted by the Federal Reserve Bank of Chicago (Washington) 16 November 2012. Date of Access: 5 January 2013.  
<http://www.treasury.gov/press-center/press-releases/Pages/tg1771.aspx>

produce data included foreign banks like Deutsche Bank in Germany and Barclays in England.<sup>1949</sup> The banks are also required to turn over in real-time the data from their trading book.<sup>1950</sup> The disclosures include “the volume, time and price of each derivatives trade.”<sup>1951</sup>

On 25 January 2013, the CFTC announced a plan in response to the U.S. regulatory overhaul aimed at increasing transparency: “more than half of the \$18 trillion in notional daily trading of energy swaps has moved to futures exchanges from the over-the-counter market.”<sup>1952</sup>

The United States has fully complied with all five FSB recommendation areas for OTC derivatives reform and has therefore earned a score of +1.

*Analyst: HyunAh (Heidi) Shim*

## **European Union: 0**

The European Union, despite its progress with EMIR<sup>1953</sup>, has partially complied with its commitment that all standardized OTC derivative contracts be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012.

The main concern remains the meeting of the G20 deadlines.<sup>1954</sup>

On 13 October 2012, Mark Carney, Chairman of the Financial Stability Board to the International Monetary and Financial Committee, issued a statement, saying that “...members expressed concern about unresolved issues in the cross-border application of regulation.”<sup>1955</sup>

On 31 October 2012, the FSB published its Fourth Progress Report on Implementation, stating “Industry, with the support of regulators, should accelerate their work on issues relating to the standardization of both products and processes.”<sup>1956</sup>

The Fourth Progress Report, published by the FSB, also states that “... significant data gaps remain concerning the extent of reporting and central clearing of products, in particular for the

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<sup>1949</sup> Banks Face New Checks on Derivatives Trading (New York) 3 January 2013. Date of Access: 24 January 2013. <http://dealbook.nytimes.com/2013/01/03/banks-face-new-checks-on-derivatives-trading/>

<sup>1950</sup> Banks Face New Checks on Derivatives Trading (New York) 3 January 2013. Date of Access: 24 January 2013. <http://dealbook.nytimes.com/2013/01/03/banks-face-new-checks-on-derivatives-trading/>

<sup>1951</sup> Banks Face New Checks on Derivatives Trading (New York) 3 January 2013. Date of Access: 24 January 2013. <http://dealbook.nytimes.com/2013/01/03/banks-face-new-checks-on-derivatives-trading/>

<sup>1952</sup> Energy Swaps Migrating to Futures on Dodd-Frank Rules (New York) 25 January 25 2013. Date of Access: 25 January 2013. <http://www.bloomberg.com/news/2013-01-25/energy-swaps-migrating-to-futures-as-dodd-frank-rules-take-hold.html>

<sup>1953</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013. [http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1954</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013. [http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1955</sup> Statement of Mark Carney Chairman of the Financial Stability Board to the International Monetary and Financial Committee (Tokyo) 13 October 2012. Date of Access: 8 January 2013. <http://www.imf.org/External/AM/2012/imfc/statement/eng/fsb.pdf>

<sup>1956</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013. [http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

commodities, equities and foreign exchange asset classes. These data gaps need to be filled.”<sup>1957</sup>  
On 5 November 2012 the FSB issued the Jurisdictions’ declared approaches to central clearing of OTC derivatives. The European Union declared “additional implementing rules (standards and decisions) to be finalized primarily in H1 2013.”<sup>1958</sup>

On 15 February 2013, BCBS and IOSCO published their near-final proposal on Margin requirements for non-centrally cleared derivatives. As of the time of the writing of this report, the EU has not implemented any special regulation to comply with the G20 commitment of higher capital requirements for non-centrally cleared contracts. The aforementioned paper, released by BCBS and IOSCO, proposes that initial margin requirements be phased-in over four years, beginning 2015.<sup>1959</sup>

On 23 February 2013, key regulatory technical standards (RTS), which were first adopted on 19 December 2012 as part of EMIR, were published. They came into effect on 15 March 2013.<sup>1960,1961</sup>

According to the standards published by the European Parliament on 23 February 2013, all OTC derivatives should be reported to TRs by the beginning of 2014.<sup>1962</sup> Furthermore, on 11 April 2013, the Committee on Payment and Settlement Systems (CPSS) and IOSCO published a consultative report on authorities’ access to trade repositories data. The purpose of the report is to provide guidance to the EU and the rest of the G20 members on the principles that should guide authorities’ access to data held in TRs.<sup>1963</sup>

In the EU, legislation introducing a mandatory trading framework is in the final stages of negotiation.<sup>1964</sup>

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<sup>1957</sup> OTC Derivatives Market Reforms, Fourth Progress Report on Implementation, Financial Stability Board (Basel) 31 October 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121031a.pdf](http://www.financialstabilityboard.org/publications/r_121031a.pdf)

<sup>1958</sup> Jurisdictions’ declared approaches to central clearing of OTC derivatives, Financial Stability Board (Basel) 5 November 2012. Date of Access: 8 January 2013.

[http://www.financialstabilityboard.org/publications/r\\_121105a.pdf](http://www.financialstabilityboard.org/publications/r_121105a.pdf)

<sup>1959</sup> Margin requirements for non-centrally cleared derivatives - Second consultative document, Basel Committee on Banking Supervision and the Board of IOSCO (Basel) 15 February 2013. Date of Access: 27 June 2013.

<http://www.bis.org/publ/bcbs242.pdf>

<sup>1960</sup> Commission Delegated Regulation (EU) No 148/2013, Official Journal of the European Parliament (Brussels) 23 February 2013. Date of Access: 30 June 2013.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:052:FULL:EN:PDF>

<sup>1961</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1962</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1963</sup> Authorities’ access to trade repository data - consultative report, CPSS and IOSCO (Basel/Madrid) 11 April 2013. Date of Access: 27 June 2013. <http://www.bis.org/publ/cpss108.htm>

<sup>1964</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

Legislation and detailed technical rules providing for central clearing are now in force in the EU, although no products are currently required to be cleared. The first phase of the EU central clearing regime is for CCPs to be re-authorised or recognised under EMIR, and this process is underway as of March 2013. Once a CCP has been re-authorised or recognised in respect of the products it clears, ESMA will assess whether the relevant OTC derivatives products should be subject to a mandatory clearing obligation, with the possibility of phase-in according to the categories of counterparties. It is anticipated that the first mandatory clearing obligations will be determined by the end of 2013, and will come into force in early 2014.<sup>1965,1966</sup>

In its 23 February 2013 publication in the OJ, the EU Parliament indicated that the European Commission has asked the European Securities and Markets Authority (ESMA) for advice on equivalence for non-EU CCPs, TRs as well as on equivalence for the purpose of exemption from clearing, reporting, and risk mitigation obligations. ESMA is scheduled to provide advice for all non-EU jurisdictions by 15 July 2013.<sup>1967</sup>

On 28 June 2013, BCBS and IOSCO published a consultative paper on Capital treatment of bank exposures to central counterparties. Changes to the interim standard, which was initially published in July 2012, will not be made before late 2013. Regulation in this area is, therefore, still a work in progress.<sup>1968</sup>

The European Union has taken some steps toward compliance with some of the FSB recommendation areas regarding the regulation of OTC Derivative markets and therefore earned a score of 0.

*Analyst: Theodora Mladenova*

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<sup>1965</sup> OTC Derivatives Market Reforms: Fifth Progress Report on Implementation, Financial Stability Board (Basel) 15 April 2013. Date of Access: 25 June 2013.

[http://www.financialstabilityboard.org/publications/r\\_130415.pdf](http://www.financialstabilityboard.org/publications/r_130415.pdf)

<sup>1966</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1967</sup> <sup>1967</sup> EMIR: illustrative implementation timeline, Clifford Chance (London) 15 May 2013. Date of Access: 30 June 2013. <http://www.risklibrary.net/download/emir-illustrative-implementation-timeline-update-17175>

<sup>1968</sup> Capital treatment of bank exposures to central counterparties - consultative document, Bank for International Settlements (Basel) 28 June 2013. Date of Access: 30 June 2013. <http://www.bis.org/publ/bcbs253.htm>