Monetary Authority of Singapore

SECURITIES AND FUTURES ACT ("SFA") AND FINANCIAL ADVISERS ACT ("FAA")

FREQUENTLY ASKED QUESTIONS ("FAQs") ON PRODUCT DEFINITIONS

<u>Disclaimer</u>: These FAQs are meant to provide guidance to the industry on the administration of the amended SFA, FAA and their regulations, following the changes under the Securities and Futures (Amendment) Act 2017 ("SFAA"). They do not constitute legal advice. MAS expects industry participants to retain their independent legal counsel to advise them on how their products should be classified given the characteristics, terms and conditions of the products, and how their business operations should be conducted in order to satisfy legal and regulatory requirements, and to advise them on all applicable laws, rules and regulations of Singapore.

Please note that the changes under the SFAA have not been effected. MAS will inform the industry of the effective date in due course.

(I) REVISED PRODUCT DEFINITIONS

Q1 Does the revised definition of "securities" include (i) bonds and (ii) exchange-traded funds ("ETFs")?

A1 The revised definition of "securities" will comprise equity instruments representing legal or beneficial ownership interests and debt instruments, such as shares, debentures (including bonds) and units in a business trust. ETFs will fall under the revised definition of "units in a collective investment scheme".

Q2 What should participatory notes and credit-linked notes be classified as?

A2 Any product that is structured as a note, such as a participatory note or credit-linked note, is a security.

Q3 Should block futures contracts which are bilaterally traded and registered with an exchange fall under exchange-traded derivatives contracts?

A3 Yes, block futures contracts that are bilaterally traded and subsequently registered with an exchange in accordance with the business rules of the exchange are futures contracts and consequently, are exchange-traded derivatives contracts.

Q4 How should options on Indian equities which are listed on SGX be categorised?

A4 Options referencing a share index are derivatives contracts. Where such options are traded on an exchange such as SGX, they are exchange-traded derivatives contracts.

Q5 What should a futures swap be classified as?

A5 A futures swap (i.e. a swap on a futures contract), or any other swaps, are over-the-counter derivatives contracts.

Q6 Should over-the-counter derivatives contracts which are centrally-cleared be considered as exchange-traded derivatives contracts?

A6 Over-the-counter derivatives contracts which are cleared by central counterparties remain as over-the-counter derivatives contracts. This is because they are traded over-the-counter, and subsequently submitted for central clearing.

Q7 Where the reference asset of a derivatives contract does not fall within the definition of "underlying thing" under the amended SFA, will the entities dealing in derivatives contract referencing that asset class (e.g. weather derivatives contract) be required to hold a capital markets services licence?

A7 A derivatives contract falls within the ambit of the amended SFA if its reference asset is a security, a unit in a collective investment scheme ("CIS"), a currency or currency index, an interest rate, a commodity and/or the credit of any person (collectively referred to as "underlying thing"). A derivatives contract whose reference asset is not any of the underlying thing will not be considered a derivatives contract under the amended SFA, and thus, any person carrying on business in dealing in such derivatives contracts (e.g. weather derivatives) will not be required to hold a capital markets services licence.

Similarly, any person which provides financial advisory services for such derivatives contracts will not be required to hold a financial advisers licence under the amended FAA.

Q8 Should contracts for differences ("CFDs") fall under the definition of over-the-counter derivatives contracts?

A8 CFDs referencing securities, units in a CIS, a currency or currency index, an interest rate, a commodity and/or the credit of any person are over-the-counter derivatives contracts.

Q9 Other than CFDs, what products are considered over-the-counter derivatives contracts?

A9 An over-the-counter derivatives contract refers to any product that meets the definition of derivatives contracts under the amended SFA and the following criteria –

(a) is not executed on an organised market;

(b) is not cleared or settled by a clearing facility;

(c) does not have the same contractual terms as other derivatives contracts executed on the organised market on which the derivatives contracts are executed; and

(d) does not conform to the business rules of the organised market on which the derivatives contracts are executed.

Other examples of over-the-counter derivatives contracts include swaps and forward contracts.

Q10 Are spot foreign exchange contracts regulated under the amended SFA and FAA?

A10 Spot foreign exchange contracts that are traded on a margin basis will continue to be regulated under both Acts. Spot foreign exchange contracts that are not traded on a margin basis will continue to be regulated only under the FAA.

Q11 Are spot foreign exchange contracts considered over-the-counter derivatives contracts?

A11 Spot contracts are not derivatives contracts. Consequently, spot foreign exchange contracts are not over-the-counter derivatives contracts.