

## CONSULTATION PAPER

P002-2014  
March 2014

# Consultation Paper on Draft Regulations to Enhance the Regulatory Framework for Unlisted Margined Derivatives Offered to Retail Investors

MAS

Monetary Authority of Singapore

## PREFACE

On 28 May 2012, MAS issued a consultation paper (“Policy Consultation Paper”) on the recommendations to enhance the regulatory requirements for the offer of unlisted margined derivatives, such as contracts for differences (“CFDs”) and leveraged foreign exchange products (“LFX”), to retail investors. MAS’ response to the comments received during the consultation was published on the MAS website on 14 March 2014.

2 MAS is now consulting on the draft Regulations pursuant to the Securities and Futures Act (Cap. 289) (“SFA”) to effect the proposals set out in the Policy Consultation Paper and MAS’ response to feedback from the industry.

3 MAS invites interested parties to provide their comments and feedback on the draft Regulations to:

Capital Markets Intermediaries Department  
Monetary Authority of Singapore  
10 Shenton Way  
MAS Building  
Singapore 079117

Email: [retailderivatives@mas.gov.sg](mailto:retailderivatives@mas.gov.sg)

Fax: (65) 6225 9766

MAS requests that all comments and feedback be submitted by **14 April 2014**.

4 Please note that all submissions received may be made public unless confidentiality is specifically requested for the whole or part of the submissions.

## **PART I: Amendments to Second Schedule to the SFA**

1 Banks licensed under the Banking Act are currently not caught under the SFA for the regulated activity of LFX trading. MAS proposes amendments to the Second Schedule to the SFA, attached at **Annex 1**, to remove the regulatory carve out so as to effect the applicable policy proposals as set out in the Policy Consultation Paper to banks carrying on LFX trading with retail customers<sup>1</sup>.

## **PART II: Amendments to the SF(LCB)Regulations**

2 MAS proposes amendments to the Securities and Futures (Licensing and Conduct of Business) Regulations (“SF(LCB)Regulations”), attached at **Annex 2**, to require Capital Markets Services (“CMS”) Licence Holders and entities exempted under section 99(1)(a), (b) and (c) of the SFA (collectively referred to as “derivative dealers”) who offer CFDs and/or LFX to :

- (A) maintain separate trust accounts for retail customers’ transactions in listed and unlisted products;
- (B) maintain retail customer moneys in trust accounts with a bank in Singapore;
- (C) not use retail customer moneys/assets in trust/custody accounts for meeting other obligations incurred by the derivative dealer in connection with the retail customer’s unlisted margined derivative transactions;
- (D) perform daily computation of all retail and non-retail customer money/assets which are deposited in a trust/custody account; and
- (E) act as a principal to the trade when dealing in unlisted margined derivatives with retail customers.

These amendments relate to the policy proposals set out in Section 4 of the Policy Consultation Paper.

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<sup>1</sup> Retail customers are investors other than accredited investors, expert investors or institutional investors as defined under the SFA.

### **PART III: Amendments to the SF(FMR)Regulations**

3 MAS proposes amendments to the Securities and Futures (Financing and Margin Requirements for Holders of Capital Markets Services Licences) Regulations (“SF(FMR)Regulations”), attached at **Annex 3**, to:

- (A) impose minimum margin requirement of 5% on CMS Licence Holders dealing in CFDs on FX and other LFX contracts with retail customers; and
- (B) require a base capital requirement of S\$5 million for CMS Licence Holders dealing in unlisted derivatives with retail customers.

These amendments relate to the policy proposals set out in Section 2 and Section 3 of the Policy Consultation Paper.

### **PART IV: New Securities and Futures (Margin Requirements for Exempt Financial Institutions) Regulations**

4 Currently, CMS Licence Holders that deal in CFDs are subject to the margin requirements as stipulated in regulation 24A of the SF(FMR)Regulations. This regulation prescribes the minimum margin requirements for CFDs with various underlying assets, the form of acceptable collateral and the requirement for CMS Licence Holders to immediately call for additional margin from customers when the current market value of the acceptable collateral deposited in the customer’s margin account falls below the minimum margin requirements. These requirements, however, do not apply to entities exempted under section 99(1)(a), (b) and (c) of the SFA, which include banks, merchant banks and finance companies (collectively referred to as “Exempt Financial Institutions”).

5 MAS proposes to introduce a new set of regulations, the Securities and Futures (Margin Requirements for Exempt Financial Institutions) Regulations, attached at **Annex 4**, which prescribe the margin requirements for Exempt Financial Institutions. These amendments relate to Section 2 of the Policy Consultation Paper.

## INVITATION FOR COMMENTS

6 MAS invites comments on the following:

- (i) proposed amendments to the Second Schedule of the SFA attached at **Annex 1**;
- (ii) proposed amendments to the SF(LCB)Regulations attached at **Annex 2**;
- (iii) proposed amendments to the SF(FMR)Regulations attached at **Annex 3**; and
- (iv) the proposed Securities and Futures (Margin Requirements for Exempt Financial Institutions) Regulations attached at **Annex 4**.



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