

RESPONSE TO FEEDBACK RECEIVED

May 2017

Response to Feedback Received – Draft Regulations to Enhance the Regulatory Framework for Unlisted Margined Derivatives Offered to Retail Investors

MAS

Monetary Authority of Singapore

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1. Preface

1.1 On 14 March 2014, MAS issued a consultation paper inviting comments on the following amendments and regulations (collectively referred to as “CFD Amendments”):

- (a) Amendments to the Second Schedule of the Securities and Futures Act (“SFA”);
- (b) Amendments to the Securities and Futures (Licensing and Conduct of Business) Regulations (“SF(LCB) Regulations”);
- (c) Amendments to the Securities and Futures (Financial and Margin Requirements) Regulations (“SF(FMR) Regulations”); and
- (d) New Securities and Futures (Margin Requirements for Exempt Financial Institutions) Regulations (“SF(MREFI) Regulations”).

1.2 The CFD Amendments were to implement the revised proposals, after taking into account feedback received on the Consultation Paper on Review of Regulatory Framework for Unlisted Margined Derivatives Offered to Retail Investors¹. The consultation closed on 14 April 2014. The list of respondents can be found in Appendix A.

1.3 MAS thanks all respondents for their feedback. MAS has considered carefully the feedback received, and will incorporate them where appropriate into the CFD Amendments. Comments that are of wider interest, together with MAS’ responses, are set out below.

¹ Refer to MAS’ Response Paper (dated 14 March 2014) on [Review of Regulatory Framework for Unlisted Margined Derivatives Offered to Retail Investors](#)

2. Amendments to the SF(LCB) Regulations

(a) Maintenance of a separate trust account for retail customers' transactions in unlisted products

2.1 One respondent sought clarification on whether moneys received from retail customers in respect of unlisted derivatives transactions may be commingled in the same trust account.

MAS' Response

2.2 MAS would like to clarify that moneys received on account of retail customers in respect of their unlisted derivatives transactions may be commingled in the same trust account.

(b) Maintenance of retail customers' moneys in trust accounts with banks in Singapore

2.3 On the proposed amendments to require retail customers' moneys to be maintained in trust accounts with MAS-licensed banks in Singapore, a few respondents highlighted that certain foreign currencies are restricted in nature and must be held with foreign banks and custodians. One respondent raised the concern that the proposal may necessitate conversion of the restricted currency to a freely traded currency in order to be held with a bank in Singapore, which will subject customers to exchange rate exposure.

MAS' Response

2.4 MAS will proceed with the proposed amendments to require retail customers' moneys to be deposited in trust accounts with MAS-licensed banks in Singapore. In the event a CMS licence holder is unable to hold retail customers' moneys denominated in a particular foreign currency with MAS-licensed banks in Singapore, MAS expects the CMS licence holder to hold an equivalent amount with MAS-licensed banks in Singapore. Where the CMS licence holders have to convert the foreign currency amount to Singapore Dollars, the CMS licence holders should disclose to customers the conversion rate, conversion costs, and the party bearing the costs.

3. SF(MREFI) Regulations

3.1 One respondent suggested for gold to be included in the list of “acceptable collateral”.

MAS’ Response

3.2 MAS agrees with the suggestion to include “gold” as an acceptable collateral given that gold is widely regarded as a financial asset and commonly used as collateral for financial transactions.

4. Transitional arrangements

4.1 Several respondents sought clarity on the transitional arrangements for banks and merchant banks, and their representatives currently conducting leveraged foreign exchange (“LFX”) trading when MAS removes the regulatory carve out for banks or merchant banks carrying out LFX trading².

4.2 A few respondents highlighted the need to make changes to their systems and processes in order to maintain separate trust accounts for retail customers’ transactions in listed and unlisted products, and requested that MAS provide a sufficient transitional period for them to make the changes. Some other respondents requested for MAS to provide the industry with a sufficient transitional period to make the necessary system or process changes to meet the proposed business conduct requirements.

MAS’ Response

4.3 The regulatory carve-out for banks and merchant banks was removed via the Securities and Futures (Amendment) Act 2017, which was passed in January 2017. The removal, coupled with the expansion of the SFA to regulate over-the-counter (“OTC”) derivatives, means that banks and merchant banks dealing in OTC derivatives contracts where the underlying are foreign exchange, or spot foreign exchange for the purpose of leveraged foreign exchange contracts, will be considered as conducting the regulated activity of dealing in capital markets products under the SFA. MAS will provide a two-year transitional period for banks/merchant banks and their representatives currently conducting LFX trading to submit the relevant notifications (e.g. representative notifications) and comply with business conduct requirements. For details of the

² Banks licensed under the Banking Act and merchant banks approved under the MAS Act are currently not caught under the SFA for the regulated activity of LFX trading.

transitional arrangements, please refer to MAS' response to the Consultation Paper on Regulatory Framework for Intermediaries Dealing in OTC Derivatives Contracts, Execution-related Advice and Marketing of Collective Investment Schemes³. The two-year transitional period does not apply to the requirements under the CFD Amendments. The transitional arrangement for such requirements is set out in paragraph 4.4 below.

4.4 On the CFD Amendments, in view of the system and process changes needed, MAS will provide a transitional period of 12 months from the date the amendments are effected ("T date", which is estimated to be early 2018) for all the proposed requirements, except the following:

- (a) The base capital requirement of \$5 million for CMS licence holders dealing in unlisted derivatives with retail customers will take effect on T date, i.e. there will be no transitional period; and
- (b) On the requirement to maintain separate trust accounts for retail customers' transactions in listed and unlisted products, MAS will provide a transitional period of 18 months from T date.

MONETARY AUTHORITY OF SINGAPORE

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³Refer to MAS' Response Paper (dated 26 May 2017) on [Regulatory Framework for Intermediaries Dealing in OTC Derivative Contracts, Execution-Related Advice and Marketing of Collective Investment Scheme](#).

Annex A

**LIST OF RESPONDENTS TO THE CONSULTATION PAPER ON
DRAFT REGULATIONS TO ENHANCE THE REGULATORY FRAMEWORK FOR
UNLISTED MARGINED DERIVATIVES OFFERED TO RETAIL INVESTORS**

1. Bank of Singapore
 2. Citigroup entities
 3. City Index Asia Pte Ltd
 4. CMC Markets Singapore Pte Ltd
 5. Phillip Futures Pte Ltd
 6. Securities Association of Singapore
- Four other respondents requested confidentiality.

