HKSFA 20th Anniversary 香港財經分析師學會
THE HONG KONG SOCIETY OF FINANCIAL ANALYSTS

18th October 2012

Sent by Email and by Post

Supervision of Markets Division
Securities and Futures Commission
8th Floor Chater House
8 Connaught Road Central
Hong Kong

Dear Sirs/Madams,

Re: Supplemental consultation on the OTC derivatives regime for Hong Kong

The Hong Kong Society of Financial Analysts (HKSFA) is pleased to comment on the follow-up consultation on the proposed regulatory regime for the over-the-counter derivatives market in Hong Kong. The HKSFA has long advocated high degree of disclosure and transparency in the marketplace to improve investor confidence, better assess and mitigate systemic risks and protect against market abuse. Hence, the HKSFA is generally in support of the proposals on how certain new regulated activities relating to OTC derivatives should be cast, and how systematically important players (SIPs) in that market should be regulated.

Based on our positions, we state our comments to the specific questions set out in the Consultation Paper as follows :

Q2. Do you have any comments or concerns about our proposals on how the provision of ATS (for OTC derivatives) by AIs and AMBs should be regulated?

We agree that the definition of ATS has to be expanded in order to cover OTC derivatives transactions. That said, we believe that the regulators should take note that OTC derivatives on listed underlyings (exchange listed stocks, interest rates) and OTC derivatives on non-listed underlyings (credit, inflation) may need to be treated differently.

We also support the thinking on regulatory requirements and the respective roles of HKMA and SFC as outlined under #19. In particular, the SFC and HKMA should work together to ensure that regulatory requirements are aligned and consistently applied so as to maintain a level playing field among different market players.

Q6. Do you have any comments or concerns about our proposals for how SIPs should be identified and regulated?

In general, we agree that certain degree of regulatory oversight should be applied on SIPs. It is important to effectively monitor and track SIP's holding of significant positions in OTC derivatives through different entities.

We believe that quantitative criteria should be used whilst no qualitative criteria would be included to ensure a very clear guideline for compliance. In addition, when setting the SIP threshold, we propose to focus not only on product class and transaction type, but also on the underlying security, e.g. a specific stock or credit. We agree that SIPs should not be regulated as licensed persons since SIPs are likely to transact genuine hedges to mitigate commercial risks in their ordinary course of business and they should be treated differently from intermediaries (i.e. dealers, advisers or clearing agents).

Yours sincerely,
For and on Behalf of
The Hong Kong Society of Financial Analysts

Room 1802, 18th Floor, 1 Duddell Street, Central, Hong Kong
Tel : (852) 2521 2543 Fax : (852) 2869 4800 E-mail : info@hksfa.org URL : http://www.hksfa.org A MEMBER SOCIETY OF CFA INSTITUTE