

## **Citi feedback on Consultation paper on the Securities and Futures Rules**

### **1. Substituted compliance framework in place for trade reporting**

Propose to apply **substituted compliance framework** for trade reporting. Similar to CFTC's proposal as below:

78 FR at 45343- The Commission's substituted compliance program would generally be available for swap data repository reporting ("SDR Reporting"), as outlined in the Guidance, only if the Commission has direct access to all of the data elements that are reported to a foreign trade repository pursuant to the substituted compliance program. Thus, direct access to swap data is a threshold matter to be addressed in a comparability evaluation for SDR Reporting. Moreover, the Commission explains in the Guidance that, due to its technical nature; a comparability evaluation for SDR Reporting "will generally entail a detailed comparison and technical analysis." A more particularized analysis will generally be necessary to determine whether data stored in a foreign trade repository provides for effective Commission use, in furtherance of the regulatory purposes of the Dodd-Frank Act.

### **2. Timeline**

In implementing finalized regime on mandatory reporting, we would like to ask Regulators to avoid:

- i. Year end as an implementation timeline and
- ii. Other in-flight regulatory deliverables

The industry think HKMA will ask for year end 2014 with 3 month grace period. If so, this is going to miss both of the above objectives. We have the following large commitments for end of March 2015:

- Reporting for Phase3 entities for ASIC (dependent on TR registration)
- MAS FX, Nexus, UTI and change of templates for CR and Rates

Hence in reporting parties' perspective, April to June would work better.

### **3. Section 104- Exemption for Hong Kong persons where transaction is reportable by an AI, AMB or LC**

Method to operationalize this needs to be clarified; i.e. Perhaps Clients would want an undertaking from Citi. Hence it may not be practicable to report on a trade by trade basis.

### **4. Affiliate Reporting**

*"In the case of an AI, AMB or LC –*

*(a) It will be taken to have complied with the reporting obligation in respect of a transaction that it has conducted in Hong Kong on behalf of an affiliate, if the affiliate has confirmed, in good faith, that it has reported the transaction."*

Affiliate reporting may only be practicable between two local entities. Currently there is no way Hong Kong branch could retrieve trades from overseas branches and report on their behalf. Furthermore, in case of agent reporting, both entities would first need to be on boarded with DTCC.

## 5. Current trade scenarios where reporting obligation needs to be clarified

Would appreciate it if below reporting obligations can be confirmed and corrected if mistaken:

<u>Scenario 1</u>			
Leg 1	Client (HK AI/ HK person)	→	CBNA HK
Leg 2			CBNA HK → CBNA Ldn

**Scenario 1:** In cases of a back to back trade where CBNA HK faces a HK AI client (or HK person that exceed threshold); Citibank HK is only obligated to report leg 1 that is facing client. While leg 2, an internal deal, is not reportable.

<u>Scenario 2</u>			
Leg 1	Client (NY entity)	→	CBNA NY
Leg 2			CBNA NY → CBNA HK

**Scenario 2:** In case of a back to back trade where CNBA New York faces client, who is a New York entity; this trade is not reportable by CBNA HK.

<u>Scenario 3</u>			
Leg 1	Client (HK person, Non-AI)	→	CBNA HK
Leg 2			CBNA HK → CBNA Ldn

**Scenario 3:** In case of a back to back deal where CBNA HK faces a Hong Kong person (exceeds threshold); CBNA HK merely have to report leg 1.

<u>Scenario 4</u>			
Leg 1	Client (HK person, Non-AI)	→	CBNA NY
Leg 2			CBNA NY → CBNA HK

**Scenario 4:** In case of a back to back deal where CBNA New York faces a client that is a HK person (this may happen due to ISDA/ contractual reasons), **is this trade reportable?** If so, which leg?

Please note that the external deal sits in CBNA NY book and NOT in CBNA HK book.

### Major concern:

Citi is largely concerned about reporting obligations on **back-to-back transactions** with our overseas branches due to the fact that the operation in Citibank Hong Kong does not have access to trade information residing in overseas Citi branches. Hence identifying and reporting their trades may not be practicable.