

From: gfma.org
Sent: 18, December, 2014 10:42 AM
To: fss@hkma.gov.hk; otconsult
Cc:
Subject: Consultation Conclusion and Further Consultation on the Securities and Futures (OTC Derivative Transactions - Reporting and Record Keeping) Rules - Submission by GFXD

Dear Sirs,

We refer to our submission made on 14 August 2014 in relation to the Consultation Paper on the Securities and Futures (OTC Derivative Transactions - Reporting and Record Keeping) Rules, and the Consultation Conclusion issued by the HKMA/SFC on 28 November 2014.

Whilst we are very much grateful to the enhanced measures as proposed by the HKMA/SFC in the Consultation Conclusion, we would also like to take this opportunity to provide our suggestions in relation to the 3 areas which the HKMA/SFC would like to seek for the view from the industry further.

They are:

a) Reporting of valuation transaction information:

We would like to suggest the HKMA/SFC could consider aligning with the EMIR requirements on the requirement of valuation transaction information where possible for consistency. In addition, there is a concern on the providing of valuation for non-centrally cleared transactions which are not margined. EMIR does not require (under reporting or risk mitigation requirements) that counterparties agree a methodology for valuation (each party is open to arrive at their own valuation). On the other hand, for non-cleared trades that are margined, the margin calculation process and timelines may not align with the reporting timelines. In view of such, we would welcome a delay implementation on such and phase in for valuation, with clarification on the confidentiality to be provided on valuation methodology.

b) List of masking jurisdictions:

We welcome the suggestion by the HKMA/SFC in this respect.

c) Definition of "OTC derivative product":

Whilst we welcome the initiative by the HKMA/SFC to provide prescription so that products traded on the prescribed markets and cleared through the prescribed clearing houses will not be "OTC derivative products", and hence not subject to mandatory reporting under the HK regime, we would also like to suggest that a mechanism could be considered to provide flexibility in carrying out additions/changes to the list in a prompt manner when such request is proposed. As you could probably envisage, client requests and new business developments will drive the need to execute exchange traded derivatives on new exchanges which may not be listed out in the annexure B of the Consultation Conclusion. In addition, most futures and option execution and clearing businesses of major dealers will offer clients access to exchanges globally and a large number of those exchanges will also enable out of hours trading so it is not correct to assume, for example, that HK execution desks will be managing Asian exchange business only. Brokers/banks will need to be able to offer global access and the list of exchanges will be considerably longer than the one currently contemplated. It is also suggested that the rules could also provide exemption to trades such as block trades or 'exchange for physical' that are actually executed bilaterally away from the venue but then reported into the venue.

If you have any queries or would like to discuss further in person, please do not hesitate to contact

With best regards,

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