



Hong Kong Investment Funds Association

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Questions/comments from HKIFA members re the Consultation conclusions and Further Consultation on the Securities and Futures (OTC Derivatives Transactions - reporting and record keeping obligations) rules (December 2014)

Question listed in the Consultation conclusions ("CC")

Question 32 (a) - regarding the reporting of valuation transaction information:

- Members opine that the reporting of daily valuation transaction information will be very burdensome for reporting entities as it will demand an increase in operational and IT support.

They do not think that the valuation transaction information will facilitate systemic risk assessment because HKMA or SFC is not privy to hedging strategies employed by reporting entities and whether these trades are collateralized (e.g. CSA).

On the reporting threshold - if a reporting entity exceeds a threshold (e.g., US\$10 billion notional outstanding), then the obligation becomes mandatory - some members suggest that small players should be exempted from this obligation.

Other questions/comments

- FAQ:

The CC mentions that a FAQ will be issued. When will the FAQ be available? HKIFA would welcome the opportunity to participate in the process to help develop the FAQ.

- Corporate fund affiliates:

It was previously clarified that for transactions subject to an order routing arrangement within the group, it will not be subject to reporting if the transaction is conducted on behalf of a counterparty that is not an affiliate. What is the definition of "affiliate"? For funds in the form of corporations (e.g. mutual funds), a fund manager or its affiliate may control the fund directly or indirectly as its employees sit on the board of funds, despite the fact that the underlying investors are owned by the public. Under the current drafting, it seems that such a fund may be considered an affiliate. However, if our understanding is correct, it is not the intention to capture such transactions. As such, can the draft rules provide clarification or make it explicit that a fund of this type would not be considered an affiliate?

- Licensing:

In view of the deferred reporting requirement for fund managers, it would be helpful if the SFC can clarify whether the licensing requirement for fund managers can also be postponed to allow more time for managers to prepare for the licensing applications and transaction reporting requirements?

(End)