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Hong Kong Monetary Authority
55th Floor, Two International Finance Centre
8 Finance Street
Central, Hong Kong

Dear

Joint consultation paper on the prescription of additional markets and clearing houses and prescription of Delta One Warrants under the OTC derivatives regulatory regime

Thank you for the opportunity to put forward HKAB's feedback in respect of the joint consultation paper on the prescription of additional markets and clearing houses and prescription of Delta One Warrants under the OTC derivatives regulatory regime ("**Consultation Paper**").

Since 2011, we have been actively engaged in the consultation process on OTC derivatives reform measures, including the reporting and record keeping requirements, licensing, margining and clearing obligations. We welcome measures proposed in the Consultation Paper to ensure that the scope of the OTC derivative transactions reporting obligation is appropriately framed.

1. Exclusion of Delta One Warrants

We agree that it is appropriate for Delta One Warrants to fall outside the definition of OTC derivative product and welcome this change. However, we have the following specific comments in response to the Consultation Paper on the definition of Delta One Warrants as set out in paragraph 20 of the Consultation Paper.

Chairman Bank of China (Hong Kong) Limited
Vice Chairman The Hongkong and Shanghai Banking Corporation Limited
Standard Chartered Bank (Hong Kong) Limited

主席 中國銀行（香港）有限公司
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Delta One Warrants definition: right to purchase underlying asset

The Consultation Paper correctly notes¹ that Delta One Warrants allow a holder “to gain synthetic exposure to assets in closed or difficult-to-access markets”. Accordingly, the criteria in paragraph 20(a) of the Consultation Paper that the Delta One Warrant gives the holder the right to purchase the underlying asset may not always apply.

We suggest that the principle in paragraph 20(a) should therefore be amended to:

“it gives the holder synthetic exposure to the underlying asset(s) and no actual right in or to them”.

Delta One Warrants definition: transfer may be subject to conditions or restrictions

Paragraph 20(d) of the Consultation Paper also describes Delta One Warrants as transferrable, with no restriction or limitation to the effect that the warrant can only be transferred or sold to the issuer.

We agree that Delta One Warrants are transferrable and should not have any restriction or limitation to the effect that they can only be transferred or sold to the issuer. However, we note that some Delta One Warrants may be subject to conditions or certain restrictions in respect of their transfer. For example, these could mandate that a transfer of the Delta One Warrant is only transferrable with the issuer’s consent or subject to certain restrictions on the nationality of persons to which the Delta One Warrant can be held. Such limitations reflect local regulatory obligations in different jurisdictions.

We therefore request that any exclusion of Delta One Warrants is drafted to ensure that Delta One Warrants do not require absolutely unfettered transferability in order to benefit from the exclusion.

¹ In paragraph 17(d) of the Consultation Paper.



2. Timing and approach to implementation

We recognise the difficulty in implementing legislative change prior to the 1 July 2017 start date for the OTC reporting obligation.

However, we welcome open engagement with the HKMA and the SFC on the approach to enforcing reporting obligations as they might technically apply to Delta One Warrants during the period before the legislation proposed in the Consultation Paper is implemented. We suggest that industry guidance from the HKMA may be appropriate to ensure that all banks receive consistent information on the expectations of the HKMA during this time.

We look forward to receiving further details updates of the proposals. If you have any questions, please contact our Manager,

Yours sincerely,