

CONSULTATION PAPER

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Draft Notice on Listing, De-Listing or Trading of Products for Approved Exchanges and Recognised Market Operators

MAS

Monetary Authority of Singapore

Contents

1	Preface	3
2	Introduction	4
3	Benefits of a Notification Regime for Product Listing	4
4	Key Risks to be Addressed by Relevant Entities	5
5	Notification and Self-Certification Process	6
6	Governance Procedures and Controls	6
7	Delisting Requirements.....	7
8	Regulatory Notice	7

1 Preface

1.1 The Securities and Futures (Amendment) Act 2017 (“SF(A) Act”), which was passed in Parliament on 9 January 2017, replaced the product approval regime for approved exchanges and locally-incorporated recognised market operators with a notification regime. When these amendments take effect, approved exchanges and locally-incorporated recognised market operators will be able to list or delist products after notifying MAS, provided they have met certain criteria, through a self-certification process.

1.2 The Monetary Authority of Singapore (“MAS”) is consulting on the criteria and process, of which the details are set out in the Notice, appended in Annex B. MAS invites interested parties to provide their feedback on the draft Notice.

Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request MAS not to do so. As such, if respondents would like (i) their whole submission or part of it, or (ii) their identity, or both, to be kept confidential, please expressly state so in the submission to MAS. In addition, MAS reserves the right not to publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.

1.3 Please submit written comments by 22 June 2018 to –

Markets & Infrastructure Supervision Division
Markets Policy & Infrastructure Department
Monetary Authority of Singapore
10 Shenton Way, MAS Building
Singapore 079117
Email: RMO_mailbox@mas.gov.sg

1.4 Electronic submission is encouraged. We appreciate that you use this format [\[link\]](#) for your submission to ease our collation efforts.

2 Introduction

2.1 Currently, approved exchanges and locally-incorporated recognised market operators (collectively “Relevant Entities”) seeking to list or delist derivatives products¹ must obtain MAS’ approval on a product-by-product basis. Such products include futures contracts and options contracts. MAS approves the listing and delisting of these products based on a set of criteria. The objective of the approval regime is to ensure that the listing of new products and delisting of existing products would not pose systemic risks or risks to the fair, orderly and transparent operation of the Relevant Entities’ markets. In assessing if the products are suitable for listing, MAS does not seek to make a judgement on the commercial merits of the products, which is best left to the exchanges, market operators and participants to decide.

2.2 The shift to a product notification regime is in line with international norms. Regulators like the U.S. Commodity Futures Trading Commission, the Australian Securities and Investments Commission and the Japan Financial Services Authority, have similar product notification regimes for their exchanges and market operators.

3 Benefits of a Notification Regime for Product Listing

3.1 Under the new notification regime, MAS will set out the criteria it uses to assess product listings in a Notice, which will be publicly available. Relevant Entities will be able to list new products once they have self-certified that: (i) the product specifications meet the criteria set out in the Notice; and (ii) all relevant risks have been adequately addressed. This places the frontline responsibility for product launches on the Relevant Entities, which are closer to the market, to ensure that they consciously consider and mitigate the risks that these products entail.

3.2 As markets are not static, it is important for Relevant Entities to regularly assess the product risks and mitigating measures taken throughout the lifetime of the product. As such, the notification framework will include an annual self-certification by each

¹ These products exclude securities, any unit in a collective investment scheme, a spot contract, a deposit as defined in section 4B of the Banking Act, a deposit as defined in section 2 of the Finance Companies Act, any contract of insurance in relation to any class of insurance business specified in section 2(1) of the Insurance Act, and any contract or arrangement that is, or that belongs to a class of contracts or arrangements that is, prescribed not to be a derivatives contract.

Relevant Entity that it continues to have the appropriate controls and governance procedures to manage and control risk pertaining to its listed products.

3.3 Currently, Relevant Entities are expected to have internal process in place to assess the relevant product risks and propose mitigating measure before submission to MAS. Once the notification regime is in place, Relevant Entities will no longer need to take the additional step to seek MAS' approval. This will reduce the time-to-market for new product launches. Relevant Entities will therefore be able to respond to market demands, and have greater certainty to plan and time their product launches.

4 Key Risks to be Addressed by Relevant Entities

4.1 As part of the self-certification process, MAS proposes that the Relevant Entities address the following key risks:

- a) The risk of disorderly trading that may be brought about by a sharp change in prices;
- b) The risk of persons acquiring significant amounts of the product which facilitates the ability of those persons to gain from market manipulation;
- c) The risk that daily settlement prices and final settlement prices will be subject to manipulation;
- d) The risk that the final settlement price of the product will not converge to its underlying;
- e) The risk that the underlying of products with physical delivery will not be delivered in a safe, reliable and timely manner;
- f) The legal risks surrounding the listing of the product;
- g) The operational risks surrounding the listing of the product; and
- h) The reputational risks associated with the listing of the product.

Question 1. MAS seeks comments on the key risks that Relevant Entities need to address as part of the self-certification process.

5 Notification and Self-Certification Process

5.1 Relevant Entities will have to notify MAS no less than one week before they make a detailed announcement of the product and intended date of listing to the public or to their members, whichever is earlier. The notification to MAS of the intended listing should be accompanied by a self-certification that all the key risks (mentioned in Section 4) have been addressed. This self-certification should be signed off by the chief executive officer (“CEO”) of the Relevant Entity, or any other appropriate member of senior management whom the CEO delegates this responsibility to.²

5.2 If the Relevant Entity does not launch the product by the end of 12 weeks from the date of notification, it will have to submit a fresh notification, accompanied by an updated self-certification for the product launch. This is to ensure that the Relevant Entity’s assessment of the product remains current.

5.3 Relevant Entities are required to consult members prior to the launch of any new products. In addition, those that wish to launch products that have innovative or novel features are encouraged to engage MAS early to clarify any doubts or uncertainties regarding the self-certifications that they will be providing.

Question 2. MAS seeks comments on the notification and self-certification process.

6 Governance Procedures and Controls

6.1 The shift from an approval regime to a notification regime will not compromise MAS’ regulatory standards. If MAS has concerns with the Relevant Entities’ ability to self-certify to the standards that MAS expects, MAS has powers to take supervisory actions including imposing higher supervisory capital, requiring independent audit on specific processes, prohibiting the listing of new products and disallowing the product from trading.

6.2 As part of our supervision of Relevant Entities, we will continue to assess whether they have the appropriate controls and governance procedures to manage and control risk pertaining to new product launches and ongoing trading of listed products. MAS will also conduct ex-post periodic reviews of selected products, especially those that are

² For example, the Chief Regulatory Officer or the Head of Compliance.

deemed to be more novel or innovative, to ensure that the self-certification is done properly. If Relevant Entities are found to have misrepresented its self-certification as part of the notification to MAS, MAS has powers to take supervisory and regulatory actions against the Relevant Entities, such as warnings, and in severe cases, prosecution for furnishing false information.

6.3 For the avoidance of doubt, the product notification regime applies to the listing of products for trading only. Locally incorporated clearing houses that clear products for Relevant Entities will still have to satisfy MAS that the margin methodology and other risk management practices that it adopts for such products are appropriate and adequate before it will be allowed to clear new products.

7 Delisting Requirements

7.1 MAS also proposes to adopt a notification approach to de-listings. Relevant Entities will be allowed to de-list products if they are able to meet the following criteria:

- a) There is no open interest or outstanding investor positions remaining in the product;
- b) The delisting will not cause any disruption to any other market; and
- c) The de-listing does not cause a breach of any legal obligations.

Question 3. MAS seeks comments on the proposed de-listing criteria.

8 Regulatory Notice

8.1 The Notice, which sets out the rules applicable to Relevant Entities on products, is appended to this consultation paper in Annex B for public comment.

Question 4. MAS seeks comments on the proposed Notice.

Annex A

LIST OF QUESTIONS

Question 1. MAS seeks comments on the key risks that Relevant Entities need to address as part of the self-certification process.....5

Question 2. MAS seeks comments on the notification and self-certification process.6

Question 3. MAS seeks comments on the proposed de-listing criteria..... 7

Question 4. MAS seeks comments on the proposed Notice.....7

