

Notice No : SFA04-N12 (Amendment) 2012
Issue Date : 11 December 2012

NOTICE ON THE SALE OF INVESTMENT PRODUCTS

Introduction

1 This Notice is issued pursuant to section 101 and section 293 of the Securities and Futures Act (Cap. 289) and amends the Notice on the Sale of Investment Products [Notice No. SFA04-N12] (the “Notice SFA04-N12”).

Amendments

2 The Notice SFA04-N12 dated 28 July 2011 and last revised on 1 January 2012 is hereby amended as follows:

(a) by inserting, immediately after the words “pursuant to section 101” in paragraph 1, the words “and section 293”;

(b) by deleting the word “and” at the end of sub-paragraph (b) of paragraph 2;

(c) by deleting the full-stop at the end of sub-paragraph (c) of paragraph 2 and substituting the word “; and”;

(d) by inserting, immediately after sub-paragraph (c) of paragraph 2, the following sub-paragraph:

“(d) the responsible person for a collective investment scheme, the units of which are Excluded Investment Products.”;

(e) by deleting paragraph 3 and substituting the following paragraph:

“3 This Notice sets out the requirements imposed on:

(a) licensed persons, exempt financial institutions and their representatives in respect of:

(i) dealing in Specified Investment Products or Overseas-Listed Investment Products for a customer who is an individual and who is not an

accredited investor, institutional investor or expert investor (referred to in this Notice as “Customer”); and

(ii) dealing in units in a collective investment scheme, the units of which are Excluded Investment Products, for a Customer who is a participant of such collective investment scheme (referred to in this Notice as “Relevant Participant”); and

(b) responsible persons for collective investment schemes, the units of which are Excluded Investment Products.”;

(f) by inserting, immediately after the words “For the purposes of this Notice” in paragraph 4, the words “, unless the context otherwise requires”;

(g) by inserting, immediately after the definition of “approved exchange” in paragraph 4, the following definition:

“ “business trust” has the same meaning as in section 2(1) of the Act;”;

(h) by inserting, immediately after the definition of “capital markets products” in paragraph 4, the following definition:

“ “collective investment scheme” has the same meaning as in section 2(1) of the Act;”;

(i) by inserting, immediately after the words “Specified Investment Product which is listed” in the definition of “Customer Account Review” in paragraph 4, the words “for quotation or quoted”;

(j) by inserting, immediately after the words “Specified Investment Product which is neither listed” in the definition of “Customer Knowledge Assessment” in paragraph 4, the words “for quotation”;

(k) by inserting, immediately after the definition of “Customer Knowledge Assessment” in paragraph 4, the following definitions:

“ “deposit” has the same meaning as in section 4B(4) of the Banking Act (Cap. 19);

“derivative”, in relation to a unit in a business trust, has the same meaning as in section 2(1) of the Act;”;

(l) by inserting, immediately after the definition of “institutional investor” in paragraph 4, the following definition:

“ “issuer” means -

- (a) in relation to an offer of units in a collective investment scheme, the responsible person for the collective investment scheme;
- (b) in relation to an offer of any contract or arrangement in connection with leveraged foreign exchange trading, the holder of a capital markets services licence for leveraged foreign exchange trading that is the counterparty to that contract or arrangement;
- (c) in relation to an offer of any other capital markets products, the entity that issues or will issue the capital markets product being offered;”;

(m) by inserting, immediately after the definition of “licensed person” in paragraph 4, the following definitions:

“ “Overseas-Listed Investment Product” means any capital markets product that is listed for quotation or quoted only on overseas securities exchange(s) or overseas futures exchange(s);

“prospectus” has the same meaning as in section 283(1) of the Act;”;

(n) by deleting the definition of “product manufacturer” in paragraph 4;

(o) by deleting the definition of “recognised securities exchange” in paragraph 4;

(p) by inserting, immediately after the definition of “representative” in paragraph 4, the following definition:

“ “responsible person” has the same meaning as in section 2(1) of the Act;”;

(q) by deleting the word “and” at the end of the definition of “senior management” in paragraph 4;

(r) by deleting the full-stop at the end of the definition of “Specified Investment Product” in paragraph 4 and substituting the word “; and”;

(s) by inserting, immediately after the definition of “Specified Investment Product” in paragraph 4, the following definition:

“ “transact” means:

(a) the purchase of any Specified Investment Product other than in connection with the creation of short positions; or

(b) the sale of any Specified Investment Product in connection with the creation of short positions,

and “transacted”, “transacts” and “transacting” shall have a corresponding meaning.”;

(t) by inserting, immediately after paragraph 4, the following paragraph:

“4A For the avoidance of doubt, “transaction” referred to in paragraphs 29C, 30A and 30B of this Notice, paragraph (g)(ii) in Annex 1 to this Notice and paragraph 1(c) in Annex 3 to this Notice shall not have a corresponding meaning to the term “transact” as defined in paragraph 4.”;

(u) by inserting, immediately after the words “Specified Investment Product which is listed” in paragraph 6, the words “for quotation” ;

(v) by inserting, immediately after paragraph 7, the following paragraph:

“7A When conducting a Customer Account Review for a new Customer, or for a Customer whose previous Customer Account Review is no longer valid in accordance with paragraph 16, a licensed person or an exempt financial institution shall assess a Customer’s investment experience according to:

(a) the classification of the capital markets product(s) previously transacted by the Customer; and

(b) the listing status of such capital markets product(s),

at the time that the Customer had transacted in such capital markets product(s).”;

(w) by deleting the words “open a trading account to transact in a Specified Investment Product” immediately after the words “nevertheless intends to proceed to” in paragraph 12, and substituting the words “open a Specified Investment Product trading account”;

(x) by inserting, immediately after the word “For” in paragraph 15, the word “the”;

(y) by deleting the words “to transact in a Specified Investment Product which is listed or quoted on a securities market or a futures market” immediately after the words “to open a joint Specified Investment Product trading account” in paragraph 16A;

(z) by deleting the words “product manufacturer” immediately after the words “A licensed person or an exempt financial institution shall ensure that it has been informed by the” in paragraph 17, and substituting the word “issuer”;

(aa) by inserting, immediately after the words “a capital markets product which is neither listed” in paragraph 17, the words “for quotation”;

(bb) by inserting, immediately after the words “a Specified Investment Product that is neither listed” in paragraph 18, the words “for quotation”;

(cc) by inserting, immediately after paragraph 19, the following paragraph:

“19A When conducting a Customer Knowledge Assessment for a new Customer, or for a Customer whose previous Customer Knowledge Assessment is no longer valid in accordance with paragraph 26, a licensed person or exempt financial institution shall assess a Customer’s investment experience according to:

(a) the classification of the capital markets product(s) previously transacted by the Customer; and

(b) the listing status of such capital markets product(s),

at the time that the Customer had transacted in such capital markets product(s).”;

(dd) by deleting the words “with the transaction” immediately after the words “nevertheless intends to proceed” in paragraph 24, and substituting the words “to transact”;

(ee) by deleting the words “with the transaction” immediately after the words “unable to proceed” in sub-paragraph (b) of paragraph 24, and substituting the words “to transact”;

(ff) by deleting paragraph 25 and substituting the following paragraph:

“25 For the avoidance of doubt, where a Customer of a licensed person or an exempt financial institution has previously undergone a Customer Knowledge Assessment with another licensed person or exempt financial institution, paragraphs 17 to 24 shall still apply where any licensed person or an exempt financial institution transacts in an unlisted Specified Investment Product for the first time for such Customer.”;

(gg) by deleting the heading immediately preceding paragraph 26A and substituting the following:

“Jointly Transacting in Unlisted Specified Investment Products”;

(hh) by deleting paragraph 29 and substituting the following paragraph:

“29 Where a licensed person or an exempt financial institution transacts in any Specified Investment Product which is listed for quotation or quoted on a securities market or a futures market on behalf of a Customer (referred to in this paragraph as “relevant trade”), the licensed person or exempt financial institution shall maintain records of all communication between the licensed person or exempt financial institution and the Customer in respect of the relevant trade, including a record in the form of a file note or a tape recording of the telephone conversation.”;

(ii) by inserting, immediately after paragraph 29, the following paragraphs:

“Requirements on the Responsible Person for a collective investment scheme, the units of which are Excluded Investment Products

29A The responsible person for a collective investment scheme,

the units of which are Excluded Investment Products (the “EIP-CIS”) shall, where the EIP-CIS holds units in another collective investment scheme, the units of which are Excluded Investment Products (the “underlying EIP-CIS”), and such units cease to be classified as Excluded Investment Products, elect to:

- (a) maintain the classification of the units in the EIP-CIS as Excluded Investment Products by disposing the units in the underlying EIP-CIS as soon as practicable and in any event:
 - (i) within 3 months from the date the units in the underlying EIP-CIS cease to be classified as Excluded Investment Products (hereinafter referred to as the “initial 3 months”); or
 - (ii) before the expiry of the initial 3 months, the responsible person satisfies the trustee of the EIP-CIS that such units should not be disposed within the initial 3 months on the basis that a longer period is in the best interests of the participants of the EIP-CIS, such longer period not exceeding 12 months from the date the units in the underlying EIP-CIS cease to be classified as Excluded Investment Products, provided that the responsible person continues to satisfy the trustee of the EIP-CIS at the end of each successive month after the initial 3 months that such longer period is in the best interests of the participants in the EIP-CIS; or
- (b) cause the units in the EIP-CIS to be classified as Specified Investment Products by continuing to hold on to the units in the underlying EIP-CIS and changing the investment objective, investment focus or investment approach of the EIP-CIS in accordance with paragraph 29B as soon as practicable and in any event within 4 months from the date the units in the underlying EIP-CIS cease to be classified as Excluded Investment Products.

29B The responsible person for a EIP-CIS shall, prior to any change in investment objective, investment focus or investment approach of the EIP-CIS which would cause the units in the EIP-CIS to be classified as Specified Investment Products:

- (a) obtain, through an extraordinary resolution, approval of the participants of the EIP-CIS present and voting either in person or by proxy at a meeting, by way of a poll, for the proposed change; and
- (b) ensure that: -
 - (i) in the case where the units in the EIP-CIS are listed for quotation or quoted on a securities market, a Customer Account Review (including the procedures in paragraphs 6 to 14) has been conducted by a licensed person or an exempt financial institution for every existing Relevant Participant of the EIP-CIS unless the licensed person or exempt financial institution for an existing Relevant Participant is able to demonstrate to the responsible person that it is unable to conduct such Customer Account Review in respect of any existing Relevant Participant for reasons beyond its reasonable control, including where it is unable to contact the existing Relevant Participant despite it having written to that existing Relevant Participant regarding the conduct of such Customer Account Review and having made repeated attempts thereafter to establish contact, or where the existing Relevant Participant refuses to undergo the aforementioned Customer Account Review; or
 - (ii) in the case where the units in the EIP-CIS are neither listed for quotation nor quoted on a securities market, a Customer Knowledge Assessment (including the procedures in paragraphs 17 to 24 of this Notice or paragraphs 15 to 26 of the Notice on Recommendations on

Investment Products (Notice No. FAA-N16)) has been conducted by a licensed person or an exempt financial institution or a financial adviser, as the case may be, for every existing Relevant Participant of the EIP-CIS unless the licensed person or exempt financial institution or financial adviser, as the case may be, for an existing Relevant Participant is able to demonstrate to the responsible person that it is unable to conduct such Customer Knowledge Assessment in respect of any existing Relevant Participant for reasons beyond its reasonable control, including where it is unable to contact the existing Relevant Participant despite it having written to that existing Relevant Participant regarding the conduct of such Customer Knowledge Assessment and having made repeated attempts thereafter to establish contact, or where the existing Relevant Participant refuses to undergo the aforementioned Customer Knowledge Assessment.

Requirements on licensed persons and exempt financial institutions dealing in units in a collective investment scheme, the units of which are Excluded Investment Products

29C Where –

- (a) a licensed person or exempt financial institution of an existing Relevant Participant is able to demonstrate to the responsible person concerned that it is unable to conduct a Customer Account Review or a Customer Knowledge Assessment as referred to in paragraph 29B(b)(i) or (ii) for reasons beyond its reasonable control, including where it is unable to contact the existing Relevant Participant despite it having written to that existing Relevant Participant regarding the conduct of such Customer Account Review or Customer Knowledge Assessment and having made repeated attempts thereafter to establish contact, or where the existing Relevant Participant refuses to

undergo a Customer Account Review or a Customer Knowledge Assessment as referred to in paragraph 29B(b)(i) or (ii); or

- (b) a licensed person or an exempt financial institution has conducted a Customer Account Review or a Customer Knowledge Assessment in accordance with paragraph 29B(b)(i) or (ii), and assesses an existing Relevant Participant of the EIP-CIS not to possess the adequate knowledge or experience pursuant to such Customer Account Review or Customer Knowledge Assessment, as the case may be, and is unable to allow such existing Relevant Participant to open a Specified Investment Product trading account or to proceed to transact in the unlisted Specified Investment Product;

the licensed person or exempt financial institution may –

- (i) allow the existing Relevant Participant concerned to continue holding on to his existing position in the EIP-CIS; or
- (ii) on the instructions of the existing Relevant Participant concerned, execute a transaction or transactions on behalf of the existing Relevant Participant concerned to reduce his existing position in the EIP-CIS.

For the avoidance of doubt, the licensed person or exempt financial institution shall not count such transactions referred to in subparagraph (ii) towards “investment experience” for the purposes of conducting the Customer Account Review or the Customer Knowledge Assessment for the existing Relevant Participant concerned.

Requirements on licensed persons and exempt financial institutions dealing in Overseas-Listed Investment Products

29D A licensed person or an exempt financial institution shall provide the risk warning statement set out in Annex 4 to this Notice to its Customer before allowing the Customer to transact in any

Overseas-Listed Investment Product for the first time on or after 28 February 2013.

29E The licensed person or exempt financial institution shall obtain the Customer's acknowledgement of the risk warning statement, in written form or otherwise, before allowing the Customer to transact in any Overseas-Listed Investment Product for the first time on or after 28 February 2013.

29F For the purposes of paragraphs 29D and 29E, "transact" means:

- (a) the purchase of any Overseas-Listed Investment Product other than in connection with the creation of short positions; or
- (b) the sale of any Overseas-Listed Investment Product in connection with the creation of short positions.

29G The licensed person or exempt financial institution shall maintain records of the Customer's acknowledgement referred to in paragraph 29E for the duration specified in section 102(3) of the Act.

29H Where a licensed person or exempt financial institution offers an Overseas-Listed Investment Product to its Customers, the licensed person or exempt financial institution may implement a system to identify and determine that the Overseas-Listed Investment Product is to be classified as an Excluded Investment Product.

29I Where a licensed person or an exempt financial institution does not implement a system to identify and determine that an Overseas-Listed Investment Product is to be classified as an Excluded Investment Product in accordance with paragraph 29H, the Overseas-Listed Investment Product shall be classified as a Specified Investment Product, and the requirements to conduct the Customer Account Review, including the procedures in paragraphs 6 to 14, shall apply to a licensed person or an exempt financial institution dealing in the Overseas-Listed Investment Product for a

Customer.

29J Where a licensed person or an exempt financial institution has classified an Overseas-Listed Investment Product as an Excluded Investment Product, it shall ensure the classification of the Overseas-Listed Investment Product concerned remains accurate and current at all times.

29K A licensed person or exempt financial institution may outsource the identification and classification of an Overseas-Listed Investment Product as an Excluded Investment Product to another party. Where the identification and classification of an Overseas-Listed Investment Product has been outsourced, the licensed person or exempt financial institution shall be responsible for the implementation of the classification system, including but not limited to, the accuracy of the classification.”;

(jj) by inserting, immediately after the words “a Specified Investment Product which is listed” in paragraph 30, the words “for quotation” ;

(kk) by inserting, immediately after the words “on the instructions of the existing Customer” in sub-paragraph (b) of paragraph 30A, the word “concerned”;

(ll) by deleting the word “but”, immediately before the words “the licensed person or exempt financial institution shall not count such transactions” in paragraph 30A, and substituting the words “and, for the avoidance of doubt,”;

(mm) by deleting Annex 1 and substituting the following Annex:

“ANNEX 1 - EXCLUDED INVESTMENT PRODUCTS

Unless otherwise provided here, the terms used or referred to in this Annex shall have the same meanings assigned to them in section 2 of the Act or section 2 of the Financial Advisers Act (Cap. 110), where applicable.

“Excluded Investment Product” means:

- (a) any stocks or shares issued or proposed to be issued by a corporation or body unincorporate, other than where such corporation or body unincorporate is a collective investment scheme;
- (b) any unit of a share which represents ownership of the underlying share, where –
 - (i) the underlying share is held on trust for the unit-holder by a custodian; and
 - (ii) no additional consideration (other than administrative fees) is payable by the unit-holder in the event that he converts the unit of share into the underlying share;
- (c) any right, option or derivative issued or proposed to be issued by a corporation or body unincorporate in respect of its own stocks or shares;
- (d) any unit in a business trust;
- (e) any derivative of units in a business trust;
- (f) any unit in a collective investment scheme, such collective investment scheme being an arrangement:
 - (i) that is a trust;
 - (ii) that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and
 - (iii) all or any units of which are listed for quotation on a securities exchange;
- (g) any unit in a collective investment scheme, where the constitutive documents of the scheme contain covenants that bind the manager of the scheme, or where the prospectus of the scheme or any document

issued in connection with an offer of units in the scheme (being an offer that is not required to be made in or accompanied by a prospectus under section 296(1) of the Act), contains restrictions that bind the manager of the scheme:

- (i) to invest only in:
 - (A) deposits; or
 - (B) any products specified in paragraphs (a) to (j) in this Annex; and
- (ii) not to engage in securities lending or repurchase transactions for the scheme;

(h) any debenture other than:

- (i) asset-backed securities as defined in section 262(3) of the Act; or
- (ii) structured notes as defined in regulation 2(1) of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005;

(i) any contract or arrangement the effect of which is that one party agrees to exchange currency at an agreed rate of exchange with another party, where such currency exchange is effected immediately; or

(j) two or more products specified in paragraphs (a) to (i) in this Annex that are linked together in a stapled manner such that one product may not be transferred or otherwise dealt without any of the other product(s).”;

(nn) by inserting, immediately after the words “Specified Investment Products which are listed” in paragraph 1(c) of Annex 2, the words “for quotation”;

(oo) by inserting, immediately after the words “Specified Investment Products which are listed” in paragraph 2 of Annex 2, the words “for quotation”;

(pp) by inserting, immediately after the words “For transactions in Specified Investment Products which are neither listed” in paragraph 1(c)(ii) of Annex 3, the words “for quotation”;

(qq) by inserting, immediately after the words “any Specified Investment Products which are neither listed” in paragraph 1(c)(ii) of Annex 3, the words “for quotation”;

(rr) by deleting the word “trade”, immediately after the words “deemed to possess the knowledge to” in paragraph 2 of Annex 3, and substituting the word “transact”;

(ss) by inserting, immediately after Annex 3, the following Annex:

**“ANNEX 4 – RISK WARNING STATEMENT FOR
OVERSEAS-LISTED INVESTMENT PRODUCTS**

OVERSEAS-LISTED INVESTMENT PRODUCTS

RISK WARNING

An overseas-listed investment product* is subject to the laws and regulations of the jurisdiction it is listed in. Before you trade in an overseas-listed investment product or authorise someone else to trade for you, you should be aware of:

- The level of investor protection and safeguards that you are afforded in the relevant foreign jurisdiction as the overseas-listed investment product would operate under a different regulatory regime.
- The differences between the legal systems in the foreign jurisdiction and Singapore that may affect your ability to recover your funds.
- The tax implications, currency risks, and additional transaction costs that you may have to incur.
- The counterparty and correspondent broker risks that you are exposed to.

- The political, economic and social developments that influence the overseas markets you are investing in.

These and other risks may affect the value of your investment. You should not invest in the product if you do not understand or are not comfortable with such risks.

**An “overseas-listed investment product” in this statement refers to a capital markets product that is listed for quotation or quoted only on overseas securities exchange(s) or overseas futures exchange(s) (collectively referred to as “overseas exchanges”).*

1. This statement is provided to you in accordance with paragraph 29D of the Notice on the Sale of Investment Products [SFA04-N12].
2. This statement does not disclose all the risks and other significant aspects of trading in an overseas-listed investment product. You should undertake such transactions only if you understand and are comfortable with the extent of your exposure to the risks.
3. You should carefully consider whether such trading is suitable for you in light of your experience, objectives, risk appetite, financial resources and other relevant circumstances. In considering whether to trade or to authorise someone else to trade for you, you should be aware of the following:

Differences in Regulatory Regimes

- (a) Overseas markets may be subject to different regulations, and may operate differently from approved exchanges in Singapore. For example, there may be different rules providing for the safekeeping of securities and monies held by custodian banks or depositories. This may affect the level of safeguards in place to ensure proper segregation and safekeeping of your investment products or monies held overseas. There is also the risk of your investment products or monies not being protected if the custodian has credit problems or fails. Overseas markets may also have different periods for clearing and settling transactions. These may affect the information available

to you regarding transaction prices and the time you have to settle your trade on such overseas markets.

- (b) Overseas markets may be subject to rules which may offer different investor protection as compared to Singapore. Before you start to trade, you should be fully aware of the types of redress available to you in Singapore and other relevant jurisdictions, if any.
- (c) Overseas-listed investment products may not be subject to the same disclosure standards that apply to investment products listed for quotation or quoted on an approved exchange in Singapore. Where disclosure is made, differences in accounting, auditing and financial reporting standards may also affect the quality and comparability of information provided. It may also be more difficult to locate up-to-date information, and the information published may only be available in a foreign language.

Differences in legal systems

- (d) In some countries, legal concepts which are practiced in mature legal systems may not be in place or may have yet to be tested in courts. This would make it more difficult to predict with a degree of certainty the outcome of judicial proceedings or even the quantum of damages which may be awarded following a successful claim.
- (e) The Monetary Authority of Singapore will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions will be effected.
- (f) The laws of some jurisdictions may prohibit or restrict the repatriation of funds from such jurisdictions including capital, divestment proceeds, profits, dividends and interest arising from investment in such countries. Therefore, there is no guarantee that the funds you have invested and the funds arising from your investment will be capable of being remitted.
- (g) Some jurisdictions may also restrict the amount or type of investment products that foreign investors may trade. This can affect the liquidity and prices of the overseas-listed investment products that you invest in.

Different costs involved

- (h) There may be tax implications of investing in an overseas-listed investment product. For example, sale proceeds or the receipt of any dividends and other income may be subject to tax levies, duties or charges in the foreign country, in Singapore, or in both countries.
- (i) Your investment return on foreign currency-denominated investment products will be affected by exchange rate fluctuations where there is a need to convert from the currency of denomination of the investment products to another currency, or may be affected by exchange controls.
- (j) You may have to pay additional costs such as fees and broker's commissions for transactions in overseas exchanges. In some jurisdictions, you may also have to pay a premium to trade certain listed investment products. Therefore, before you begin to trade, you should obtain a clear explanation of all commissions, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

Counterparty and correspondent broker risks

- (k) Transactions on overseas exchanges or overseas markets are generally effected by your Singapore broker through the use of foreign brokers who have trading and/or clearing rights on those exchanges. All transactions that are executed upon your instructions with such counterparties and correspondent brokers are dependent on their respective due performance of their obligations. The insolvency or default of such counterparties and correspondent brokers may lead to positions being liquidated or closed out without your consent and/or may result in difficulties in recovering your monies and assets held overseas.

Political, Economic and Social Developments

- (l) Overseas markets are influenced by the political, economic and social developments in the foreign jurisdiction, which may be uncertain and may increase the risk of investing in overseas-listed investment products.

ACKNOWLEDGEMENT OF RECEIPT OF THIS RISK WARNING STATEMENT

I acknowledge that I have received a copy of the Risk Warning Statement and understand its contents.

Signature of customer: _____

Name of customer: _____

Date: _____

”.

Commencement

3 This Notice shall take effect on 11 December 2012.