هيئة الأسواق المالية
CAPITAL MARKETS AUTHORITY

Decision Number 12

Related to Regulations on Financial Derivative Transactions

The Chairman of CMA/Governor of the Central Bank of Lebanon,

Pursuant to Law 161 of August 17, 2011 on Capital Markets, whereby the CMA is entrusted with all the powers pertaining to financial instruments,

Pursuant to Law 224 of June 10, 2000 on Regulating the Financial Intermediation Profession;

And pursuant to the Decision of the Capital Markets Authority's Board taken in its meeting of December 20, 2013,

Declares the following,

Article One: The Regulations on Financial Derivative Transactions, attached to this Decision, shall hereby become effective.

Article Two: This Decision and the attached Regulations shall be published in the Official Gazette, and shall come into force upon their issuance.

Beirut, on February 10, 2014.
Chairman of CMA / Governor of the Central Bank

Riad Toufic Salameh
(Signature)

Regulations on Financial Derivative Transactions

Article 1: Under these Regulations, the terms hereunder shall have the meaning ascribed to them below:

Financial Derivatives: Contracts and financial instruments whose value is linked to an underlying asset (real assets, financial assets, indexes, rates…).

Financial Intermediary: financial intermediation institutions, financial institutions, or banks performing activities related to financial instruments in Lebanon.

Article 2: The financial intermediary is prohibited from performing, for its own account or on behalf of its clients, a transaction on financial derivatives or an Off-Exchange Retail Forex transaction with a non-resident party, except when the latter is:

1- A party that carries out activities in the United States or is a resident of the United States, on condition that it is a member of the National Futures Association (NFA) and licensed by the Commodity Futures Trading Commission (CFTC).

2- A party that carries out its activities outside the United States or is not a resident of the United States, on condition that this party has a credit rating of "BBB" and is licensed to trade in financial derivatives by the relevant regulatory authorities in countries with a sovereign rating of BBB and above, in accordance with the ratings of Standard and Poor's or with similar ratings adopted by other international rating agencies.
The Capital Markets Authority's Board may make, for each case considered separately, an exception for a party that has a rating below BBB or is not rated, on condition that this party is licensed to trade in financial derivatives by the relevant regulatory authorities in countries with a sovereign rating of BBB and above.

Article 3: The financial intermediation must:

1- Confirm, pursuant to clients' orders, all transactions performed for clients with correspondents, including those related to financial instruments and derivatives, listed or unlisted in the regulated financial markets, with the exception of market makers' transactions and liquidity providers' transactions at the best price..
2- Require the client to pay the whole premium on long option contracts.
3- Require the client to deposit an initial margin when opening a position for financial derivatives, on condition that the said position is revalued daily, one time at least.
4- Require the client to rebuild the initial margin when it drops to the maintenance margin level, which shall be no less than 75% of the initial margin, and, in case of the client's refusal, liquidate the position immediately.
5- Pay the margins to the correspondents not on a net but on a gross position basis, and build a margin for each long or short position separately, knowing that clearing long positions with short positions is prohibited, even if these positions are linked to the same underlying assets.
6- Determine the initial and maintenance margins for the positions held on listed financial derivatives, in the following manner:
    a. Concerning futures contracts: for each long or short position, margins must be no less than the margin required from the correspondent or the margin required from the concerned stock exchange, whichever is higher.
    b. Concerning short options: margins must be no less than the margin required from the correspondent and the margin required from the concerned stock exchange, whichever is higher, until the liquidation or maturity date of the concerned short option. A guarantee formed of underlying assets may be given, on condition that it can be liquidated immediately in case of a sell call option.

7- Determine the initial and maintenance margins for the positions held on unlisted financial derivatives, so that these margins are no less than the amount required from the correspondent.

8- Determine the initial and maintenance margins for off-exchange retail forex transactions performed through an electronic platform, so that these margins are at least equivalent to:

a. The margins adopted by the correspondent, provided:

– Neither of the Financial Intermediary or electronic platform's operator holds with one another, whether directly or indirectly, the majority of voting or ownership rights, or controls the majority of voting rights in the other's Board of Directors, or possess influence over the other's managers, or is empowered to manage the other's financial or operational policies.

– The Capital Markets Authority's Board may, on justified grounds, exempt any of the party from meeting all or some of the conditions included in the obligation stipulated in this Paragraph.

– The electronic platform's operator ensures that there will be no potential shortage in the margins on clients' accounts or portfolios, by adopting an auto liquidation mechanism that closes out positions in case of a margin call, i.e. when the account's balance becomes lower than the margin call.

– The electronic platform's operator ensures that the Financial Intermediary and its clients are protected from risks and losses arising from market rapid fluctuations, particularly in case of price gaps, and undertakes to cover all losses resulting from the Financial Intermediary clients' negative accounts as a consequence of the abovementioned cases, and thus guarantees that neither the Financial Intermediary nor its clients shall bear any responsibility or losses due to any related balance deficit.

b. In case the above-mentioned conditions are not met, the margins adopted by the correspondent or the following percentages, whichever is higher:

- 2% of the notional value of transactions performed on major currencies (British pound, Swiss franc, Canadian dollar, Australian dollar, Japanese yen, Euro, New Zealand dollar, Swedish krone, Norwegian krone, and Danish krone).
- 5% of the notional value of transactions performed on secondary currencies and cross currencies.

9- Separate cash accounts, including clients' margin accounts linked to financial derivatives, from the accounts of the financial intermediary.

10- Make sure, through daily matching, that the clients' credit balance remaining with the financial intermediary is no less than the clients' credit balance deposited with correspondents.

Article 4: The financial intermediary is prohibited from:

1- Using any client's credit account in its own interests or in the interest of another client.
2- Granting facilities to finance the margins mentioned in these Regulations or to cover any shortage therein.