

L.N. 35 of 2018

Securities and Futures (OTC Derivative Products) Notice

(Made by the Financial Secretary under section 392 of the Securities and Futures Ordinance (Cap. 571))

1. Commencement

This Notice comes into operation on 27 April 2018.

2. Interpretation

In this Notice—

underlying subject matter (標的項目)—

- (a) in relation to a transaction in a structured product that falls within subsection (1)(a)(i) of section 1A of Part 1 of Schedule 1 of the Ordinance, means any type or combination of types of securities, commodity, index, property, interest rate, currency exchange rate or futures contract;
- (b) in relation to a transaction in a structured product that falls within subsection (1)(a)(ii) of section 1A of Part 1 of Schedule 1 of the Ordinance, means any basket of more than one type, or any combination of types, of securities, commodity, index, property, interest rate, currency exchange rate or futures contract; and
- (c) in relation to a transaction in a structured product that falls within subsection (1)(a)(iii) of section 1A of Part 1 of Schedule 1 of the Ordinance, means any specified event or events (excluding an event or events relating only to the issuer or guarantor of the instrument or to both the issuer and the guarantor).

3. Structured product that is not regarded as OTC derivative product

The structured product set out in the Schedule is not to be regarded as an OTC derivative product for the purposes of the Ordinance.

Schedule

[s. 3]

Structured Product Not to be Regarded as OTC Derivative Product

Any structured product that—

- (a) gives its holder the right to purchase its underlying subject matter;
- (b) is either settled in cash or physically settled;
- (c) if it is settled in a currency other than the currency or currencies in which its underlying subject matter is denominated—is settled at the exchange rate for the currencies involved prevailing at the time of the settlement;
- (d) has its strike price specified as, or in effect set at, zero or an amount close to zero;
- (e) is not subject to any restriction on its transfer (other than a restriction imposed solely for the purpose of complying with applicable legal or regulatory requirements); and
- (f) is documented in the form of a warrant.

Paul CHAN Mo-po
Financial Secretary

12 February 2018

Explanatory Note

This Notice prescribes that, for the purposes of the Securities and Futures Ordinance (Cap. 571) (*Ordinance*), any structured product set out in the Schedule to this Notice (*product*) is not to be regarded as an OTC derivative product so that the product will not be regulated as an OTC derivative product under the Ordinance. The purpose of this Notice is to exclude Delta One Warrants that fall within the description of the product from being regulated as an OTC derivative product under the Ordinance.