Consultation Paper

AFSA-P-CE-2024-0004

Proposals to Derivatives Framework, Enabling Margin Trading, Short Selling and High Frequency Trading

Unrestricted

April 17, 2024

Introduction

Why are we issuing this Consultation Paper (CP)?

1. Astana Financial Services Authority (AFSA) has issued this Consultation Paper on our approaches to Derivatives framework, enabling margin trading, short selling and high frequency trading to seek public's opinion and market interest in these framework and trading methods.

Who should read this CP?

2. The proposals in this paper will be of interest to:
   a) Authorised Firms, such as dealers or brokers, who offer or plan to offer to their clients derivatives trading, margin trading, short selling;
   b) Authorised Firms which arrange, advise or plan to offer such activities on derivatives trading, margin trading, short selling;
   c) Authorised Persons who operate an exchange platform, multilateral or organised trading facilities in relation to derivatives and short selling operations;
   d) persons interested in applying for an AFSA Licence to conduct the activities referred from a) to c) above;
   e) Authorised Firms using high frequency trading method;
   f) other industry participants, such as ancillary service providers or those who intend to provide such services to regulated firms from a) to e) above; and
   g) persons who obtain, or intend to obtain, the services from firms as referred to from a) to e) above.

Terminology

3. Defined terms have the initial letter of the word capitalised, or of each word in a phrase. Definitions are set out in AIFC Glossary. Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

What are the next steps?

4. We invite comments from interested stakeholders on the proposed framework. All comments should be in writing and sent to the email specified below. When sending your comments by email, please use "Consultation Paper AFSA-P-CE-2024-0004" in the subject line. You may, if relevant, identify the organisation you represent when providing your comments. AFSA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise. Comments supported by reasoning and evidence will be given more weight by AFSA.

5. The deadline for providing comments on the proposed framework is **17 May 2024**. Once we receive your comments, we shall consider if any refinements are required to this proposal.

6. Following the public consultation, we will proceed to make the relevant changes to AFSA Acts as appropriate to reflect the points raised in the consultation. You should not act on the proposals until the relevant changes are made. We will issue a notice on our website when this happens.

Structure of this CP

Part I – Introduction;
Part II – Overview of existing markets;
Part III – Proposed Approach and Public Consultation Questions;
Part IV – Summary of Public Consultation Questions.

I. Introduction

1. Derivatives are financial instruments that derive their value from an underlying asset, index, rate, or financial instrument. These contracts allow investors to speculate on price movements, hedge against potential risks, and manage exposure in various financial markets.
2. Exchange-traded derivatives and over-the-counter (OTC) derivatives represent two distinct categories within the vast derivatives market. Exchange-traded derivatives refer to derivative contracts that are traded on organized exchanges, with standardized terms and specifications. OTC derivatives are customized contracts negotiated directly between two parties, often facilitated by banks or other financial institutions. The absence of a regulated exchange for OTC derivatives can lead to increased counterparty risk and a lack of transparency. However, OTC derivatives are crucial for tailored risk management strategies, allowing parties to address specific needs that may not be met by standardized exchange-traded instruments.
3. This CP does not cover Commodity Derivatives and Digital Asset Derivatives since they are covered by the AIFC Commodity Exchange Framework commenced in August 2023 and Digital Assets Activity Framework commenced in January 2024 accordingly. Subject to the approach taken by AFSA on Derivatives after this public consultation, there might be some further amendments proposed to the mentioned frameworks to ensure comprehensive and proportionate regulation.
4. Within the CP AFSA also plans to assess market potential and interest in short selling, margin trading and high frequency trading operations in the AIFC.
5. Short selling occurs when an investor borrows a security and sells it on the open market, planning to repurchase later for less money. A technique is used (1) to take advantage of an anticipated decline in the price or (2) to protect a profit on a long position. Short selling has a high risk/reward ratio, offering big profits, but losses can mount quickly and may result in margin calls.
6. Margin is the money borrowed from a broker to purchase an investment and is the difference between the total value of an investment and the loan amount. Buying on margin occurs when an investor buys an asset by borrowing the balance from a broker.
7. High frequency trading uses complex algorithms to analyse multiple markets and execute orders based on market conditions. High frequency trading uses powerful computer programs to transact a large number of orders in fractions of a second.

II. Overview of existing markets

1. For the first half of 2023 worldwide gross market value for OTC derivatives was USD 19,832 billion with notional amounts outstanding USD 714,744 billion. For exchange-traded futures and options daily average turnover of notional amount was USD 11,128 billion, open interest – USD 86,327 billion.

2. Singapore has emerged as a prominent financial hub in Asia. In January 2024 derivatives traded volume of Singapore Exchange rose 27% year-on-year to 24.6 million contracts. EU and UK derivatives market plays a significant role in global finance, while the Dubai International Financial Centre (DIFC) and Abu Dhabi Global Market (ADGM) are notable for their growing derivatives markets.

3. In the countries mentioned above derivatives trading, both on exchange and OTC, is available to retail customers having sufficient knowledge and experience relating to the relevant services and products. Derivatives trading is covered by securities' regulation with the requirements for trading, clearing facilities, market conduct, customer protection, financial promotions, etc.

4. To protect investors and prevent systemic risk the regulation has some specific limitations for derivatives trading, short selling, margin trading, such as prohibition for retail marketing, distribution, and sale of complex products. Also, there are certain requirements for disclosures, design of contracts, special warnings and others.

5. In Kazakhstan derivatives trading industry is not developed due to lack of complete regulation and has some shortcomings in the investors' protection. In 2022, the volume of futures trading at the Kazakhstan Stock Exchange (KASE) amounted to 7 billion tenge. For 2023, the volume of trading in derivatives, namely futures, at KASE amounted to 29 billion tenge, or less than 0.1% of KASE trading volume.

6. In February 2024 the International Swaps and Derivatives Association (ISDA) has published legal opinion on the enforceability of close-out netting under the Acting Law of the AIFC. Close-out netting is crucial in promoting financial stability and the development of a robust, liquid, and efficient derivatives market as it enables derivatives participants to protect against adverse market changes following default of a counterparty. In the absence of certainty regarding close-out netting, financial institutions may face higher transaction costs and increased liquidity and regulatory capital requirements.

III. Proposed Approach and Public Consultation Questions

Section 1: Derivatives framework

1. In the AIFC Derivatives framework is characterized by a restricted set of provisions, and certain aspects of the regulation remain not clearly defined.

2. Currently according to AFSA's supervisory approach Derivatives operations are available only to Professional Clients due to limited regulatory framework and customer protection requirements.

Question 1. Do you consider conducting Derivatives operations for your Clients? If yes, for what type of Clients?

Question 2. Do you currently face any challenges in Derivatives trading?

<u>How do we define a Derivative</u>

3. According to AIFC Glossary:

Derivative	An Option, a Future or a Contract for Differences.

Question 3. Do you agree with the current definition of Derivative? If not, why not?

<u>Overview of existing Derivative framework</u>

4. More detailed overview of the current AIFC Derivatives framework is provided below.

   Authorised Market Institution (AMI) and Multilateral Trading Facility or Organised Trading Facility (MTF/OTF) regulation

   Greater clarity is needed regarding application of AMI and MTF/OTF frameworks to Derivatives in the AIFC.

   Though a Licence for Operating an Exchange allows AMI to operate a facility which functions regularly and brings together multiple third party buying and selling interests in Investments, including Derivatives; however, Derivatives trading on AMI is not covered by AMI regulation since the latter applies to Securities.

   The MTF/OTF framework sets requirements for Qualified Investments trading. A future is acknowledged as a Qualified Investment, whereas an Option and a Contract for Differences are not identified as Qualified Investments. As such, there is a requirement to calibrate the risk appetite to the permitted Derivatives on AMI and MTF/OTF frameworks.

   Market Conduct

   According to AIFC Market Rules Market Conduct requirements are partly applicable to Derivatives trading.

   Restrictions for Market Sounding apply to Derivatives trading only when it comes to Inside Information. As to Market Manipulation, being one of the forms of Market Abuse, it covers only Securities and does not consider Derivatives.

   Customer Protection and Financial Promotion

   AIFC Conduct of Business Rules (COB) set requirements on Customer Protection and Financial Promotion for Authorised Firms.

   Requirements of COB do not apply to MTF/OTF, except for COB 15 (Complaints Handling and Dispute Resolution). COB is also not applicable to AMI and to Derivatives traded on AMI, respectively.

5. According to AIFC *Collective Investment Scheme* Rules (CIS) a Fund may invest in Derivatives if expressly permitted to do so by, and in accordance with any limits contained in, the Fund's investment policy. If not so permitted, a Fund

may only use Derivatives for the purposes of efficient portfolio management. If a Fund utilises Derivatives for any purposes, then the Fund Manager's systems and controls must include adequate risk management processes which enable it to monitor and measure as frequently as appropriate the risk of 'he Derivative positions and their contribution to the overall risk profile of the Fund.

6. Comparative general overview of the AIFC, Singapore, DIFC, UK, and ADGM legislative models for the derivatives is set out in Table 1 below.

Table 1

Name	*AIFC (AFSA)*	*Singapore (MAS)*	*DIFC (DFSA)*	*UK (FCA)*	*ADGM (FSRA)*
Trading requirements	Not clearly defined	Applicable	Applicable	Applicable	Applicable
Clearing facilities	Not clearly defined	Applicable	Applicable	Applicable	Applicable
Market conduct	Partly applicable	Applicable	Applicable	Applicable	Applicable
Customer Protection and Financial Promotion	Partly applicable	Applicable	Applicable	Applicable	Applicable

AFSA approach to Derivatives regulation

7. AFSA aims not just to address the regulatory discrepancies but also to build a comprehensive Derivatives framework in the AIFC.

8. Our starting point is to define AFSA approach to regulation taking into account a level of capital markets' development in the AIFC and clients' awareness of the risks.

9. Generally, there are principle-based and rule-based approaches for setting regulatory requirements.

   Principle-based approach:

   – principle-based regulation based on judgement and experience of regulated entities;

   – minimum restrictions for Derivatives operations.

   Rule-based approach:

   – precisely drafted rules for trading, context of contracts, information disclosure, limitations, etc.;

   – restrictions for Derivatives operations depending on types of Derivatives, market (exchange-traded or OTC), types of Clients (Professional or Retail), underlying assets (types and ratings), etc.

Below are some key characteristics of the pure principle-based and rule-based approaches.

Table 2

#	Criteria	Principle-based regulation	Rule-based regulation
1	Flexibility	Seen as more flexible	Less flexible
2	Predictability and certainty	More imprecise, and potentially less certain	More precise and therefore potentially more certain
3	Impact on approach and mindset of regulated entities	Requires regulated entities to be forward-looking and think through consequences of actions	Can result in a tick-box mentality developing
4	Ability to adapt to changes in environment / market	More open-textured and therefore can be more adaptive to changes in the environment	Less adaptive to changes, rules can tend towards obsolescence, and require more rules to be introduced
5	Incentives for compliance	Can lead to over- or under-compliance depending on level of precision of regulation, and the risk profile of regulated entities	Can create incentives to 'game the rules' and engage in creative compliance
6	Supervisory burden	Requires higher supervisory involvement	Lower supervisory involvement

13. Based on the above AFSA evaluates these two approaches in light of their characteristics and the current level of AIFC market development.

14. Derivatives are complex financial products and principle-based approach will ensure framework to be flexible and able to adapt to Derivatives' variety of options and characteristics. However, principle-based approach with full reliance on Authorised Persons may result in increased supervisory burden on AFSA and lead to higher risk exposure.

15. On the other hand, rule-based approach, being more precise, allows for greater predictability in operations with Derivatives, yet this approach is less adaptive to changes and may encourage Authorised Persons to 'game the rules'.

16. Consequently, **AFSA proposes to combine the approaches and adhere to a hybrid approach** by introducing principle-based regulation with general rules and setting restrictions for Derivatives operations.

Question 4. Do you agree with AFSA proposal to use a hybrid approach to Derivatives regulation? If not, why not?

Minimum regulatory enhancements to address current regulatory inconsistencies

10. Taking the overview into account, it's important to note that AIFC Derivatives framework requires at least improvements in trading, clearing, market conduct, customer protection, and financial promotion requirements to ensure proportionate and holistic approach to regulation.

11. Therefore, we suggest amending AMI and MTF/OTF regulation by revising Market Conduct, Client Protection and Financial Promotion requirements as provided below.

AMI and MTF/OTF regulation

1) Establish a clear regulatory framework for Derivatives traded on AMI and MTF/OTF by ensuring the applicability of current AMI and MTF/OTF regulations for securities to Derivatives also.

2) Set requirements for AMI and MTF/OTF trading Derivatives to cover their specific risks following the best regulatory practice, such as:

   a) ensuring that Derivative contract design specifications enable the orderly pricing and effective settlement of the obligations arising under the contract;

   b) establishing the rules and procedures for fair, orderly and efficient operation of trading of Derivatives;

   c) expanding Business Rules by including minimum/maximum price fluctuations, last trading day, settlement or delivery procedures, trading months, position limits, reportable levels, and trading hours.

Market Conduct

1) Ensure that all market conduct requirements set in the AIFC Market Rules are applicable to Derivatives trading.

Client Protection and Financial Promotion

1) Ensure that Clients are treated fairly, provided with adequate information, and shielded from unnecessary risks by:

   a) providing risk warnings stating that Derivatives have a high probability of the person losing money and that the person needs to consider carefully whether they understand how the Derivatives work, and whether they can afford to take the high risk;

   b) providing risk warnings on marketing and other communications;

   c) setting margin requirements for Retail Clients;

   d) setting negative balance protection for Retail Clients;

   e) prohibiting the use of credit to fund an account by Retail Clients.

2) Prohibit Retail Clients operations with complex derivative products, for example, Contract for Differences.

3) Expand Customer Protection and Financial Promotion requirements set by COB to Derivatives traded on AMI.

Question 5. Do you agree with the minimum proposed regulatory enhancements to AIFC Derivatives framework? If not, why not?

Complex overview of proposed Derivatives framework

17. Moving forward to complex overview of Derivatives framework AFSA prepared detailed mapping covering AFSA's supervisory approach and applicability of requirements for market conduct, clearing, transactions recording, design specifications and conduct. The proposed framework envisages Derivatives trading on exchange and OTC by Retail and Professional Clients.

Table 3

Mapping of the proposed Derivatives framework in the AIFC

#	Name	Exchange-traded Derivatives		OTC Derivatives		Additional information
	Type of Clients	**Retail**	**Professional**	**Retail**	**Professional**	
1	AFSA's supervisory approach	Allowed, subject to restrictions 1.1 and 1.2.	Allowed	***Option 1.*** *OTC Derivatives trading is allowed* subject to restrictions 1.1 and 1.2 and risk-mitigation techniques 1.3. ***Option 2.*** *OTC Derivatives trading is allowed with Authorised Firms being an intermediary of the transaction* subject to restrictions 1.1 and 1.2 and risk-mitigation techniques 1.3. ***Option 3.*** *OTC Derivatives trading is allowed with Authorised Firms being an intermediary of the transaction and originator (counterparty) being a Financial Institution* (in/out the AIFC)* subject to restrictions 1.1 and 1.2 and	Allowed	**Restrictions** **1.1** To prohibit Retail Clients operations with complex derivative products, such as, for example, Contract for Differences. **1.2** To limit Derivative's Underlying Assets to low-risk instruments, for example, G10 currencies, global indices, sovereign debt issued by developed countries, etc. **Risk-mitigation techniques** **1.3** Risk-mitigation techniques for OTC Derivatives, including: (a) appropriate procedures and arrangements are in place to measure, monitor and mitigate operational risk and counterparty credit risk; (b) define the value of outstanding contracts in accordance with the International Financial Reporting Standards ("IFRS"). More detailed information in Table 4 below.

				risk-mitigation techniques 1.3. **Option 3 sub-options:* *3.1 Financial Institution from any jurisdiction is allowed.* *3.2 Financial Institution from recognised jurisdiction is allowed.* *3.3 Financial Institution must be authorised by AFSA.* ***Option 4.*** *OTC Derivatives trading is not allowed.*		
Question 6. Do you agree with AFSA proposal to Derivatives trading for Retail Clients? What option from 1 to 3 are you interested in?						
2	Market Conduct	Applicable	Applicable	Applicable	Applicable	
3	Clearing	Applicable	Applicable	***Option 1.*** *Applicable exceeding certain threshold amount.* ***Option 2.*** *Not applicable.*	Not applicable	
4	Transactions recording	***Option 1.*** *Applicable.* ***Option 2.*** *Not applicable.*	***Option 1.*** *Applicable.* ***Option 2.*** *Not applicable.*	***Option 1.*** *Applicable.* ***Option 2.*** *Not applicable.*	***Option 1.*** *Applicable.* ***Option 2.*** *Not applicable.*	
5	Design specifications	Applicable	Applicable	Applicable	Not applicable	Have a design that enables the orderly pricing and effective settlement of the obligations arising under the contract by disclosing contract design specifications, at a minimum: (a) minimum price fluctuations (price ticks); (b) maximum price fluctuations (daily price limits), if any; (c) last trading day; (d) settlement or delivery procedures as applicable; (e) trading months; (f) position limits, if any;

						(g) reportable levels; and (h) trading hours.
Question 7. Do you think that AFSA should introduce clearing and transactions recording requirements to Derivatives transactions? If yes, should any threshold amount be introduced?						
6	Conduct requirements	Applicable	Partly applicable	Applicable	Partly applicable	
6.1	Warnings	Applicable	Applicable	Applicable	Applicable	• Risk warning for each Client; • Risk warning on marketing and other communications. More detailed information in Table 4 below.
6.2	Limits	Applicable	Not applicable	Applicable	Not applicable	• Margin requirements for Retail Client; • Margin close out requirements for Retail Clients; • Negative balance protection; • Offer of incentives prohibited; • Prohibition on the use of credit to fund an account • Restriction relating to dealing as agent, arranging, advising or making referrals relating to Derivatives More detailed information in Table 4 below.
Question 8. Do you agree that AFSA should introduce conduct requirements on Derivatives transactions? If yes, do you agree with the proposed requirements?						

18. The table below includes additional specifications on risk-mitigation techniques for OTC Derivatives and more detailed disclosure of warnings and limits for Retail Clients, such as margin and margin close out requirements, negative balance protection, prohibition to offer incentives and prohibition on the use of credit to fund an account.

Table 4

#	Name	Detailed information
1	Conduct requirements	Include warnings and limits as indicated below.
1.1	Warnings	**Risk warning** An Authorised Firm must, before providing services for a Retail Client to trade in Derivatives with the Authorised Firm, provide that Retail Client with a risk warning in written form, which states that: (a) the types of contracts which the Authorised Firm will be entering into with the person are complex financial instruments where the loss or profit of the person is determined by reference to the movement of the value or price of the underlying reference; (b) this type of trading in complex financial instruments has a high probability of the person losing money rapidly, particularly due to the gain or loss being leveraged, based on the fluctuation of the price of the underlying reference; and (c) before deciding to trade in a Derivative, the person needs to consider carefully whether they understand how the Derivatives offered work, and whether they can afford to take the risk of losing money. **Risk warning on marketing and other communications** (1) Where an Authorised Firm presents any marketing or educational materials and other communications relating to a Derivative on a website, in general media or as part of a distribution made to existing or potential new clients, it must include a risk warning in a prominent place at or near the top of each page of the materials or communication. (2) The risk warning referred to in (1) must set out the risks associated with trading in the Derivative of the type referred to in the materials or communications, in a clear, concise and easy to understand manner. (3) If the material referred to in (1) is provided on a website or an application that can be downloaded to a mobile device, the warning must be: (a) statically fixed and visible at the top of the screen even when a person scrolls up or down the webpage; and (b) included on each linked webpage on the website.
1.2	Limits	**Margin requirements for Retail Clients** (1) An Authorised Firm that Deals in a Derivative must not open a position with a Retail Client unless the Retail Client has posted a margin of at least: (a) 3.3% of the value of the exposure that the trade provides when the underlying asset is a “major currency pair”; (b) 5% of the value of the exposure that the trade provides when the underlying asset is a non-major currency pair, “major equity index”, “treasury asset” or gold; (c) 10% of the value of the exposure that the trade provides when the underlying asset is a non-major equity index or a commodity other than gold;

		(d) 50% of the value of the exposure that the trade provides when the underlying asset is a cryptocurrency; or (e) 20% of the value of the exposure that the trade provides when the underlying asset is an asset not referred to in (a) to (d). **Margin close out requirements for Retail Clients** (1) An Authorised Firm that Deals in a Derivative must ensure that the net equity in a Retail Client's account does not fall below 50% of the overall margin deposited in that account. (2) For the purposes of (1), where a Retail Client's net equity falls below 50% of the overall margin deposited in that account, the Authorised Firm must close all open positions in the Retail Client's account: (a) as soon as market conditions allow; and (b) in accordance with the best execution requirement. (3) In this Rule, "net equity" means the sum of the Retail Client's net profit and loss on their open position(s) and the Retail Client's deposited margin. **Negative balance protection** The liability of a Retail Client, for all Derivatives connected to that Retail Client's trading account with an Authorised Firm, is limited to the funds in that trading account. **Offer of incentives is prohibited** An Authorised Firm must not offer or provide to a Retail Client any incentive that influences, or is reasonably likely to influence, the Retail Client to trade in a Derivative. Incentives include bonus offers, gifts, rebates of fees (including volume-based rebates), trading credits or any form of reward in relation to the opening of a new account or trading in a new type of Derivative offered to an existing or potential new Retail Client. **Prohibition on the use of credit to fund an account** An Authorised Firm that Deals in a Derivative must take reasonable steps to ensure that a Retail Client does not use a credit card or third party credit facility to pay a margin. **Restriction relating to dealing as agent, arranging, advising or making referrals relating to Derivatives** (1) An Authorised Firm must not Deal in Investments as Agent or Arrange Deals in Investments with or for a Retail Client, or give Advice on Investments to a Retail Client, in relation to a Derivative, unless it is reasonably satisfied that the originator (counterparty) of the Derivative is either: (a) an Authorised Firm; or (b) a Financial Institution outside the AIFC that is subject to substantially similar requirements to those set out in this section. (2) An Authorised Firm must not refer a Retail Client to a person providing any service related to a Derivative, unless it is reasonably satisfied that the issuer of the Derivative is either: (a) an Authorised Firm; or (b) a Financial Institution outside the AIFC that is subject to substantially similar requirements to those set out in this section.

19. Minimum margin requirement for Retail Clients having opened positions in Derivatives depends on the underlying asset. Percentage of the margin requirement is proposed to be lowered for “major currency pair”, “major equity index” and “treasury asset”. A list of “major currency pair”, “major equity index” and “treasury asset” is suggested to include the world’s most liquid currencies, the most heavily traded indices and public debt of developed countries. In more details, please see the table below.

Table 5

<table>
<tr><th>#</th><th>Name</th><th>Detailed information</th></tr>
<tr><td>1</td><td>Major currency pair</td><td>means a pairing of any two of the following major currencies: G10 excluding Norwegian Krone, Swedish Krona because major amount of operations worldwide is provided in these currencies.
(i) United States Dollar;
(ii) Euro;
(iii) Japanese Yen;
(iv) Pound Sterling;
(v) Swiss Franc;
(vi) Canadian Dollar;
(vii) Australian Dollar; or
(viii) New Zealand Dollar.</td></tr>
<tr><td>2</td><td>Major equity index</td><td><table>
<tr><td>Australia</td><td>All Ordinaries</td></tr>
<tr><td>Austria</td><td>Austrian Traded Index</td></tr>
<tr><td>Belgium</td><td>BEL 20</td></tr>
<tr><td>Canada</td><td>TSE 35, TSE 100, TSE 300</td></tr>
<tr><td>France</td><td>CAC 40, SBF 250</td></tr>
<tr><td>Germany</td><td>DAX</td></tr>
<tr><td>European</td><td>Dow Jones Stoxx 50 Index, FTSE Eurotop 300, MSCI Euro Index</td></tr>
<tr><td>Hong Kong</td><td>Hang Seng</td></tr>
<tr><td>Italy</td><td>MIB 30</td></tr>
<tr><td>Japan</td><td>Nikkei 225, Nikkei 300, TOPIX</td></tr>
<tr><td>Korea</td><td>Kospi</td></tr>
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<tr><td></td><td></td><td>
<table>
<tr><td>Netherlands</td><td>AEX</td></tr>
<tr><td>Singapore</td><td>Straits Times Index</td></tr>
<tr><td>Spain</td><td>IBEX 35</td></tr>
<tr><td>Sweden</td><td>OMX</td></tr>
<tr><td>Switzerland</td><td>SMI</td></tr>
<tr><td>UK</td><td>FTSE 100, FTSE Mid 250, FTSE All Share</td></tr>
<tr><td>US</td><td>S&P 500, Dow Jones Industrial Average, NASDAQ Composite, Russell 2000</td></tr>
</table>
</td></tr>
<tr><td>3</td><td>Treasury asset</td><td>means an issue of public debt by or on behalf of:
(i) the United Kingdom;
(ii) the United States of America;
(iii) France;
(iv) Australia;
(v) Germany;
(vi) Japan;
(vii) Canada; or
(viii) Switzerland.</td></tr>
</table>

Section 2: Short selling, margin trading and high frequency trading

1. As to short selling in the AIFC, AMI Rules cover short selling by prescribing Authorised Market Institutions to have in place effective systems, controls and procedures for monitoring and management.
2. According to CIS a Fund may lend or borrow Securities if expressly permitted to do so by, and in accordance with any limits contained in, the Fund's investment policy.
3. AIFC Acts are silent on margin trading and high frequency trading.
4. Currently AFSA's general approach to short selling and margin trading operations in the AIFC significantly relies on professionalism and judgement of Authorised Market Institutions.
5. However, to develop the market and incentivise short selling and margin trading operations, AFSA initially needs to assess the market interest and potential in those types of operations.
6. Also, along with short selling and margin trading AFSA is seeking market opinion on high frequency trading.

Question 9. Do you consider conducting short-selling or margin trading operations for your Clients?

Question 10. Do you consider implementing high frequency trading for your Clients?

7. Considering that the current stage of capital markets development in the AIFC requires more predictability in operations and existing principle-based approach with full reliance on Authorised Persons may result in increased supervisory burden on AFSA and lead to higher risk exposure, there might be a need to reconsider the existing approach subject to the market interest.
8. **AFSA suggests evaluating market interest and then decide whether adjusting regulatory requirements for short selling and margin trading operations is required.**

Question 11. Do you agree with AFSA proposal to set regulatory requirements to short selling and margin trading operations? If not, why not?

IV. Summary of Public Consultation Questions

Question 1. Do you consider conducting Derivatives operations for your Clients? If yes, for what type of Clients?

Question 2. Do you currently face any challenges in Derivatives trading?

Question 3. Do you agree with the current definition of Derivative? If not, why not?

Question 4. Do you agree with AFSA proposal to use a hybrid approach to Derivatives regulation? If not, why not?

Question 5. Do you agree with the minimum proposed regulatory enhancements to AIFC Derivatives framework? If not, why not?

Question 6. Do you agree with AFSA proposal to Derivatives trading for Retail Clients? What option from 1 to 3 are you interested in?

Question 7. Do you think that AFSA should introduce clearing and transactions recording requirements to Derivatives transactions? If yes, does any threshold amount should be introduced?

Question 8. Do you agree that AFSA should introduce conduct requirements on Derivatives transactions? If yes, do you agree with the proposed requirements?

Question 9. Do you consider conducting short-selling or margin trading operations for your Clients?

Question 10. Do you consider implementing high frequency trading for your Clients?

Question 11. Do you agree with AFSA proposal to set regulatory requirements to short selling and margin trading operations? If not, why not?