

# CAPITAL MARKETS REFORM IN MOROCCO

## REFORM OF THE FINANCIAL FUTURES MARKET IN MOROCCO

The futures market is a regulated market on which financial futures are publicly traded (financial futures contracts for securities, interest rates, indexes, currencies, etc.).

After various versions of the draft Act that went nowhere, the Futures Market Act finally appeared on 15 October 2015 (Act 42-12).

From now on, financial futures, the institutional framework of the futures market in Morocco and the role of the regulatory and supervisory authorities are clearly defined and set out in a coherent way, placing Moroccan financial law on a par with international standards.

### A LOGICAL AND COHERENT ACT:

#### ESSENTIAL DEFINITIONS

**Part I of the Act**, intended to be an explanatory section, sets out the definition of the futures market and of financial instruments generally and introduces the other articles relating to the structure of the futures market and its participants.

The Act settles once and for all the historic conflict over responsibilities that existed between the two supervisory authorities, Bank Al-Maghrib and the Conseil Déontologique des Valeurs Mobilières (the Moroccan Securities Ethics Council or CDVM).

Thus, Bank Al-Maghrib will now supervise making payment clearing systems safer, while the CDVM's responsibilities will be the supervision and control of the operational aspects of broker members, the management company and the clearing house.

Where areas of responsibility for the two authorities continue to overlap, the Act has introduced joint involvement by means of the Instance de Coordination du Marché à Terme (the Futures Market Coordination Authority or ICMT) that will thus deal with:

- applications for approval of members;
- the articles of association of the management company and the clearing house;
- the operational control of clearing members; and
- deciding the supervision and prudential measures applicable to members, the management company and the clearing house.

Furthermore, it should be noted that control of the management company and the clearing house is the responsibility of the Commissaire au Gouvernement (Government Commissioner) and is not covered by State financial supervision.

### THE STRUCTURE OF THE FUTURES MARKET

**Part II of the Act** covers the structure of the futures market and sets out the two operational structures dedicated to the management of this market by determining the role, structure and general regulations of each of these two structures, with “the management company” on the one hand and “the clearing company” (clearing house) on the other.

Part II also describes the procedures and conditions for the listing, trading, suspension and cancellation of financial futures.

## THE APPROVAL PROCEDURE

**Part III of the Act** describes the procedure and formalities required for members to be approved. It should be noted that only banks, stockbrokers and legal entities whose principal business is trading in financial futures may be approved for the conduct of futures market business.

Members who are brokers or clearers are governed by Bank Al-Maghrib and the CDVM, or the ICMT, as applicable.

## SANCTIONS

**Part IV of the Act** deals with the respective sanctions that Bank Al-Maghrib or the CDVM, or the ICM, may impose on:

- the management company;
- the clearing house; and
- the members of each of these two companies, i.e., brokers and clearers.

## CONTACTS



### Fabrice Armand

Partner

T +33 1 40 15 24 43

fabrice.armand@dlapiper.com

*Fabrice is head of the capital markets, derivatives and banking regulation practices within the Paris office's Finance & Projects Group that he joined in 2012 as a partner. He has developed extensive knowledge in the fields of finance and capital markets with an emphasis on bond and notes issues, MTN programs and derivatives.*



### Houssam Chmanti Houari

Senior Associate

T +212 522 64 16 36

houssam.chmantihouari@dlapiper.com

*Houssam Chmanti Houari focuses his practice on the legal structuring of financial engineering, financing documentation, the creation of legal entities and subsidiaries, contracts, compliance and regulations and also advises on business, competition, employment and intellectual property issues.*

[www.dlapiper.com](http://www.dlapiper.com)

DLA Piper is a global law firm operating through various separate and distinct legal entities. Further details of these entities can be found at [www.dlapiper.com](http://www.dlapiper.com).

This publication is intended as a general overview and discussion of the subjects dealt with, and does not create a lawyer-client relationship. It is not intended to be, and should not be used as, a substitute for taking legal advice in any specific situation. DLA Piper will accept no responsibility for any actions taken or not taken on the basis of this publication. This may qualify as "Lawyer Advertising" requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.