

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.

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