

**CMS Funds  
(the “Fund”)**

**CMS China Opportunities Flexifund  
CMS Hong Kong Multi Income Fund  
(the “Sub-Funds”)**

**SECOND ADDENDUM**

**This Second Addendum should be read in conjunction with and forms part of the Explanatory Memorandum of the Fund dated June 2014 in respect of the Sub-Funds, as amended by the First Addendum dated May 2015 (collectively, the “Explanatory Memorandum”).**

All capitalized terms herein contained shall have the same meaning in this Second Addendum as in the Explanatory Memorandum, unless otherwise stated. CMS Asset Management (HK) Co., Limited, the manager of the Fund (the “**Manager**”), accepts full responsibility for the accuracy of the information contained in this Second Addendum at the date of publication and confirms, having made all reasonable enquiries that to the best of its knowledge and belief there are no other facts the omission of which would make any statement misleading.

With effect from 29 October 2015 (the “**Effective Date**”), the following changes shall be made:

**United States (“US”) Foreign Account Tax Compliance Act (“FATCA”)**

- (i) The following shall be inserted as a new risk factor after the risk factor headed “(xxviii) *Risk of distribution out of capital*” under the section headed “**RISK FACTORS**” on page 42 of the Explanatory Memorandum:-

“(xxix) *The United States (“U.S.”) Foreign Account Tax Compliance* - Under the U.S. Foreign Account Tax Compliance Act, or FATCA, all entities in a broadly defined class of non-U.S. financial institutions (i.e. foreign financial institutions or “**FFI**”s), are required to comply with a complicated and expansive reporting regime. In order to be a FATCA compliant, an FFI, such as the Fund and the Sub-Funds (and, generally, other investment funds organised outside the US), generally will be required to enter into an agreement (an “**FFI Agreement**”) with the US Internal Revenue Service (the “**US IRS**”) under which it will agree to identify its direct or indirect owners who are United States persons and report certain information concerning such United States person owners to the US IRS.

In general, an FFI which does not sign an FFI Agreement or is not otherwise exempt will face a punitive 30% withholding tax on all “withholdable payments” derived from US sources, including dividends, interest and certain derivative payments with effect from 1 July 2014. In addition, starting from 1 January 2017, gross proceeds such as sales proceeds and returns of principal derived from stocks and debt obligations generating US source dividends or interest will be treated as U.S. “withholdable payments”.

**Details of Intergovernmental Agreement**

The Hong Kong government signed an intergovernmental agreement with the US (“**IGA**”) for the implementation of FATCA on 13 November 2014, adopting “Model

2” IGA arrangements. Under this “Model 2” IGA arrangements, FFIs in Hong Kong (such as the Fund and the Sub-Funds) would be required to enter into the FFI Agreement with the US IRS, register with the US IRS and comply with the terms of FFI Agreement. Otherwise they will be subject to a 30% withholding tax on U.S. “withholdable payments”.

As an IGA has been signed between Hong Kong and the US, FFIs in Hong Kong (such as the Fund and the Sub-Funds) complying with the FFI Agreement (i) will generally not be subject to the above described 30% withholding tax; and (ii) will not be required to withhold tax on payments to recalcitrant accounts/non-consenting U.S. accounts (i.e. accounts of which the holders do not consent to FATCA reporting and disclosure to the US IRS) or close those recalcitrant accounts/non-consenting U.S. accounts (provided that information regarding such recalcitrant account/non-consenting U.S. account holders is reported to the US IRS), but may be required to withhold tax on payments made to non-compliant FFIs.

#### FATCA Status

As of the date hereof, the Manager has already registered with the US IRS as a “sponsoring FFI”, (i.e. the FFI which undertakes the obligations under FATCA on behalf of the Fund and/or the Sub-Funds).

The Fund and each Sub-Fund will endeavour to satisfy the requirements imposed under FATCA and the FFI Agreement to avoid any withholding tax. In the event that the Fund or any Sub-Fund is not able to comply with the requirements imposed by FATCA or the FFI Agreement and the Fund or such Sub-Fund does suffer US withholding tax on its investments as a result of non-compliance, the Net Asset Value of the Fund or that Sub-Fund may be adversely affected and the Fund or such Sub-Fund may suffer significant loss as a result.

#### Impact to Unitholders

In the event a Unitholder does not provide the requested information and/or documentation, whether or not that actually leads to compliance failures by the Fund or the relevant Sub-Fund, or a risk of the Fund or the relevant Sub-Fund being subject to withholding tax under FATCA, the Manager on behalf of the Fund and each of such relevant Sub-Fund reserves the right to take any action and/or pursue all remedies at its disposal including, without limitation, (i) reporting the relevant information of such Unitholder to the US IRS; (ii) withholding or deducting from such Unitholder’s redemption proceeds or distributions to the extent permitted by applicable laws and regulations; and/or (iii) deeming such Unitholder to have given notice to redeem all his Units in the relevant Sub-Fund. The Manager in taking any such action or pursuing any such remedy shall act in good faith and on reasonable grounds.

Each Unitholder and prospective investor should consult with his own tax advisor as to the potential impact of FATCA in its own tax situation.”

- (ii) The following shall be inserted as new sections after the section headed CONFLICTS OF INTEREST” on pages 52 to 53 of the Explanatory Memorandum:-

**“CERTIFICATION FOR COMPLIANCE WITH FATCA OR OTHER APPLICABLE LAWS**

Each investor (i) shall be required to, upon demand by the Trustee or the Manager, provide any form, certification or other information reasonably requested by and acceptable to the Trustee or the Manager that is necessary for the Fund or a Sub-Fund (A) to prevent withholding (including, without limitation, any withholding taxes required under FATCA) or qualify for a reduced rate of withholding or backup withholding in any jurisdiction from or through which the Fund or the relevant Sub-Fund(s) receives payments and/or (B) to satisfy reporting or other obligations under the US Internal Revenue Code of 1986, as amended (the “**US IRS Code**”) and the United States Treasury Regulations promulgated under the US IRS Code, or to satisfy any obligations relating to any applicable law, regulation or any agreement with any tax or fiscal authority (ii) will update or replace such form, certification or other information in accordance with its terms or subsequent amendments, and (iii) will otherwise comply with any reporting obligations imposed by the United States, Hong Kong or any other jurisdiction, including reporting obligations that may be imposed by any future law, regulation or agreement.

## **POWER TO DISCLOSE INFORMATION TO TAX AUTHORITIES**

Subject to applicable laws and regulations in Hong Kong, the Fund, the relevant Sub-Funds, the Trustee or the Manager or any of their authorised person(s) (as permissible under applicable law or regulation) may be required to report or disclose to any government agency, regulatory authority or tax or fiscal authority in any jurisdictions (including but not limited to the US IRS), certain information in relation to a Unitholder, including but not limited to the Unitholder’s name, address, tax identification number (if any), social security number (if any) and certain information relating to the Unitholder’s holdings, to enable the Fund or the relevant Sub-Funds to comply with any applicable law or regulation or any agreement with a tax authority (including, but not limited to, any applicable law, regulation or agreement under FATCA).

## **PERSONAL DATA**

Pursuant to the provisions of the Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong, “**PDPO**”), the Trustee, the Manager, or any of their respective delegates (each a “**Data User**”) may collect, hold, use personal data of individual investors in the Fund and the Sub-Funds only for the purposes for which such data was collected and shall comply with personal data protection principles and requirements as set out in the PDPO (as amended from time to time) and all other applicable regulations and rules governing personal data use in Hong Kong from time to time. Accordingly, each Data User shall take all practicable steps to ensure that personal data collected, held and processed by them are protected against unauthorized or accidental access, processing, erasure or other use.”

## **Change of Director of the Manager**

With effect from 22 July 2015, Mr. Wan Siu Wah Wilson resigned as a director of the Manager of the Fund. With effect from 4 August 2015, Ms. Chan Yim Yim has been appointed as a director of the Manager of the Fund.

- (i) The sub-section headed “Directors of the Manager” under the section headed “ADMINISTRATION” on page 1 of the Explanatory Memorandum shall be deleted and replaced with the following:-

**“Directors of the Manager**

He, Zhong

Chan, Yim Yim”

- (ii) The details of Mr. Wan Siu Wah Wilson under the sub-section headed “The Manager” of the section headed “MANAGEMENT OF THE FUND” on page 7 of the Explanatory Memorandum shall be deleted and replaced with the following:-

**“Ms. Chan Yim Yim**

Ms. Chan is a director of CMS Asset Management (HK) Co., Limited. She has obtained a Bachelor degree in Economics and Finance from The University of Hong Kong. In 2007, Ms. Chan joined China Merchants Securities (HK) Co., Limited, a corporation licensed by the SFC to carry on business in Type 1 (dealing in securities), Type 2 (dealing in futures contracts), Type 4 (advising on securities), Type 6 (advising on corporate finance) and Type 9 (asset management). Ms. Chan has over 10 years of experience in the finance industry.”

CMS Asset Management (HK) Co., Limited

29 October 2015