



**SECURITIES AND
FUTURES COMMISSION**
證券及期貨事務監察委員會

Consultation Conclusions on Customer Due Diligence Requirements for Open-ended Fund Companies

23 December 2020

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Executive summary

1. In September 2020, the SFC further consulted the public on a revised proposal regarding anti-money laundering and counter financing of terrorism (AML/CFT) measures under which OFCs would not be required to keep a significant controllers register (SCR) but instead be required to appoint a responsible person to carry out AML/CFT functions as stipulated under Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (AMLO) (the CDD requirements). This is similar to the requirements imposed on limited partnership funds (LPFs) under the Limited Partnership Fund Ordinance (Cap. 637) (LPFO). The further consultation ended on 5 October 2020.
2. The SFC received one submission from an industry association (see Appendix) supporting the proposal. Accordingly, the SFC will work with the Administration on relevant legislative amendments and upon completion of the legislative process the CDD requirements will come into effect after a six-month transition period.
3. The further consultation paper, the responses and this paper are available on the SFC website at www.sfc.hk.

Comments received and the SFC's responses

Questions:

1. What are your views on the adoption of the proposal to require an OFC to appoint a responsible person to perform AML/CFT functions similar to the requirements on LPFs under the LPFO?
2. Do you have any comments on the proposed implementation timeline?

Public comments

4. The respondent welcomed and supported the proposal to require an OFC to appoint a responsible person to perform AML/CFT functions in lieu of the originally proposed SCR requirement. It did not have any specific comments on the proposed implementation timeline whereby a six-month transition period would be allowed following the completion of the legislative process.
5. The respondent noted that the required appointment of a responsible person should be made by the board of directors of an OFC as part of its duty and responsibility to oversee the OFC's operation. It suggested that the proposed legislation and the OFC Code be amended for the sake of clarity.

The SFC's response

6. The SFC agrees that the appointment of a responsible person should be made by the board of directors of an OFC, as the board is legally responsible for all of the OFC's affairs, which include ensuring the OFC's compliance with the proposed requirement to appoint a responsible person to perform AML/CFT functions as stipulated under Schedule 2 to the AMLO.
7. The SFC will proceed to introduce the CDD requirements to enhance the AML/CFT measures in respect of OFCs according to the proposed implementation timeline.

Other comments

8. Clarification was also sought of a number of technical issues relating to the custody of OFC scheme property and the new Appendix A to the OFC Code. We will provide further guidance to the industry by way of frequently asked questions.

Conclusion and way forward

9. The SFC will work with the Administration on relevant legislative amendments to effect the CDD requirements by amending the Securities and Futures Ordinance and other relevant legislation, as necessary. Upon completion of the legislative process, the requirements will come into effect after a six-month transition period to allow the industry reasonable time to prepare.
10. The SFC would like to take this opportunity to thank all the parties who assisted or contributed during the consultation process.



Appendix

Submission received

1. Hong Kong Trustees' Association