



August 4, 2017

The Securities and Futures Commission  
35/F Cheung Kong Centre  
2 Queen's Road Central  
Hong Kong

Dear Sir/madam,

**Re: Consultation Paper on the Proposed Guidelines on Online Distribution and Advisory Platforms**

On behalf of the Hong Kong Investment Funds Association, I wish to applaud the SFC for spearheading the initiative to provide more guidance to the industry with respect to the on-line environment. This is imperative as it can help to provide more clarity to enable the industry to leverage on technological developments to better serve investors' needs.

With respect to the questions raised in the Consultation Paper, we attach herewith a list of answers/comments collated from our members.

There are a few key points that we wish to highlight:

- (1) On the definition of complex products, our members have major concerns about the proposed definition. Members opine that the proposed definition is not in line with the IOSCO principles nor the industry practices. It does not take into account market reality; and will potentially have unintended consequences which will not be in the interests of investors.

Moreover, it seems that there are nuanced differences between the way the Intermediaries Supervision Division and the Investment Products ("IP") Division approach this subject. Furthermore, even within the IP Division, the approach is different (as proposed under this Consultation vs. what is proposed under the UT Code Revamp). While it may be claimed that the focuses used by different teams may be different, the outcome is that it creates inconsistencies and is not conducive to compliance, and would cause confusion to investors.

For detailed comments, please refer to P. 7-11 in the attached table. We believe that it is of paramount importance that a consistent approach be adopted across-the-board; and that this definition should be proportionate

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and be in line with international practices and market norms. Our proposal is to finetune the definition as follows:

### "Complex products (other than exchange-traded derivatives)"

6. Funds authorized by the SFC under the UT Code that use FDI~~s~~ extensively for investment ~~or non-hedging purposes~~"

Furthermore, we believe the UT Code revamp should be aligned to this exercise. And when trying to define what constitutes "using FDI~~s~~ extensively", the SFC could, instead of introducing a new quantitative threshold (i.e. imposing a 50% limit to funds using commitment approach and further use this as a reference to classify into derivative or non-derivative products), consider sticking to the UCITS threshold, i.e. 100%. Also, the threshold should not be based on disclosure of an "expected maximum", but instead on a historical average or weighted average of actual commitment levels.

(2) There are certain assumptions used in the CP which may need to be revisited:

(a) The CP points out that "the main difference between the online and offline sales processes lies in the absence of the interactive face-to-face communication with clients..." (Para 39) and it goes on elaborating on the key features of the online environment. However, with the advent of technology, there are reservations as to whether this assumption will necessarily continue to hold further down the road.

Also, it seems that the CP treats the online and offline environment as two distinct blocs. However, based on the experiences in other industries and the wealth management industry, one can see the lines between the online and offline have become less distinct; and there are models that try to link or even integrate the two.

Another example is risk profiling. Hitherto, the approach is primarily to rely on a set of questionnaire to ascertain the risk profile of an investor. However, with the use of big data and AI, one can see that there are other means/sources of data which the intermediaries can utilize to more meaningfully ascertain the risk appetite/profile of an investor.

As such, we hope that when coming up with the finalized Guidelines, the SFC can be more forward thinking and allow sufficient flexibility so as to accommodate market developments and technological advances.

(b) Secondly, the Paper is primarily premised on a product-by-product approach. This is best illustrated by Para 96, "Platform operators should match the risk/return profile of each investment product with each client's personal circumstances..." However, as we have raised with the Hong Kong Monetary Authority ("HKMA") recently, we believe that retail banks should be allowed to adopt a portfolio-based approach

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(subject to having the necessary infrastructure and support), instead of just sticking to a product-by-product approach. We believe that such an approach would be in the best interests of investors as it can foster diversification and long-term investment. We hope that this important aspect can be factored in when the SFC finalizes the framework.

We very much look forward to having the opportunity to meet up with your team to go through the points raised and work together to come up with a pragmatic and forward-looking framework. This is not only important to enhance investor experience and allow investors to have more investment choices; but is also pivotal if Hong Kong is to assume a leading role in the space of fintech.

Enc.: Appendix 1 (table listing out the comments/questions of members)

**SFC Consultation – Online distribution and advisory platforms**  
**Hong Kong Investment Funds Association members’ comments/questions**

Q1. *Do you agree with the factors relevant to online platforms identified above? Please explain your view.*

Some global platform providers or operators may position themselves as “service providers” which provide “order dealing services only”. Can SFC clarify how these draft rules will apply to global platforms which may have HK presence/attract HK investors? What is SFC’s expectations with respect to how these platforms should perform the suitability checks? In general, if a platform, which is set up outside of HK, but can reach HK investors, will it require relevant license(s) for conducting activities or selling funds through the platform in HK?

Can SFC clarify whether “online platforms” refer to websites that can handle order execution, distribution and advisory services in respect of investment products, but not a mere marketing one aims only to showcase products?

Q2. *Are there any factors that the SFC has not identified? Are these covered by existing conduct requirements? If not, do you have any suggestions about how they can be addressed through specific requirements? Please explain your view.*

Proposed guidelines (paragraph)	Comments
43	<p>Can SFC clarify how to define “influence an investor to purchase the product”? In the sections regarding Examples of when the Suitability Requirement is/ is not triggered (item #91), it seems that statements which can be substantiated (like presenting best sellers for the week) are acceptable, and would not trigger suitability; while phrases like “Act Now” will trigger suitability. Is that the same for interpreting what constitutes “influence an investor” as well?</p> <p>The online platform is a one-stop shop and there is a trend to personalize the client experience based on the client’s profile on gender, age group, profession..., or purchase habits/behaviors, thus, a whole range of criteria, but they may not be the “traditional suitability criteria” like salary, investment objective and risk appetite. What is the SFC’s view with respect to using these non-traditional factors/behavior to assess or understand a client’s risk profile and suitability? We believe that these metrics may in fact be even more useful to understand the client’s needs/profile. And insofar the providers can provide robust reasons to justify the usage, these factors/metrics should be acceptable.</p>

Q3. *Do you have any comments on the Core Principles in the Proposed Guidelines as outlined above? Are there any other areas which you think the Proposed Guidelines should cover? Please explain your view.*

Proposed guidelines (paragraph)	Comments
50	Paragraph 18 (Electronic Trading) applies to a licensed or registered person which conducts electronic trading of securities and futures contracts that are listed or traded on an exchange, but per the "Consultation Paper on Proposals to Reduce and Mitigate Hacking risks Associated with Internet Trading", it seems that SFC plans to put unlisted authorized products into scope. Will these two guidelines be issued together so as to align the requirements?
Appendix 2-Chapter 2: Core Principles 2.2 (i)	If a website targets only non-retail investors, will SFC consider an upfront disclaimer asking the user to certify he is not a retail client satisfies the "appropriate access rights and controls" requirement? If not, what more needs to be in place to meet the SFC requirements?
Appendix 2-Chapter 2: Core Principles 2.2 (iii) and Guidelines Para 3.8 (h)	What sort of scenario does this refer to - "primary basis for soliciting or recommending particular investment products to clients" in the commission rebate scenario?  The proposed Guidelines Para 3.8(h) requires the Platform Operators not to take commission rebates or other benefits receivable by them or their related companies as the primary basis for soliciting or recommending particular investment products to clients. Does this exclude any intragroup companies which operate on an arm's length basis?
Appendix 2-Chapter 2: Core Principles 2.4 (iii)	Client inquiry handling is normally covered in the business resiliency plan. Can SFC clarify what is meant by "trained staff"? Any specific requirements would SFC expect?

Q4. *Are there any other areas relating to robo-advice which you think the Proposed Guidelines should cover? Please explain your view.*

Proposed guidelines (paragraph)	Comments
62	<p>Can SFC provide a definition of "Robo Advice"? As stated in the proposed GL 62 "some provide investment advice such as automated portfolio construction or model portfolios based on a client's personal circumstances", it seems that SFC will consider a comment as an investment advice if it is (1) based on a client's personal circumstances; but (2) does it have to be product related? Since "model portfolios" can range from (a) high level target asset class allocation like a percentage allocation among equities, fixed income, cash...etc. to (b) detail investment recommendations like percentage allocation into a specific product [like an ETF listed on HKEX], can SFC provide guidance as to how it defines "model portfolios"? Managers believe that a model portfolio that just provides asset allocation by asset classes as described under (a) should not be in scope.</p> <p>In addition, can SFC clarify whether if criteria (2) is met while (1) is not, then according to the above it is not "robo-advice"? If it is a platform which provides a preferred asset allocation in accordance to different products based solely on risk appetite without taking into account additional "personal circumstances", can SFC confirm that this is not robo-advice?</p>
65	<p>Can SFC elaborate on what is "discretionary advice"? Advice by itself is non-discretionary because it is not a "must follow item."</p>
66	<p>In this paragraph it seems that "provide predefined model portfolios calibrated to clients' different risk categories" is a piece of robo-advice. Can SFC provide guidance re how this scenario fits into the earlier definition that this comment (1) is based on a client's personal circumstances and (2) is product related?</p>
71	<p>What is the expectation of SFC when it states that providers should allow the client to "provide additional explanatory and contextual information"? Under the current technology, there is no artificial intelligence to cater for analytics of free text; thus, not sure how the SFC requirements could be fulfilled. Can SFC expound on its expectation?</p> <p>Members agree that if inconsistencies are noted, they should follow up with clients to understand their situation. However, understanding the situation does not mean that clients must be stopped</p>

	from proceeding with the transactions if the clients acknowledge they know what they are doing. Thus, intervention should not be a must.
73	Members agree that the algorithms should be designed and operated within regulated boundaries; nonetheless, algorithms created for client suitability is not the same as the algorithmic trading system used for brokers as stated in paragraph 18 (Electronic Trading) and Schedule 7. It is not clear how this principle will be applied.
76	Can SFC clarify how to define a qualified person? Can this person be a member firm's staff or must he/she be from an independent source?  When referring to robo-advisers monitoring, is SFC referring to the consistency of the result generated given a set of parameters (e.g. client with same risk appetite and investment objective should have directed to the same advices)? What sort of outcomes would the SFC expect from this monitoring and what to guard against?
81	Would SFC consider that algorithm involving robo-advices be considered like other systems and the BCP should be covering such?
Appendix 2 - 5.9 (iii)	Does SFC expect providers to outright reject the transaction when "insufficient information is obtained from a client by a Platform Operator"? If the client misses the opportunity and that results in a gain, he can complain/claim for losses. Can SFC provide guidance or examples as to what would constitute insufficient information?

Q5. *What are your views on the shortcomings of robo-advice? How can the Proposed Guidelines be further enhanced to address these issues?*

Members opine that regardless of how advices are given (i.e. via robots, online, face-to-face with licensed persons, in an office setting), the principles should be the same – to define how "an advice" is given.

Will SFC consider that it is an advice if a client is exposed to a library of products documents and s/he is free to pick up any of them? How about if that is a wall of product specific advertisements? Or if a model allocation of different asset classes is showed for a typical risk adverse investor? Can SFC provide more examples and explain their views and the rationales behind?

It must be noted that there are limitations/expectations for licensed corporations to explain the algorithm to clients. Artificial Intelligence ("AI") may be based on big data supplemented by the client's inputs. As a result, the advice can be suitable but due to big data update, the advice will not be identical. All these technical issues may be too complicated to be explained to the clients who can be layman towards AI. Therefore, instead of detailed explanations (as quoted under paragraph 82), can SFC consider whether at most, the key theory and key risk(s) E.g. GRG theory in optimization process (Generalised reduced gradient algorithm used in optimization) can be used to explain to clients?

Q6. *Do you have any comments on the guidance on the Suitability Requirement to be provided in the Proposed Guidelines?*

Proposed guidelines (paragraph)	Comments
86	<p>Can SFC explain how to define "emphasizing some investment product over others"? Emphasis can be visualized using different sizes, colours (e.g. monotone and one is coloured) or wording (e.g. XX is better than YY). Will an advertisement of an individual investment product on a page on the platform (as opposed to displaying the full range of products on one page) be considered as "emphasizing some investment product over others?"</p> <p>Members would like to suggest that the suitability triggering point should be identical to that as stated in the FAQ, being "there is an inducement to targeted clients to trigger actions taken" under Q1 of the Frequently Asked Questions on Triggering of Suitability Obligations. If this definition is used, the page is a standard pop up and the page is not created for "targeted" clients.</p>

Q7. Do you have any comments on how the design and overall impression created by an online platform's content could trigger the Suitability Requirement?

- The criteria which trigger suitability should be identical for both online and offline situations. Therefore the FAQ and the Guidelines must be cross-referenced.
- Suitability assessment is triggered when there is recommendation or solicitation. However, it is more challenging to apply in the online environment as it is even less clear about the SFC expectations. The proposal says that the posting of factual, fair and balanced product-specific materials would not in itself amount to

solicitation/recommendation. However, it also says it should be further determined with other factors such as design and overall impression of the platform. This leaves a lot of room for interpretation. Therefore, it would be helpful if specific examples or guidelines can be provided to highlight how the same type of content when displayed/delivered differently online may or may not trigger suitability requirement.

Some online platforms in other jurisdictions make available statistics or trends of their clients' activities (in aggregate and anonymous). For example, transaction statistics by investors of similar or the same profile. Can SFC opine on this sort of data in the context of suitability? Members believe that on its own, making available these data should not be construed as triggering solicitation or recommendation.

Proposed guidelines (paragraph)	Comments
87	<p>Instead of using the term "direct communications", would SFC consider sticking to the phrase "interactive communications" or is there a particular reason why SFC would use the term direct communications?</p> <p>Also, the logic of this paragraph is applied to the above item #86, "the platform emphasizes some investment products over others" will not initiate the suitability question, and this is not in line with the answer to the above.</p>
Appendix 2 - Chapter 4: Robo-Advice 4.1	Does SFC mean that if it is a full automation type without web-chats or manual follow up then suitability will not be applicable?

Q8 & Q9. *Do you have any comments on the above examples of when the posting of materials on online platforms would or would not amount to a solicitation or recommendation? Are there any examples not mentioned above that may suggest that the content or presentation of materials would amount to a solicitation or recommendation? Please explain your view.*

Some online platforms in other jurisdictions make available statistics or trends of their customers' activities (e.g. transaction statistics by investors with similar or same profile, on aggregate basis and/or anonymous basis). Can SFC

provide guidance on this practice generally and in the context of suitability requirement? Members believe that these data and statistics are similar to any transactional data; on its own do not constitute solicitation or recommendation.

Proposed guidelines (paragraph)	Comments
91	<p>Can the examples be aligned with those in the FAQ?</p> <p>Member agree that each stand alone item will not trigger suitability but if the items are combined, the result would be less clear – an example will be combining (3) and (6). This can be achieved by providing a link which includes all the products available relevant to particular market news (e.g. the market news is positive to US tech equity so there is a link to such US products/stocks.) In this case, will SFC consider it as a “recommendation” or is it still a piece of factual information not taken into account any targeted clients?</p> <p>In example (2), does it mean that if a manager just provides research reports and associates them with specific products, suitability will NOT be triggered if there are no words like “Don’t Miss Out!” or “Act Now!” that call for actions.</p> <p>In addition, can SFC clarify whether the following examples would trigger suitability requirements?</p> <ol style="list-style-type: none"> <li>1. “top selling” products, if they can be substantiated from sales figures <i>so it falls under objective criteria</i>; and</li> <li>2. mere calling something “fund in promotion/focus” without any product-specific incentives (e.g., cash rebates, fee discounts) so <i>it is substance over form</i>.</li> </ol>

Q10. *Do you have any view on how risk analysis assessments and client profiling should be conducted and the quantitative and qualitative factors that any risk methodology should take into account?*

There shouldn’t be any detailed guidelines on these areas as it should be left to the managers to come up with the appropriate methodology or metrics.

Q11-13. *Do you have any comments on the definition of a complex product, and the considerations that should be taken into account in determining whether a product is complex? Do you have any comments on the list of products that are considered to be “non-complex” and “complex”?*

Item	Comments
103-106 Appendix 3	<p data-bbox="595 244 922 276"><b><u>SFC authorized funds</u></b></p> <p data-bbox="595 320 1897 456">With regards to SFC' s proposal to classify any products that use derivatives for any purposes other than hedging as complex - regardless of the level of risk - members strongly feel that it is not appropriate. This approach is not in line with international practice or the industry practice. It is also a departure from the guidance issued by the SFC in the past.</p> <ul data-bbox="595 499 1897 671" style="list-style-type: none"> <li data-bbox="595 499 1897 671">● It is not uncommon for SFC authorized funds to use FDIs solely for efficient portfolio management ("EPM") and/or hedging purposes. Under UCITS regime, EPM is clearly recognized as the use of techniques and instruments for the specific aims of (1) reduction of risk or costs; and (2) generation of additional capital or income for the UCITS with a level of risk which is consistent with the risk profile of the UCITS.</li> </ul> <p data-bbox="647 715 1897 999">In addition, under UCITS regime, the commitment approach (as a risk measurement methodology in relation to the use of FDIs) is normally used for funds that do not use FDIs for complex investment strategies. The commitment approach is therefore commonly adopted for funds to use FDIs solely for EPM and/or hedging purposes, which in general do not increase the risk profile of the fund itself. If such "non-complex FDI" funds under UCITS regime are treated as complex products under Hong Kong regime, it may result in an anomaly under the Hong Kong regime and create confusion to the Hong Kong investors who or which have been familiar with the features and profile of UCITS funds.</p> <ul data-bbox="595 1042 1897 1106" style="list-style-type: none"> <li data-bbox="595 1042 1897 1106">● The proposed treatment is more stringent than that of the IOSCO and probably go beyond the objectives as stated by IOSCO.</li> </ul> <p data-bbox="663 1149 1897 1212">Under the IOSCO report relating to the distribution of complex financial products (issued in January 2013), the term "complex financial products" is defined as:</p> <p data-bbox="696 1256 1897 1359"><i>"financial products, whose terms, features and risks are not reasonably likely to be understood by a retail customer (as that term is defined in individual jurisdictions) because of their complex structure (as opposed to more traditional or plain vanilla investment</i></p>

*instruments), and which are also difficult to value (i.e., their valuations require specific skills and/or systems, particularly when there is a very limited or no secondary market). The term generally includes, but is not necessarily limited to, structured instruments, credit linked notes, hybrid instruments, equity-linked instruments and instruments whose potential pay-off is linked to market parameters, asset-backed securities ("ABSs"), mortgage-backed securities ("MBSs"), collateralized debt securities, and other financial derivative instruments (including credit default swaps and covered warrants). The term does not include conventional equities, conventional bonds, plain vanilla unit trusts and mutual funds and exchange-traded standardized derivatives contracts. The list is intended to be illustrative and non-exhaustive. The above criteria should be taken into account when determining the level of complexity of a financial product."*

The IOSCO does not intend to treat traditional or plain vanilla unit trusts and mutual funds as complex products.

- A likely unintended consequence would be to steer product providers away from using derivative strategies in retail products because typically distributors are less keen to promote such products, as the selling requirements would be more onerous. An identical issue is likely to be carried across to Online Distribution as well, if the final Guidelines require all sales of complex products to undergo a suitability assessment.

Some derivative strategies, particularly in fixed income, are actually designed to reduce risk, often in products that are already relatively low risk in nature. There are certain derivative strategies that are designed to reduce transaction costs that could be achieved more efficiently without the use of derivatives, but with no increased risk to investors. Provided the investor understands the derivatives are being used to reduce risks, and that the product itself is actually of low risk, the need to understand exactly how the fund manager delivers the strategy may be superfluous. A more pragmatic approach can encourage product providers to adopt derivative strategies that reduce risk, whereas the current proposals act as a disincentive to such strategies, even though they can be beneficial to the end investors, as they would increase the time and effort needed to sell the fund, and in some instances may even deter distributors from actually putting such products on their platforms.

- Another dimension is that whilst SFC puts forward "Funds authorized by the SFC under the UT

Code that use FDIs extensively for investment or non-hedging purpose” as Complex products under the Proposal, it does not dovetail with the impending UT Code revamp. Based on soft consultation, we understand the term “use FDIs extensively” concept will be replaced by the leverage level of the fund. So, how would SFC reconcile the two? We hope that both the Investment Products and Intermediary Supervision departments would take a consistent approach and align the requirements.

(Per this Online Distribution consultation):

In paragraph 105(c), “SFC-authorized funds (including ETFs) that do not use financial derivative instruments (FDIs) ***extensively for investment or non-hedging*** purposes” are non-complex products.

(Per the soft consultation of the UT Code Revamp):

We understand that in the revamp of the UT Code, SFC intends to come up with a specific measurement for disclosure purpose. In the SFC’s soft consultation in April 2017 (presentation deck), on slide 12, the “***expected maximum commitment leverage (i.e. after hedging)*** – extent of use of FDI for investment purpose, is to be disclosed as (i) up to 50% of the fund’s NAV; (ii) up to 100% of the fund’s NAV or (iii) more than 100% of the fund’s NAV.

(Per the SFC Guidance set out in its circular dated 23 April 2012 (by Intermediaries Supervision Division)

Under the Guidance, a fund that uses derivatives for hedging or cash flow management purposes, or where a fund uses derivatives to a limited extent to enter into a restricted market and does not create any leverage effect, would less likely be regarded as a derivative product.

Thus, the definitions used by IS and IP departments are different; and even within IP, they are different. We believe it is important to have a consistent way of labelling funds both from the IP perspective in approving a product, and from an IS perspective in supervising intermediaries activities. Any differences will only create difficulties for managers and distributors in compliance and more importantly, confusion for investors.

In view of the above considerations, members suggest that the following amendments be made to item 3 of “non-complex products” and item 6 of “complex products” in Appendix 3:

*“Non-complex products*

3. Funds authorized by the SFC under the UT Code (including ETFs) that do not use FDIs extensively for investment ~~or non-hedging~~ purposes;"

"Complex products (other than exchange-traded derivatives)

6. Funds authorized by the SFC under the UT Code that use FDIs extensively for investment ~~or non-hedging~~ purposes"

### **Unauthorized funds**

- Online distribution of unauthorized CIS is possible under the proposed guideline, but could the SFC provide more guidance as to what are the critical safeguards to make sure it will not constitute or be perceived as "offering the unauthorized products" to the public in the context of online distribution? For example, if the Prospectus of an unauthorized fund is posted on the website, it may be perceived as offering unauthorized fund to the public already. Will it lead to a need to pre-classify investors before they can get access to the online distribution platform to allow only professional investors to access to the online distribution platform where unauthorized products can be purchased?
- Under the proposal, unauthorized products are to be treated as complex products. However, un-authorized funds are not necessarily products with complex features (e.g. some of them can be plain vanilla mutual funds that are authorized for sale to the retail public in other jurisdictions), please refer to the principles enunciated by IOSCO above. Members suggest that the following amendments be made to item 9 of "complex products" in Appendix 3:

"9. Collective investment schemes not authorized by the SFC **that use FDIs extensively for investment purposes;** and"

The above amendments will align with the IOSCO's intention and reduce confusion to investors. In any event, for non-SFC authorized funds, there are already adequate safeguards under the existing regime (e.g. under Part IV of the SFO) which restrict these products from being readily accessible by retail investors. The SFC's Draft Guidelines has reiterated such point under paragraph 2.2(i) of the section titled "CP1 Proper Design". These products therefore will be generally available to non-retail investors only, and there should

	<p>not be a need to introduce an additional measure to regulate the selling process of relatively low risk plain vanilla funds (albeit not authorized by the SFC) to non-retail investors such as professional investors.</p> <p>Members agree that removing SFC unauthorized funds from the “complex product” category may pose additional risks to individual professional investors. To mitigate such risks, certain minimum information (similar to those in Appendix 4 of the Draft Guidelines) can be provided to beef up protection so that they are warned about the unauthorized status of such funds.</p>
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Q14. *In the online environment, do you think that risks arising from the sale of complex products should be addressed by requiring Platform Operators to ensure transactions in complex products are suitable for clients? Please explain your view.*

- Platform Operators should be responsible for conducting suitability assessments and let the prospects know if the product is indeed suitable for them (or have them acknowledge the risks/mis-match before allowing to purchase). But what is most important is that there are clear definitions of what constitutes complex products.
- Members agree that LCs should take extra care generally when complex products are offered on the platform. Members also acknowledge that there is limitation in helping investors to understand complex product when offered online, as compared to the offline channels. Similarly, there will be some differences between online implementation and offline implementation of suitability requirements from a practical perspective.

It will be helpful if the following questions can be addressed in the guidelines:

Can the same level of suitability assessment be implemented online and offline? The level of depth would vary between channels, driven by LC’s business model (eg. Full IFA service model vs single product model).

If not, what are the baseline requirements when implementing suitability assessment online (i) in general, and (ii) more specifically on complex products? It would be helpful if the SFC can provide guidance or examples of the criterion for how to match the risk return profile of the product with the investor’s profile and how to assess concentration risk and time horizon risk in an online environment?

Q15. *As the SFC's concern arises from the sale of complex products, do you agree that the same requirement to ensure suitability should also apply to offline sales of complex products? Please explain your view.*

Members exhort the SFC to provide more precise requirements to govern the online sales and distribution framework so that online requirements are subject to the same level of regulatory requirement to ensure a level playing field vis-a-vis offline sales process. This is not reflected in actual practice as members note examples where performance disclaimers are not properly placed next to performance, lack of proper upfront disclosures, and past performance information.)

Q16. *Are there any other additional or alternative protective measures that should be introduced for the sale of complex products online?*

Platform Operators would be responsible for letting the prospects know if the product is indeed suitable for them (or have them acknowledge the risks/mis-match before allowing to purchase).

Q17. *Are there any types of investment products (e.g., accumulators) that should not be made available on online platforms even where the Platform Operator is required to ensure suitability?*

[No comment.]

Q18. *Do you think the items of minimum information set out in Appendix 4 are sufficient and appropriate? Please explain your view.*

Sufficient and appropriate.

Q19. *Do you have any comments on the proposed warning statements set out in Appendix 4 that should be made on an online platform?*

[No comment.]

Q20. *Do you think a 12-month transition period is appropriate? If not, what do you think would be an appropriate transition period? Please set out your reasons.*

An 18-month transition period is more appropriate, especially if LEs have to start from scratch or introduce revamp to the systems. Alternatively, SFC can require implementation in phases. (End)