

MESSAGE

To: consult/SFC@SFC CEO Ext :
cc:
From: joyce.yu@bocigroup.com
Date: 05/01/2010 11:53 AM
Subject: Supplement to the email submission of "Consultaion Paper on Proposals to Enhance Protection for the Investing Public"

你好!

本協會(香港中資證券業協會)曾於2009年12月29日就有關諮詢文件提出意見，現因作了一些修改，謹將修改好的檔案再次發送給 貴會。

(See attached file: CSA Responses to SFC Consultation Dec 2009.pdf)

謝謝。

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CSA Responses to SFC Consultation Dec 2009.pdf Images.TIF

**Securities and Futures Commission
Consultation Paper on Proposals to
Enhance Protection for the Investing Public**

Submission from the Chinese Securities Association of Hong Kong

The missions of Chinese Securities Association of Hong Kong (“CSA”) are to enhance the cooperation among its members that are engaged in the securities and investment banking businesses, to act as the communication channels between the industry and the government organizations in Hong Kong and in China, as well as to provide feedback and recommendations to the relevant departments on behalf of its members.

This paper sets out the views of the members of CSA on the Consultation Paper on Proposals to Enhance Protection for the Investing Public issued by the Securities and Futures Commission in September 2009.

Question (3)

What are your views on the requirement for Issuers to provide ongoing disclosure of the types of information set out in 7.6 of the SP Code throughout the term of a structured product? Please explain the reasons for your views. Are there any other matters which you think an Issuer should be obliged to disclose to investors on an ongoing basis?

Some of our members are of the view that in addition to the required information set out in 7.6 of the SP Code throughout the term of a structure product, issuers should have available information on the product’s liquidity and time required to unwind for investors.

Question (6)

(c) What are your views on the requirement that investors’ claims to collateral proceeds should be accorded priority and should not be subordinated to claims by counterparties to transactions with the Issuer that are related to the structured product?

Some members disagree with the proposal that investors’ claims to collateral proceeds should be accorded priority as the risk of the structured product has already been reflected by the return on the investment in question.

Question (12):

In relation to the disclosure and reporting requirements set out in Proposal 4 (bilingual annual reports) and Proposal 5 (Product KFS), do you agree with the proposals? Please explain your views.

CSA agrees that bilingual annual reports should be prepared because many investors in Hong Kong may not be proficient in English.

Question (18):

Do you agree that some of the proposals in this part of the consultation paper should only apply to unlisted investment products? Please explain your views.

CSA members generally are of the view that the majority proposals set out in Part III of the Consultation Paper should be limited to unlisted investment products, specifically, unlisted derivative products.

Question (20):

Should a high net worth investor be considered to have specific knowledge and expertise if:

- (a) he is currently working, or has previously worked in the relevant financial sector for at least one year in a professional position that involves the relevant product; or***
- (b) he has undergone training or studied courses which are related to the relevant product?***

Do you have any other suggestions?

CSA is of the opinion that it may be difficult for an intermediary to independently verify an investor's work experience/training records; it is therefore more practical to request clients to sign on acknowledgement or declaration forms confirming that they understand the underlying risks of the investment products and/or that they have the requisite knowledge, expertise and investment experience.

Our members also consider the current requirement that a professional investor ("PI") should have 40 transactions per year is very stringent and SFC may consider to review the need to maintaining such requirement.

Question (22):

Where a distributor and/or any of its associates explicitly receives or will receive monetary benefits from a product issuer (directly or indirectly), which of the following three disclosure options would be more appropriate? Please explain your views.

Of the three options listed, some of our members are of the view that as long as investors have been informed of the arrangement and/or are aware of the conflict of interest, generic disclosures would be sufficient.

Question (24):

Where a distributor does not explicitly receive any benefits for distributing an investment product, which of the following disclosure options would be more appropriate? Please explain your views.

Some of our members chose generic disclosure for the same reason stated in the answer to Question (22) above.

Question (25):

Where a distributor makes a trading profit from a back-to-back transaction, which of the following disclosure options would be more appropriate? Please explain your views.

Our members believe that generic disclosure would be appropriate and sufficient for the same reason stated above as trading profit from back-to-back transactions is confidential information.

Question (26):

Do you consider it appropriate to restrict distributors from offering investors supermarket gift coupons, audio visual equipment and other kinds of gifts having monetary value (except discount of fees and charges) in promoting a specific investment product to investors?

Our members generally consider it inappropriate to restrict distributors from offering investors gift coupons or other gifts with monetary value because investors do not normally base their investment decisions on such gifts.

Question (28):

Do you think audio recording of the client risk profiling process and the advisory or selling process for investment products should be made mandatory or the current record keeping requirements are sufficient? If audio recording is made mandatory, how long do you think these audio records should be kept for? Please explain your views.

Some members of the CSA reckon that mandatory audio recording of the client risk profiling process and the advisory or selling process for investment products may not be practicable to implement. They are of the view that client meetings are not always conducted in office premises; moreover, many clients are unwilling to have their conversations with their relationship managers recorded especially when the conversations involve details that are private, personal and unrelated to investment. They are of the view that the current regulatory requirements of properly documenting and maintaining the reason(s) for the investment recommendation and advice are sufficient to protect investors' interests. However, other members believe that mandatory audio recording may further protect investors and should be kept until the maturity date of the products.

Question (29):

Do you believe that a cooling-off period would generally be beneficial for investors, or do you believe that costs associated with its implementation would outweigh the benefits for investors?

The members generally believe that the cooling-off period maybe beneficial for investors. On the other hand, it is perhaps an obstacle to the selling agents and/or issuers.

The cooling-off period will likely increase operation costs of product agents and significantly affect the hedging risk / position risk of issuers. In this regard, CSA suggests that the regulatory bodies to allow the investment products be classified into two categories, i.e. a "Revocable Products" category for general retail investors and non-professional investors, and a "Non-revocable" category for sophisticated and experienced investors as well as those with PI status. The relative premium or handling charges will also vary according to the nature of the product types.

Investor Education

CSA members recognize SFC's effort in conducting numerous investor education seminars and advertising campaigns to enhance the public's investment knowledge and we strongly support the establishment of an Investor Education Council as proposed by SFC.



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

證監會簡介
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中介團體、發牌及
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常見問題
最新活動消息及日程表

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主頁 | 聯絡證監會 | 投訴 | 網站指南 | 詞彙 | 我的公事包 | 連結

» 演講辭

» 刊物

諮詢文件及諮詢總結

主頁 > 演講辭、刊物及諮詢文件 > 諮詢文件及諮詢總結

放大字

建議加強投資者保障措施的諮詢文件

證券及期貨事務監察委員會（證監會）誠邀市場參與者及有興趣的人士，在**2009年12月31日**或之前，就建議加強投資者保障措施的諮詢文件（以Acrobat PDF檔案下載）提交書面意見。任何人士如欲發表意見，應在適用的情況下提供其所代表的機構的詳細資料。此外，證監會鼓勵任何建議證監會採取其他方案的人士，同時提交有關修訂條文，以供證監會在採納其建議時之用。

請注意，評論者的姓名／機構名稱及其提交的意見書的內容，可能在證監會網站及其他由證監會刊發的文件中發表。因此，請參閱個人資料收集聲明書。如閣下不願公開作為評論者的身分，請在提交意見書時說明。

建議加強投資者保障措施的諮詢文件的意見，請按這裏。

如欲發表意見，請填寫以下表格：

姓名／機構名稱*	香港中資證券業協會	地址	香港花園道1號
稱號		地址(續)	中銀大廈26樓
聯絡電話*	22308632	地址(續)	
傳真號碼	22308519	國家	
電子郵件	joyce.yu@bocigroup.c	請將本人的身分保密	<input type="checkbox"/>

意見
(1500字以內)
若意見篇幅較長，請以電郵附件方式另行提交。

*必須填寫



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

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法例及監管手冊

中介團體、發牌及
投資產品資料

招股章程、收購及
合併事宜

表格

新聞及執法消息、股權高度集中公布

演講辭、刊物及諮詢文件

研究及統計數據

常見問題

最新活動消息及日程表

English

繁體中文

簡體中文

English Text Only

繁體純文字

簡體純文字



>> 提供予以下人士的資料：投資者 | 中介人 | 合規主任 | 發行人 | 傳媒 | 學術界 | 監管機構

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建議加強投資者保障措施的諮詢文件

傳送確認

多謝閣下提供寶貴意見，你的意見已於2009年12月29日下午5時26分34秒傳送到有關部門。

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