

SECURITIES AND FUTURES COMMISSION

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From: e-workflow/IR/SFC@SFC
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Subject: Consultation Paper Comment - Consultation Paper on Proposals to Enhance
Protection for the Investing Public (Ref: 20091221.1531.03168)

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Q13 : 1. Disclosure of collateral information

Quoted in the consultation:

- Product Handbook - Key Proposal #135 (h) - where the aggregate value of all collateral held by a scheme represents 30% or more of its net asset value, the scheme must publish the nature, value and other specified information relating to collateral as at each quarter end within one month after the relevant quarter.

- Revised UT Code - 8.8 Structured funds - (g) where the aggregate value of all collateral held by a scheme represents 30% or more of its net asset value, it shall publish on the scheme-s website the nature of such collateral as at each quarter end within one month after the relevant quarter. The relevant content requirement of collateral information for publication is stated in Appendix E of this UT Code.

We understand that it is important that investors are updated on the information of collateral that the schemes hold. However, we also need to look at it from a practical perspective. In most cases collaterals are mostly USD or treasury instruments issued by major jurisdictions. Once collaterals are posted to counterparties they are rarely changed.

According to the UT Code, authorized schemes- annual financial statements will contain the collateral information as required in Appendix E. If the same is also required in the interim financial statements, investors are already getting update on collateral twice a year. Therefore we do not see the true additional benefit of asking issuers to separately provide collateral information to investors four times a year. Therefore we suggest that the proposed quarterly disclosure of collateral information be removed.

- Revised UT Code - 8.8 Structured funds - (d) (Note) The management company shall demonstrate, where appropriate, with proper legal opinion in support, the collateral is held by trustee/custodian of the fund and must be readily accessible/enforceable by it without further recourse to the issuer of the financial derivative instruments.

We appreciate if the SFC can (i) clarify whether -proper legal opinion in support- means an opinion issued by an external counsel and (ii) substantiate the value that a legal opinion will add to investor protection as the external counsel will mostly state the obvious i.e. the law without adding any true investor confidence.

2. Ongoing disclosure

- 11.1B (Note) The management company should inform holders as soon as reasonably practicable of any material adverse change in the financial conditions or business of the key counterparties to a scheme that it is aware of. -Key counterparties- include the management company, guarantor (where relevant), trustee/custodian and swap counterparty of the fund.

We appreciate if the SFC can give further guidance and clarification of how -material adverse- is defined.

Q14 : KID is a requirement that comes with UCITS IV, which does not become effective until July 2011. If UT Code becomes effective before July 2011, issuers should provide KFS along with issuances until KIDs requirement

becomes mandatory. KIDs will be a short document that comprises (i) a short description of the investment objectives and policies of the UCITS, (ii) information on past performance, (iii) details of costs and charges (iv) risk profile appropriate to the investment policies of the UCITS and (v) details of where the full prospectus and additional information about the UCITS may be obtained. As such it will be an unnecessary overlap and redundancy if an issuer is required to produce KFS and KID at the same time. Investors will be overloaded with repeated information as well.

Q15 : We believe the proposed changes are fair. Six months of transitional period will be reasonable.

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Attachment :