

**Securities and Futures Commission (SFC) - Consultation Paper on
Proposals to Enhance Protection for the Investing Public (the “Consultation”)**

	Questions	Priority	Response
Part A. Products (This Part A applies to unlisted retail structured products – ie: structured products that are sold to the public.)			
<i>Consultation on the proposed SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Products</i>			
1.	Do you have any comments on the Overarching Principles Section of the Handbook generally or any particular provisions in the Section? Please explain your views.	Critical	<p>Overarching Principles:</p> <ul style="list-style-type: none"> • Chapter 2: Original function of Investment-Linked Assurance and Pooled Retirement Funds (ILAC) includes authorizing ILAS, but the new Product Advisory Committee is for advisory purpose only. We would like to know if there will be impact on future product approvals and what will be the role of Product Advisory Committee in terms of future product approvals/ registrations. • Chapter 7.2: It is mentioned that the advertisement has to be reviewed a person designated by senior management to ensure the advertisement complies with the product code. Please provide specific requirements on the designated person (e.g. qualification, preference on language, notification on change of designated person, duties). Also, we would like to know the new approval flow of the advertisements, specifically whether a written endorsement from the designated person is required before SFC approval. <p>Code on Investment-Linked Assurance Scheme</p> <ul style="list-style-type: none"> • Chapter 1.7: Please provide the template of the compliance checklist for our reference as it is a key document for SFC approvals. • Chapter 5.4: Our systems would need to be changed each time new illustration requirement is introduced. Therefore, suggest that SFC

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			<p>should provide sufficient time for the industry to make system changes for each new illustration requirement.</p> <ul style="list-style-type: none"> • Chapter 5.16: We would like to check if the requirements on performance fee are applied in scheme level, underlying funds, or both levels. • Chapter 6: We would like to check - if one of the underlying funds in the scheme is a guarantee fund, do the disclosure requirements in Chapter 6 apply to that particular fund only? • Chapter 7.2 & 7.6: The new requirements regarding notice period offer greater flexibility to insurance companies and we welcome the change <p>Information to be disclosed in PB</p> <ul style="list-style-type: none"> • (i) Warning statements: We noticed that the suitability statement (i.e. the investment decision is yours…) is missed. Is there any further change on this requirement? • (k) General information: Is there any standard wording for required disclosure in this section?
	<p>Section 1 <i>Key proposals in the Code on Unlisted Structured Products</i></p>		
2.	What are your views on each of the proposals below?		
	(a) The proposed disclosure requirements in Appendix C (Information to be Disclosed in Offering Documents for Unlisted Structured Products) to the SP Code.	n/a	No comment
	(b) The proposed disclosure requirements in Appendix D (Advertising Guidelines Applicable to Unlisted Structured	n/a	No comment

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	<p>Products) to the SP Code.</p> <p><i>Note for Question 2: The SFC has indicated that they would expect their proposed page limit for Key Facts Statements (i.e. no more than four pages in length) to be implemented.</i></p>		
3.	(a) 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.	n/a	No comment
	(b) Are there any other matters which you think an Issuer should be obliged to disclose to investors on an ongoing basis?	n/a	No comment
4.	What are your views on the eligibility requirements for Issuers and Guarantors of unlisted structured products proposed by the SFC?	n/a	No comment
5.	(a) What are your views on the proposed requirements applicable to SPV?	n/a	No comment
	(b) What are your views on the current proposal to mandate the appointment of a Hong Kong-licensed Product Arranger for structured products issued by an SPV and make such Product Arranger responsible for ensuring an SPV Issuer's compliance with the SP Code throughout the term of the structured product?	n/a	No comment
	(c) Do you think a Product Arranger should also be appointed for structured products issued by Issuers (whether SPVs or not) or guaranteed by Guarantors where these entities are not local Regulated Entities (i.e. where the Issuers/Guarantors are not licensed banks regulated by the HKMA or corporations licensed by the	n/a	No comment

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	Commission pursuant to section 116 of the SFO)?		
	(d) Other than what has been proposed, what other obligations or requirements (if any, both before and after an offering), do you think a Product Arranger should be made subject to? Please give a list of any such additional obligations with reasons.	n/a	No comment
6.	<i>Notes to Questions 6 and 7: The SFC has indicated that if the public is of the view that the SFC's proposals relating to various eligibility criteria do not reflect the commercial reality or are unduly onerous, the SFC would be willing to take the public's comments into account in formulating its policies.</i> (a) What are your views on the proposed eligibility criteria for collateral in respect of structured products?	n/a	No comment
	(b) Do you think that collateral should be subject to any additional eligibility criteria? If so, what criteria?	n/a	No comment
7.	Do you believe that the SFC should take into account any additional eligibility criteria for reference assets, or any other factors, when considering whether or not to accept a proposed reference asset or asset class for a structured product? If so, please list such additional criteria / factors and give an explanation for each.	n/a	No comment
8.	(a) Should indicative valuations of structured products be required to be provided daily? Do you think there are additional or other measures which could help investors to assess the performance of their investments? If so, please provide details.	n/a	No comment
	(b) With regard to the proposal to provide liquidity by way of making firm price quotations, do you think an exemption is justifiable for structured products with a short	n/a	No comment

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	scheduled tenor, e.g. of one month or less?		
	(c) How often do you think Issuers or their market agents should provide liquidity by way of making firm price quotations?	n/a	No comment
	(d) Do you think that there are other circumstances or periods during the term of certain structured products in which liquidity provision should not be required or could not reasonably be provided? If so, why?	n/a	No comment
9.	Please give your views on the use of annualised returns in offering documents and advertisements for structured products.	n/a	No comment
10.	Please provide your views on the length of the transition period for compliance with SP Code requirements for unlisted structured products where the issue of documents has been authorized prior to the date of the SP Code's effectiveness.	n/a	No comment
Section 2			
Key proposals in the revised Code on Unit Trusts and Mutual Funds			
11.	In relation to each of the proposals below, other than the proposed general requirements, what other requirements do you think should be included? Please explain your views.		
	(a) Proposals regarding investment activities set out in Proposal 1 (structured funds)	n/a	No comment
	(b) Proposals regarding investment activities set out in Proposal 2 (funds that invest in FDI)	n/a	No comment
	(c) Proposals regarding investment activities set out in Proposal 3 (investments in other schemes)	n/a	No comment
12.	In relation to the proposals below, do you agree with the proposals? Please explain your views.		

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	(a) The disclosure and reporting requirements set out in Proposal 4 (bilingual annual reports)	n/a	No comment
	(b) The disclosure and reporting requirements set out in Proposal 5 (Product KFS)	n/a	No comment
13.	Do you have any comments on the revisions to the UT Code generally? Please explain your views.	n/a	No comment
14.	What are your views about the idea of UCITS schemes which have issued KIDs under their own E.U. regulator's regime using those KIDs in place of the Product KFS? The issue here is how we should balance the importance of developing broadly standardized Product KFS across all products sold to the Hong Kong public so that it is easy for Hong Kong investors to understand and compare different products, and the commercial needs of individual fund houses to reduce costs and lessen administrative burdens. Also, if a large number of SFC-authorized funds adopt KIDs instead of Product KFS, it may defeat the purpose of comparability under the Product KFS proposal.	n/a	No comment
15.	(a) Do you agree that the proposed approach to implementation of the revised UT Code is acceptable and practicable, taking into account the needs and circumstances of various stakeholders?	n/a	No comment
	(b) Do you have any particular views as to exactly how long the transition period should be for Existing Schemes to fully comply with the Product KFS and Other Disclosure Requirements (paragraph 191)?	n/a	No comment
Section 3 <i>Key proposals in the revised Code on Investment-Linked Assurance Schemes</i>			
16.	Do you have any comments on each of the following?		

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	(a) The Product KFS requirements	Important	<ul style="list-style-type: none"> • Please advise if there is any requirement on location of KFS – Can it be attached as part of PB content or like an insert? • In KFS, we expect a balanced approach will be adopted and the plan benefits will be mentioned in “How does it work?” section. • If there is duplicating information in KFS and PB e.g. charges, upfront important risk warning, can PB content be simplified to exclude those already mentioned in KFS? • For a more smooth approval flow, we would like to see if SFC can share any specific required wording in each section.
	(b) The enhanced disclosure requirements on "with-profit" features and internal funds	Preferred	No comment
	(c) The deletion of Chapter 5, 8 and 9 of the current ILAS Code	Preferred	No comment
	(d) The codification of the existing practices regarding the computation of surrender values and the notification requirements on scheme changes	Preferred	<ul style="list-style-type: none"> • We are agreeable to the suggestion not to include non-guaranteed returns and we would expect a future development of an industrial standard for all insurance companies • The new requirements regarding notice period offer greater flexibility to insurance companies and we welcome the change
17.	(a) Do you agree that the proposed approach to implementation of the revised ILAS Code as acceptable and practicable, taking into account the needs and circumstances of various stakeholders?	Preferred	<ul style="list-style-type: none"> • We agree to proposed approach
	(b) Do you have any particular views as to exactly how long the transition period should be for Existing Schemes to fully comply with the Product KFS and Other Disclosure	Preferred	<ul style="list-style-type: none"> • We believe the proposed transition period of 9-12 months is acceptable.

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	Requirements (paragraph 214(c))?		
Part B. Intermediaries conduct (This Part B applies to distribution of the full range of investment products covered by the Securities and Futures Ordinance to the public as well as by way of private placement and professional offering)			
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.	Critical	<ul style="list-style-type: none"> We generally agree. However, this part should be clarified as to expressly say that MPF and ILAS products are <u>not</u> covered by Part III. If some provisions of Part III apply to MPF and ILAS products, these provisions should also be expressly identified.
19.	(c) Do you think that intermediaries should, as part of their “know your client” procedures, seek clients’ information about their knowledge of derivatives and characterize those clients (other those professional investors) with such knowledge as “clients with derivative knowledge” to assist intermediaries in ensuring that the investment advice and products offered in relation to unlisted derivative products are suitable?	n/a	<ul style="list-style-type: none"> No comments as it is not applicable to ILAS sale
	(d) Please give your views on the contents of the proposed measures for intermediaries to assess whether investors have knowledge of derivatives.	n/a	No comment
20.	Should a high net worth investor be considered to have specific knowledge and expertise if: (e) 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 (f) he has undergone training or studied courses which are related to the relevant product? Do you have any other suggestions?	n/a	No comment
21.	What amount should the minimum portfolio requirement be set at? Please give your reasons.	n/a	No comment

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22.	<p>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.</p> <p>Option 1.1 – Disclosure of dollar amount or percentage</p> <p>Option 1.2 – Disclosure of percentage bands or ceiling (i.e. “x% to y%” or “up to y%”)</p> <p>Option 1.3 – Generic disclosure</p>	Critical	<ul style="list-style-type: none"> We support 1.3 generic disclosure as products may not be identical in feature and option 1.1 and 1.2 may give investor bias against products with higher monetary benefits
23.	<p>Do you have any suggestions as to how the percentage bands referred to in Question 22 should be set (e.g. up to 1%, over 1% to 2%, etc)?</p>	Critical	<ul style="list-style-type: none"> We support option 1.3 generic disclosure
24.	<p>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.</p> <p>Option 2.1 – Specific disclosure of distribution reward</p> <p>Option 2.2 – Generic disclosure</p>	Preferred	<ul style="list-style-type: none"> The business model specified in Q24 is not applicable to us
25.	<p>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.</p> <p>Option 3.1 – Disclosure of specific trading profit</p> <p>Option 3.2 – Generic disclosure</p>	Preferred	<ul style="list-style-type: none"> The business model specified in Q25 is not applicable to us
26.	<p>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?</p>	Critical	<ul style="list-style-type: none"> We do not think that the restriction on offering gifts with monetary value is appropriate. We believe that gifts should not be the major cause for a customer to purchase an investment product provided that under the SFC’s & HKMA’s guidelines customers should receive sufficient disclosure regarding product risks and suitability. We suggest that we should be allowed the flexibility of offering gifts,

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			especially when rewarding the overall customer relationship where ILAS is included in a range of eligible products.
	<i>Note to Question 26: The SFC has indicated that they would discourage the use of gifts.</i>		
27.	Do you have any comments on the proposed information content of the Sales Disclosure Document which includes (a) capacity (principal or agent); (b) affiliation with product issuer; (c) monetary and non-monetary benefits; and (d) discount of fees and charges available to investors?	Important	<ul style="list-style-type: none"> We would like more specific guideline from SFC on the Sales Disclosure Document i.e. how should the SDD be presented, any standard format for the SDD, and whether it can be presented as part of the PB content. We would also like to check if the disclosure requirement in SDD is in product level rather than in investment option level.
28.	(g) 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?	Critical	<ul style="list-style-type: none"> We believe this is beneficial but not mandatory
	(h) If audio recording is made mandatory, how long do you think these audio records should be kept for? Please explain your views.	Critical	<ul style="list-style-type: none"> We suggest the audio recording requirement to be aligned with existing HKMA requirement i.e. 7 years.
Part C. Post-sale arrangements – cooling-off period			
	<i>Note to Questions in Part C: The SFC indicated that they recognise the practical difficulty in relation to the implementation of cooling-off periods and is willing to take in comments from the public in this area. However, the SFC would expect that an “exit” be provided to investors for those products with relatively long tenors, either in the form of a cooling-off period or subsequent market making arrangements.</i>		
29.	Do you believe that a cooling-off period would generally be beneficial for investors, or do you believe that costs associated	Preferred	<ul style="list-style-type: none"> Yes and it is already applicable to ILAS.

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	with its implementation would outweigh the benefits for investors?		
30.	(a) Please provide your views on whether investors should be given a period of time after placement of their orders during which execution of the trade is delayed and the investor is given an opportunity to cancel the order before the trade is executed.	Important	<ul style="list-style-type: none"> In ILAS, existing practice is to execute the trade without delay once the policy is issued and if customer exercise the cooling-off right, he/she will receive premium refund subject to market value adjustment (MVA). We believe the current practice is appropriate.
	(b) If your view is that this would generally be beneficial to investors, please provide your views on the types of investment products for which it should be considered and the appropriate cooling-off timeframe.	Important	See comment on Q30(b) above
31.	Please provide your views on whether, and in what circumstances, you think a window could or should be provided to investors after the date the trade in the relevant product is executed during which an issuer should be required to buy back the product at an investor's request.	Important	<ul style="list-style-type: none"> In ILAS, we have already got a window to allow customers exercise their cooling-off rights and such period has been aligned with latest HKFI requirements.
32.	On the basis that a cooling-off period is incorporated in an investment product and a client has exercised his right under the mechanism, do you consider that a distributor should promptly pass on to the client the full amount of refund (including the sales commission) received from the product issuer less a reasonable administrative charge? Please explain your views.	Important	<ul style="list-style-type: none"> In ILAS, existing practice is to provide premium refund (subject to MVA) without deduction of commission and any admin charge. We believe the current practice is appropriate.
Part D. Any other remarks/clarifications			
1.	<p><u>'Mis-buying'</u></p> <p>One issue that may not have received sufficient attention is the significant part played by 'mis-buying', or retail investors buying investment products that they did not adequately understand, whether through a 'herd mentality' or otherwise. The fact</p>		

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	remains that nothing can protect investors better than their taking steps of their own accord to protect themselves. No matter how clearly product documentation may set out the risks associated with products and how diligently distributors can be made to explain them, investors must still read and understand the key product features and risks and make an investment decision on an informed basis. To this end, investor education is a helpful step, but more may be required to create greater public awareness of the issue of investor responsibility and to avoid mis-buying. Do you agree, or do you have other thoughts or suggestions in relation to investors education?		
2.	<i>[Please insert any other thoughts you have on the Consultation which you feel are not sufficiently addressed by the questions in the Consultation.]</i>		