



HONG KONG MONETARY AUTHORITY
香港金融管理局

Banking Conduct Department
Our Ref: B1/15C
G16/1C

銀行操守部

29 July 2010

The Chief Executive
All Registered Institutions

Dear Sir / Madam,

Circular Issued by the Securities and Futures Commission (SFC) Regarding Provision of Trade Documents to Clients by Access through Intermediaries' Websites

I am writing to draw your attention to a circular issued by the SFC on 28 July 2010 ("the SFC Circular"). The SFC Circular provides intermediaries with a list of operational measures which are considered to be appropriate and necessary for ensuring compliance with the spirit of the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules ("CNR") when providing clients access to trade documents through the intermediaries' websites.

A copy of the SFC Circular is attached at Annex. Registered institutions (RIs) should implement the operational safeguards set out in the SFC Circular before they provide clients access to trade documents which are regulated under the CNR through their websites. The HKMA will assess the compliance of RIs with the CNR in its supervisory process.

Yours faithfully,

Meena Datwani
Executive Director (Banking Conduct)

Encl.

c.c. SFC (Attn: Mr Stephen Po, Senior Director of Intermediaries Supervision)

55th Floor, Two International Finance Centre,
8 Finance Street, Central, Hong Kong
Tel: (852) 2878 8100 Fax: (852) 2878 2100
E-mail: Meena_Datwani@hkma.gov.hk
Website: www.hkma.gov.hk

香港中環金融街8號國際金融中心2期55樓
電話: (852) 2878 8100 傳真: (852) 2878 2100
電郵: Meena_Datwani@hkma.gov.hk
網址: www.hkma.gov.hk



28 July 2010

Circular to Intermediaries**Provision of Trade Documents
to Clients by Access through Intermediaries' Websites**

The Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules ("CNR") require intermediaries to provide specified documents to clients to inform them of transactions undertaken and/or assets held for them (herein collectively referred to as "trade documents") within specified time periods.

Pursuant to section 17 of the CNR, these trade documents are regarded as duly provided to clients if they are served on the clients or their nominated persons. The CNR however do not specifically state how the trade documents are to be served.

With the advance of information technology and increase of computer usage, intermediaries are making more services available to clients electronically, including access to trade documents through their websites, generally via the Internet. The SFC as a matter of policy regards such provision of access to trade documents as acceptable for the purposes of section 17 of the CNR if the intermediaries have obtained positive consent from the clients to this method of provision in lieu of other conventional means (e.g. by hand, by post, etc), and have put in place operational safeguards that ensure adequate notice and access being given to the clients in the provision of this service.

To assist intermediaries in assessing their readiness for the provision of trade documents to clients by access through websites, the SFC has prepared a list of operational measures, set out in the Annex, which are considered to be appropriate and necessary for ensuring compliance with the spirit of the CNR.

Should you have any queries on the contents of this circular, please contact Ms Seine Luk at 2842-7696.

Intermediaries Supervision Department
Securities and Futures Commission

SFO/IS/013/2010

Annex

Operational Safeguards in the Provision of Trade Documents to Clients by Access through Websites

1. Access to the trade documents posted on websites should be protected by user ID and password, and there should be sufficient and comprehensive information technology ("IT") measures by the intermediary to ensure integrity, security and confidentiality of the posted trade documents.
2. The intermediary should obtain positive, revocable consent from the client to the provision of trade documents by access through websites (the "Access Service") in lieu of other conventional means specified in section 400 of the Securities and Futures Ordinance (e.g. by hand, by post, etc). The consent should be accompanied by the client's acknowledgment that he understands and accepts the following risks:
 - (a) Appropriate computer equipment and software, internet access¹ and a specific email address provided and designated by the client are required for using the Access Service.
 - (b) Internet and email services may be subject to certain IT risks and disruption.
 - (c) The client may incur additional costs for using the Access Service.
 - (d) Email will be the client's only notice that trade documents have been posted on the intermediary's website, and the client should check his designated email address regularly for such notice.
 - (e) Revocation of consent to the provision of trade documents by access through websites will be subject to the giving of such advance notice by the client as the intermediary may reasonably require.
 - (f) The client may be required to pay a reasonable charge for obtaining a hard copy of any trade document that is no longer available for access and downloading through the intermediary's website.
3. Moreover, the client should be advised in writing to:
 - (a) Inform the intermediary as soon as practicable upon a change in the designated email address;
 - (b) Promptly review the trade documents posted on the intermediary's website upon receiving the notice from the intermediary to ensure that any errors are detected and reported to the intermediary as soon as practicable; and

¹ If the website is on an intranet, the intermediary should specify the relevant access requirements.



- (c) Save an electronic copy in the client's own computer storage or print a hard copy of the trade documents for future reference.
4. The client should be alerted when trade documents are posted on the intermediary's website on any particular day by sending an email notice to the client's designated email address.
5. The trade documents posted on the intermediary's website should be downloadable in a printer-friendly format and can be saved in the client's own computer storage.
6. The trade documents should continue to be available for access, review and downloading by the client for not less than the following respective specified period from the date of the email notification to the client:
 - (a) Daily statement of account, contract note and receipt: 1 month
 - (b) Monthly statement of account: 12 months
7. The intermediary shall monitor and maintain evidence of posting of trade documents on its website for access by the client and sending of email notification to the client. The intermediary should have handling procedures in place to contact clients whose email notifications are returned undelivered and update the client's email address as soon as practicable.
8. The intermediary should mail out hard copy of the trade documents to clients as soon as practicable if it fails to post them on its website for access by the clients by the due date required under the CNR due to system failure or any other reason².
9. The intermediary should have proper contingency plan for the provision of trade documents in the case of outage of its website or any other IT incident preventing access to trade documents through the website.

END

² Where applicable, the intermediary should observe the requirement of section 18 of the CNR to notify the Commission accordingly in writing.