

Frequently Asked Questions on streamlined approach for compliance with suitability obligations when dealing with sophisticated professional investors

- 1. Are intermediaries required to obtain documentary evidence to support information provided by a client in assessing whether the client qualifies as a sophisticated professional investor (“SPI”)?**

Intermediaries should be satisfied that a client has met the qualifying criteria of an SPI before treating the client as such. Where an intermediary has made reasonable efforts to obtain information from a client during the know-your-client process, the intermediary may rely on the information disclosed by the client to ascertain whether the client could qualify as an SPI. The intermediary should beware of any inconsistencies between the information provided and that held with the intermediary, and in such cases, clarify with the client.

- 2. Where a client does not have the requisite level of knowledge or experience to qualify as an SPI, can intermediaries rely on the knowledge or experience of the client’s representative (eg, one appointed under a power of attorney) to qualify such client as an SPI?**

When qualifying a client as an SPI, intermediaries should ensure that the client has the degree of sophistication required to understand the risks and consequences of being treated as an SPI, including inter alia, the degree of sophistication to set aside an appropriate amount for investment through a Streamlined Approach in a portfolio of investment products with various risk return profiles (including but not limited to high-risk investment products).

The requisite level of knowledge or experience can be either demonstrated by the SPI’s academic or professional qualifications or work experience, or accumulated from their trading experiences by executing at least five transactions within the past three years in the same category of investment products. For the avoidance of doubt, an SPI may accumulate the requisite trading experiences by executing transactions through eg, a power of attorney; and/or through transactions executed in joint accounts.

3. What are the considerations for intermediaries when categorising investment products into different Product Categories?

Intermediaries can categorise products based on their existing practices and devise Product Categories appropriate to their business such that investment products in the same category would have similar terms and features, characteristics, nature and extent of risks.

For instance, intermediaries should categorise the following types of product into specific Product Categories so as to differentiate them from products of different characteristics, nature and extent of risks, and/or to comply with existing product-specific regulatory requirements – (i) accumulators/decumulators, (ii) collective investment schemes whose investment objective or principal investment strategy is investing in insurance-linked securities, (iii) debt instruments with loss-absorption features and related products, (iv) virtual assets (“VA”) and (v) VA-related products¹.

4. What kinds of information should the Product Category Information Statement cover?

To apply the Streamlined Approach, intermediaries should categorise investment products based on their terms and features, characteristics, nature and extent of risks and provide such information to clients by way of the Product Category Information Statement. Where applicable, the Product Category Information Statement should include warning statements in relation to the distribution of complex products. Intermediaries should provide explanation upon request to facilitate the SPI’s understanding of investment products within a Product Category.

5. What should an SPI consider when specifying a Streamlining Threshold?

SPIs can specify a Streamlining Threshold appropriate to their circumstances (eg, their financial situation, investment objectives and/or risk tolerance level) and the intermediary is required to maintain proper records of setting any such threshold, including the SPI’s rationale that provides support for setting such threshold. As an illustrative example, a higher amount can be set considering the AUM maintained with the intermediary represents an insignificant portion of the SPI’s portfolio and/or net assets.

¹ “VA-related products” refers to investment products which: (a) have a principal investment objective or strategy to invest in virtual assets; (b) derive their value principally from the value and characteristics of virtual assets; or (c) track or replicate the investment results or returns which closely match or correspond to virtual assets.

6. How should intermediaries monitor compliance with the Streamlining Threshold?

Intermediaries are required to establish and maintain effective systems and controls to ensure compliance with the Streamlining Threshold. Intermediaries should ensure the gross exposure arising from investment transactions executed under the Streamlined Approach remains at or below the Streamlining Threshold upon execution; or intermediaries could devise designated accounts (or sub-accounts) to consolidate Eligible Investment Transactions of the SPI executed under the Streamlined Approach. In the latter circumstances, they should ensure the gross exposure arising from all positions maintained in the designated account remains at or below the Streamlining Threshold after receiving top-up or deposit of new fund into such designated account.

If a designated account is used for monitoring compliance with the Streamlining Threshold, the intermediary should review such Streamlining Threshold with the SPI (i) before new fund is added to the designated account, or (ii) at least during the annual review.

For the avoidance of doubt, where such gross exposure (or part thereof, except cash) was transferred out of the designated accounts, such gross exposure (or part thereof, except cash) shall nonetheless continue to be regarded as “the gross exposure arising from investment transactions executed under the Streamlined Approach” for the purpose of monitoring compliance with the Streamlining Threshold.

That said, intermediaries are not expected to reduce/unwind the gross exposure for the purpose of complying with the Streamlining Threshold. Where the gross exposure in the designated account is above the Streamlining Threshold, intermediaries may continue to operate (and to execute transactions in) the designated account restricting any top-up or deposit; or alternatively, execute investment transactions without applying the Streamlined Approach (eg, outside of the designated accounts).

7. Could intermediaries execute leveraged transactions for and/or provide margin trading to an SPI under the Streamlined Approach?

Intermediaries could execute investment transactions for an SPI under the Streamlined Approach if they fall within the Product Categories and the Streamlining Threshold specified by the SPI.

Notwithstanding, intermediaries are required to establish effective systems and controls to ensure the gross exposures (including the effect of leverage) arising from investment transactions executed under a Streamlined Approach remain at or below the amount specified by the SPI when monitoring compliance with the Streamlining Threshold.