



HONG KONG MONETARY AUTHORITY
香港金融管理局

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20 December 2024

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Streamlining of Audio-recording Requirements for Sale of Investment and Insurance Products

Following a recent review by the Hong Kong Monetary Authority (“HKMA”) in light of development in sales models of banks arising from technological advancement as well as feedback from the industry, I am writing to set out (I) the streamlined requirement on audio-recording of investment transactions conducted through video-conference; and (II) the regulatory expectations for Authorized Institutions (“AIs”) which intend to deploy alternative measures to comply with the HKMA’s requirement of audio-recording the face-to-face or video-conference selling process of investment products or annuity insurance products. By streamlining and setting out the regulatory expectations, the HKMA hopes that customer experience can be enhanced while according protection to customers.

(I) Streamlined requirement on audio-recording of investment transactions conducted through video-conference

At present, for investment transactions conducted through video-conference, AIs are required to audio-record the sale process with customers or the relevant recap, regardless of whether solicitations or recommendations are involved; and

whether complex products are involved¹.

Applying a risk-based approach, from now on, (a) the circumstances to trigger the audio-recording requirement for investment transactions conducted through video-conference will follow those in the audio-recording requirement of face-to-face sale process for retail banking customers², whereas (b) the existing alternative to audio-recording as allowed for non-retail banking customers³ also applies in the video-conference context. In other words, for investment transactions of retail banking customers, audio-recording of the sale process or the relevant recap for transactions conducted through video-conference will only be required in the course of:

- (i) distribution of / advice on complex investment products; or
- (ii) solicitation or recommendation of non-complex investment products, exchange-traded derivatives, or standardised structured deposits not regulated by the Securities and Futures Ordinance, involving risk mismatch.

AIs may also adopt the opt-out arrangement for audio-recording as allowed for comparable products with non-vulnerable customers².

AIs are reminded to put in place adequate control and monitoring measures to ensure that customers are not adversely affected by the use of video-conference in conducting investment transactions in the circumstances where the audio-recording requirement is not triggered, and ensure compliance with relevant statutory and regulatory requirements⁴. Among others, AIs will still need to adequately authenticate and validate the identity of customers and directly confirm with customers through a different communication channel when in doubt, and ensure the security and reliability of the video-conference facilities,

¹ Q6 of the HKMA's circular dated 23 December 2020 on "Frequently Asked Questions on Investor Protection Measures" ("2020 FAQs"); and section (C)(VI) of Annex to the HKMA's circular dated 24 September 2021 on "Distribution of Investment and Insurance Products through Non-face-to-face Channels" ("2021 Non-F2F Circular").

² Section (A)(II.1) of Annex 1 to the HKMA's circular dated 25 September 2019 on "Investor Protection Measures in respect of Investment, Insurance and Mandatory Provident Fund Products" ("2019 Investor Protection Measures Circular").

³ Footnote 1 to section (A)(I) of Annex 1 to the HKMA's 2019 Investor Protection Measures Circular.

⁴ For example, paragraph 3.9 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission, and other requirements in the 2021 Non-F2F Circular.

proper record keeping, as well as proper process of the sale (for instance, requiring sales staff conducting sale through video-conference to do so in appropriate premises with proper video-conference facilities).

(II) Deploying alternative measures to comply with the HKMA’s audio-recording requirement for face-to-face or video-conference selling of investment and annuity insurance products

Pursuant to the circulars⁵ issued by the HKMA, AIs are required to audio-record the face-to-face or video-conference sale process of investment and insurance products for retail banking customers involving the circumstances of investment products mentioned in (i) and (ii) in the preceding paragraph under section (I) above, annuity insurance products; or investment-linked assurance scheme products including protection linked plans (“PLP”). Such audio-recording requirement has been in place for some time and is effective in according protection to customers by maintaining a proper record of the sale process to ensure suitability and adequate disclosure of the investment or insurance recommendations or transactions.

The HKMA notes and agrees that with technological advancement, digital tools are available to serve customer needs and, where effective and appropriate, can be deployed as alternative measures to comply with the HKMA’s audio-recording requirement for selling of investment products. For example, where a retail banking customer has communicated with the sales staff through face-to-face or video-conference channel to look for preliminary investment ideas and has a genuine need to have investment recommendations for further consideration, the AI may follow up with the customer to provide investment recommendations with the use of mobile application/online banking, through which the AI can maintain proper record, such that the process can be regarded as effective alternative measures to the aforesaid audio-recording requirement.

In this connection, as a general principle, the HKMA expects that use of digital

⁵ For investment products, see section (A)(II.1) of Annex 1 to the HKMA’s 2019 Investor Protection Measures Circular; and section (I) of this circular. For insurance products, see section (B)(II) of Annex 1 to the HKMA’s 2019 Investor Protection Measures Circular; section (C)(VII) of Annex to the HKMA’s 2021 Non-F2F Circular; paragraphs 4.1-4.3 of Annex to the HKMA’s circular dated 8 July 2022 on “Selling of Protection Linked Plan”; and the HKMA’s circular dated 30 August 2023 on “Alternative Arrangement for Meeting the Audio Recording Requirement of Protection Linked Plan (“PLP”)”.

tools as alternative measures to comply with the HKMA's audio-recording requirement for the selling of investment products or use of alternative measures to comply with the HKMA's audio-recording requirement for the selling of annuity insurance products (a) should provide at least equivalent protection to customers as that via audio-recording; and (b) can serve as reliable evidence for handling any customer complaints or disputes in future. In particular, AIs should:

- (i) have high degree of belief and ensure that such alternative measures will be able to evidence that proper selling process has been conducted and relevant information in relation to the sale has been presented in an easily comprehensible, clear and effective manner which facilitates customers to make informed investment or insurance decisions, for example, presenting the relevant information to customers through interactive and step-by-step approach on online banking platform where the customer can also acknowledge understanding of the information, and in a manner that the bank staff will not be rushing to complete the process;
- (ii) ensure the appropriateness of such alternative measures for certain customers. For example, certain customers may not be capable of using digital tools. Therefore, retail banks should ensure that audio-recording can be conducted for such customers to meet the regulatory requirement;
- (iii) ensure the appropriateness of such alternative measures for certain products. For example, an insurance product with complex features may not be suitable for distribution through digital platforms where advice or explanation to customers cannot be sufficiently and effectively given during the sale process, as mentioned in the HKMA's 2021 Non-F2F Circular;
- (iv) put in place adequate policies, procedures and controls, and arrange sufficient staff training, to ensure that the use of such alternative measures will not be abused to circumvent any regulatory requirements and to prevent the risk of, and identify, undue influence to customers by the bank staff;
- (v) implement proper and effective monitoring and review mechanisms on transactions where such alternative measures are deployed, for

identifying any irregular transactions and issues so that the AI can take necessary actions in a timely manner, for instance, transactions where the sales staff persuade the customers to use such alternative measures while such customers are not capable of using the digital tools; and

- (vi) comply with other relevant regulatory requirements as always, for example, paragraph 3.9 of the Code of Conduct⁶, and the circular of the Securities and Futures Commission dated 4 May 2018 on “Receiving client orders through instant messaging” and other record-keeping requirements.

AIs are invited to discuss with the HKMA and demonstrate that the alternative measures can fulfill the expected standards as mentioned above if they plan to deploy alternative measures in complying with the audio-recording requirement for the sale of investment products or annuity insurance products.

For the avoidance of doubt, the alternative measures mentioned in this circular are not applicable for the sale of PLP. AIs should refer to the HKMA’s circular dated 30 August 2023 on “Alternative Arrangement for Meeting the Audio Recording Requirement of Protection Linked Plan (“PLP”)” for the alternative arrangement in respect of PLP, and are reminded that in case there are customers who want audio-recording of the sale process at the point-of-sale, AIs should take appropriate measures to accommodate such requests.

As a general requirement, AIs should put in place robust policies, procedures and controls to prevent any possible undue influence or misrepresentation by sales staff both before the start of and during audio-recording. This standard also applies to deploying alternative measures to audio-recording.

If you have any questions on this circular, please contact Ms Anita Chan at 2878-1538 or Ms Yolanda Chan at 2878-1372 in respect of investment products, and Mr Banny Yu at 2878-8272 or Ms Tiffany Ng at 2597-0663 in respect of insurance products.

⁶ The Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

Yours faithfully,

Alan Au
Executive Director (Banking Conduct)

c.c. Securities and Futures Commission
(Attn: Dr Eric Yip, Executive Director, Intermediaries)

Insurance Authority
(Attn: Mr Marty Lui, Executive Director, Long Term Business
Mr Alan Wu, Acting Head of Conduct Supervision)