



HONG KONG MONETARY AUTHORITY
香港金融管理局

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25 September 2019

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Investor Protection Measures in respect of Investment, Insurance and Mandatory Provident Fund Products

In view of the unique circumstances of the banking environment in Hong Kong where banks provide various financial services to customers and the special trust in banks by their customers, the Hong Kong Monetary Authority (“HKMA”) has introduced a number of investor protection measures in the past decade, governing the sale of investment, insurance and mandatory provident fund (“MPF”) products by authorized institutions (“AIs”). Having regard to the changing market landscape and technological advancement in recent years, and as part of our Balanced and Responsive Supervision initiative, the HKMA has conducted a holistic review of the investor protection measures, with an objective to enhance customer experience while according protection to customers.

The HKMA has engaged the banking industry to refine the investor protection measures and provides guidance as set out in this circular in consultation with relevant financial regulators. Key refinements to the investor protection measures are highlighted below, and the detailed requirements are set out in **Annex 1**:

(A) Sale of investment products

Physical segregation (applicable to retail banking customers only)

Along the principle of having clear physical segregation between deposit-taking activities and investment activities in retail bank branches, AIs are allowed to conduct sale and distribution of investment products in any areas of their retail bank branches, provided that such areas are proper facilities that are not used for deposit-taking.

Selling process: audio-recording of face-to-face sale process (applicable to retail banking customers only)

Under a risk-based approach, the scope of products and circumstances that require audio-recording of face-to-face sale process are generally confined to the distribution of complex investment products, and solicitation or recommendation of non-complex investment products involving risk mismatch. AIs may record only the sale recap, but some improvement measures should be taken. Under certain circumstances, customers who are not vulnerable customers (“VCs”) and have previously invested in a comparable product through the AI may opt out of audio-recording.

Selling process: risk disclosure for subsequent transaction(s) on comparable products

AIs may, having regard to the circumstances (such as the customer’s trading pattern, level of sophistication and investment experience, as well as the product’s complexity and risk), adopt a risk-based approach in deciding on the content of risk disclosure to customers. Where particular conditions are satisfied, AIs may streamline the risk disclosure for subsequent transactions of comparable products.

Selling process: Pre-investment Cooling-off Period (“PICOP”) (applicable to retail banking customers only)

The applicability of PICOP is refined, with mandatory PICOP only required for inexperienced investors who are elderly or with high concentration. It is

further streamlined that PICOP will not apply to online transactions without solicitation or recommendation.

Know your customer: holistic assessment for VCs

AIs are expected to exercise extra care in dealing with VCs and provide VCs with additional protection in certain circumstances. In determining whether a customer is a VC, the principle is that AIs should consider holistically the circumstances of a customer to assess the degree of riskiness or vulnerability that a customer may not be able to understand the risk and withstand the potential losses of an investment, including the level of financial sophistication, the state of mind and the level of wealth. AIs are allowed to design their own assessment framework for holistic assessment for VCs for non-retail banking customers as long as the principle is met.

For retail banking customers, a suggested assessment framework is set out, in which both (i) the customer's attribute(s) which tend(s) to suggest a VC (e.g. elderly, low education level, low net worth coupled with low income or observable disabilities which may affect ability to make investment decision) and (ii) investment experience in complex investment products and other investment products respectively will be considered for classifying the customer as a VC or non-VC. AIs should explain to the customer the consequence of being classified as a VC or non-VC, and ask the customer to confirm whether he/she agrees with the assessment result. AIs may follow the customer's choice where appropriate.

Other investor protection measures

There are also refinements and clarifications in relation to the assessment of customer's concentration risk; the controls over transactions with mismatch(es) or exception(s); and the list of major currencies for asset concentration assessment for foreign exchange ("FX") accumulators.

Treatment for different customer segments

The HKMA adopts a risk-based and proportionate approach in promulgating investor protection measures, taking into account the diversity of banking customers and different modes of operation of banking businesses. In dealing

with retail banking customers, AIs should adopt the enhanced investor protection measures applicable to retail banking customers. In dealing with other customers, including private banking customers and corporate customers (other than large/sophisticated corporate customers), AIs should adopt the enhanced investor protection measures applicable to private banking customers as set out in the relevant HKMA's circulars (please refer to Annex 1 for details). In dealing with large/sophisticated corporate customers, AIs are exempted from adopting the enhanced investor protection measures.

(B) Sale of insurance products and MPF products

AIs should follow the streamlined physical segregation measures in their sale of investment-linked assurance scheme ("ILAS") products and MPF products to retail banking customers. AIs should also consider holistically the circumstances of a customer in determining whether the customer is a VC, where AIs are expected to exercise extra care in dealing with VCs and provide them with additional protection in certain circumstances in selling long term insurance products. There are also refinements and clarifications in relation to the assessment of customer's concentration risk for ILAS products; and the controls over transactions with mismatch(es) or exception(s) for long term insurance products.

Implementation arrangements

AIs should comply with the guidance in this circular as soon as practicable and in any case not later than 12 months from the date of issuance of this circular, except for those in sections (A)(III.2) and (B)(VIII) on "holistic assessment for VCs", which should be implemented not later than 18 months from the date of issuance of this circular. AIs should provide sufficient training to all relevant staff before the implementation and thereafter on an ongoing basis.

Upon the above implementation dates, this circular supersedes the relevant circulars previously issued by the HKMA as listed in **Annex 2**. For the avoidance of doubt, AIs should continue to comply with the applicable regulatory requirements and the HKMA's circulars or other guidance regarding the sale of investment, insurance and MPF products by AIs that are not listed in Annex 2 and are not stated as being superseded.

If you have any questions on this circular, please contact Ms Phielle Lau on 2878-1750 or Ms Anita Chan on 2878-1538 in respect of investment products, and Ms Candy Tam on 2878-1292 or Mr Kevin Sham on 2878-1594 in respect of insurance or MPF products.

Yours faithfully,

Alan Au
Executive Director (Banking Conduct)

Encl.

c.c. Securities and Futures Commission
(Attn: Ms Julia Leung, Deputy Chief Executive Officer and Executive Director (Intermediaries))

Insurance Authority
(Attn: Mr Stephen Po, Executive Director (Market Conduct)
Ms Carol Hui, Executive Director (Long Term Business))

Mandatory Provident Fund Schemes Authority
(Attn: Mr Leo Chu, Chief Operating Officer and Executive Director)