



SECURITIES AND FUTURES COMMISSION
證券及期貨事務監察委員會

Consultation Paper Concerning the Regulatory Oversight of Credit Rating Agencies

19 July 2010



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Personal Information Collection Statement

1. This Personal Information Collection Statement (“**PICS**”) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which your Personal Data¹ will be used following collection, what you are agreeing to with respect to the SFC’s use of your Personal Data and your rights under the Personal Data (Privacy) Ordinance, Cap. 486 (“**PDPO**”).

Purpose of collection

2. The Personal Data provided in your submission to the SFC in response to this consultation paper may be used by the SFC for one or more of the following purposes:
 - (a) To administer the relevant provisions² and codes and guidelines published pursuant to the powers vested in the SFC;
 - (b) In performing the SFC’s statutory functions under the relevant provisions;
 - (c) For research and statistical purposes;
 - (d) For other purposes permitted by law.

Transfer of personal data

3. Personal Data may be disclosed by the SFC to members of the public in Hong Kong and elsewhere, as part of the public consultation on this consultation paper. The names of persons who submit comments on this consultation paper together with the whole or part of their submission may be disclosed to members of the public. This will be done by publishing this information on the SFC website and in documents to be published by the SFC during the consultation period or at its conclusion.

Access to data

4. You have the right to request access to and correction of your Personal Data in accordance with the provisions of the PDPO. Your right of access includes the right to obtain a copy of your Personal Data provided in your submissions on this consultation paper. The SFC has the right to charge a reasonable fee for processing any data access request.

¹ Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance.

² Defined in Schedule 1 of the SFO to mean provisions of the SFO and subsidiary legislation made under it; and provisions of Parts II and XII of the Companies Ordinance (Cap. 32) so far as those Parts relate directly or indirectly, to the performance of functions relating to: prospectuses; the purchase by a corporation of its own shares; a corporation giving financial assistance for the acquisition of its own shares etc.



Retention

5. Personal Data provided to the SFC in response to this consultation paper will be retained for such period as may be necessary for the proper discharge of the SFC's functions.

Enquiries

6. Any inquiries regarding the Personal Data provided in your submission on this consultation paper, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

The Data Privacy Officer
Securities and Futures Commission
8/F Chater House
8 Connaught Road Central
Hong Kong

A copy of the Privacy Policy Statement adopted by the SFC is available upon request.



Consultation on regulatory oversight of credit rating agencies

Background

1. Credit rating agencies (“**CRAs**”) play an important role in global securities and banking markets, as their credit ratings are used by investors, borrowers, issuers and governments as part of making informed investment and financing decisions.
2. To the SFC’s knowledge, there are no CRAs based exclusively in Hong Kong. However, the three largest CRAs have offices in this jurisdiction, alongside several smaller multinational CRAs. Generally, these offices are engaged in the preparation of credit ratings for issue under each CRA’s global brand. In addition there are many organisations, both local and multinational, performing other credit rating activities which can be distinguished from the activities of CRAs, which are the focus of this consultation paper.
3. Over the past few years a global consensus has emerged on the desirability of further regulatory oversight designed to promote the independence and objectivity of CRAs and to improve the quality of their ratings. In May 2008, the International Organization of Securities Commissions (“**IOSCO**”) issued a revised Code of Conduct Fundamentals for Credit Rating Agencies (“**IOSCO Code**”).³ The Declaration on Strengthening the Financial System issued on 2 April 2009 (“**G20 Declaration**”) announced the G20’s agreement that all CRAs whose ratings are used for regulatory purposes should be subject to a regulatory oversight regime consistent with the IOSCO Code, and that national authorities will enforce compliance.⁴
4. A number of jurisdictions have already announced regulatory measures strengthening oversight of CRAs. For example –
 - (a) Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 (“**EU Regulation**”) prescribes conditions for the issuing of credit ratings and rules on the organisation and conduct of CRAs to promote their independence and the avoidance of conflicts of interest.⁵
 - (b) In the United States, the Securities and Exchange Commission adopted rule amendments with effect from 2 February 2010 that impose additional disclosure and conflict of interest requirements on CRAs in order to address concerns about the integrity of their credit rating procedures and methodologies.⁶
 - (c) In Japan, the Revised Financial Instruments and Exchange Act (which came into force on 1 April 2010) introduced a registration system for CRAs, and the Revised Cabinet Office Ordinance (promulgated in December 2009) prescribes obligations regarding quality control in the rating process.⁷

³ <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD271.pdf>

⁴ http://www.g20.org/Documents/Fin_Deps_Fin_Reg_Annex_020409_-_1615_final.pdf

⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:302:0001:0031:EN:PDF>

⁶ “November 2009 Amendments to the Rules Relating to the Oversight of Nationally Recognized Statistical Rating Organizations”, <http://www.sec.gov/rules/final/2009/34-61050-secg-nrsro.htm>. For more information see <http://www.sec.gov/divisions/marketreg/ratingagency.htm>.

⁷ <http://www.fsa.go.jp/en/news/2010/20100331-4/06.pdf>



- (d) Since 1 January 2010, Australia has required CRAs operating in Australia to hold an Australian financial services licence.⁸
 - (e) The Securities and Exchange Board of India has issued “Guidelines for Credit Rating Agencies” regarding disclosure, record keeping and conflict of interest policies. CRAs must comply with the guidelines by 30 June 2010.⁹
5. This consultation paper discusses the objectives of further regulatory oversight with respect to CRAs in Hong Kong. It outlines the SFC’s proposal to implement a licensing requirement and sets out draft legislative amendments. We seek public comments and input on the issues so that the regime that is put in place is effective and proportionate in achieving the intended objectives as well as efficient in terms of time and resources costs necessary for implementation and ongoing compliance.
6. In the global discussions on the regulation of CRAs, besides the need to establish a regulatory oversight regime that addresses registration and business conduct issues, another related issue is to review the use of ratings for regulatory purposes. As the discussions on this area are still evolving, the SFC will continue to monitor the development in this area closely and assess its implications.

The objectives of regulating credit rating agencies

7. Hong Kong, being a member of the Financial Stability Board¹⁰, is committed to adhere to international financial standards. IOSCO has recently revised its Objectives and Principles of Securities Regulation to include a new principle for CRAs which states “*credit rating agencies should be subject to adequate levels of oversight. The regulatory system should ensure that credit rating agencies whose ratings are used for regulatory purposes are subject to registration and ongoing supervision.*”. Having a regulatory oversight regime for CRAs in Hong Kong, consistent with the global trend, appears to be necessary to ensure that Hong Kong adheres to international standards and remains an attractive jurisdiction for CRAs to base their Asian operations.
8. The proposed regulatory regime is intended to mandate minimum conduct standards for CRAs, including requirements that credit rating activities be conducted in accordance with principles of integrity, transparency, responsibility and good governance. It is anticipated that this will help ensure that the resulting credit ratings are independent, objective, and of adequate quality.
9. Moreover, the proposed regulatory regime is intended to ensure that ratings prepared in Hong Kong continue to be serviceable in other jurisdictions, including for regulatory purposes. The EU Regulation is of particular importance to Hong Kong, as it will restrict the credit ratings which may be used for the purpose of complying with the laws of

⁸ See “ASIC Information Sheet 99”, [http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/INFO99_CreditRatings.pdf/\\$file/INFO99_CreditRatings.pdf](http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/INFO99_CreditRatings.pdf/$file/INFO99_CreditRatings.pdf)

⁹ <http://www.sebi.gov.in/circulars/2010/cirmirsd06.pdf>

¹⁰ In the G20 Declaration, the G20 agreed to establish the FSB with a strengthened mandate which included, among others, assessing vulnerabilities affecting the financial system and identifying and overseeing action needed to address them and advising on and monitoring best practice in meeting regulatory standards.



European Community member states (such as laws imposing capital adequacy requirements or investment restrictions). With effect from 7 June 2011, the only credit ratings which may be used for such purposes will be those (a) issued under the EU Regulation, (b) issued under “equivalent” regulatory regimes of other countries with which the European Community member states have operational cooperation agreements for CRA regulation, or (c) endorsed by CRAs regulated by the EU Regulation as complying with requirements “as stringent as” those under the EU Regulation.

10. Accordingly, if credit ratings prepared by CRAs based in Hong Kong are to continue to be serviceable in Europe, it will be necessary for Hong Kong to develop a compatible regulatory regime. The SFC is engaged in dialogue with the Committee of European Securities Regulators (“**CESR**”) to discuss cooperation arrangements for CRA regulation. Also, the SFC is monitoring developments as to what CESR considers to be regulation “equivalent to” or “as stringent as” the EU Regulation.

Question

Q1 *Is it appropriate for Hong Kong to subject CRAs to a regulatory oversight regime consistent with international developments?*

Regulatory oversight through Hong Kong’s existing licensing regime

11. CRAs do not fall neatly within any existing regulatory regime in Hong Kong, including that created by the Securities and Futures Ordinance, Cap. 571 (“**SFO**”). However, of the alternative regulatory options available, in the SFC’s view the most appropriate option is the creation of a new type of regulated activity under the SFO – Type 10: “providing credit rating services”.
12. Broadly speaking, under Hong Kong’s licensing regime, corporations must be licensed (or, in the case of authorized financial institutions, registered) if they carry on a business in a regulated activity, or actively market to the public any services they provide which would constitute a regulated activity if provided in Hong Kong.
13. Also, any individual performing a regulated function for a licensed corporation must be a licensed representative accredited to that licensed corporation. “Regulated function” means any function relating to the regulated activity, other than work ordinarily performed by an accountant, clerk or cashier.
14. It is the SFC’s view that extending this existing licensing regime to CRAs, and those of their staff who perform regulated functions (i.e. their rating analysts), would achieve the regulatory oversight necessary to meet the objectives set out above.

Question

Q2 *Should regulatory oversight of CRAs be achieved by extending the existing licensing regime under the SFO to CRAs and those of their staff who perform regulated functions?*



Primary legislation

15. Regulating CRAs within the context of Hong Kong's existing licensing regime would require amendments to the SFO, with some consequential amendments to subsidiary legislation as well as to certain codes and guidelines published by the SFC. The necessary legislative amendments do not appear to be substantial. They could be effected by the Financial Secretary by notice published in the Gazette and, in the case of certain subsidiary legislation, by the SFC. Appendix A to this consultation paper summarizes the legislative amendments that appear to be necessary, including draft definitions of "credit ratings", and a new regulated activity of "providing credit rating services".
16. The draft definition of "credit ratings" refers to opinions "primarily regarding the creditworthiness" of the rating target. This ensures that the issuing of credit ratings will be distinguishable from Type 4 regulated activity (advising on securities), even in the case of broker recommendations using a defined ranking system (such as "buy", "hold" or "sell"). Advising on securities may include providing opinions on a company's creditworthiness, but only as a factor impacting upon advice on whether (or which, or the time at which, or the terms or conditions on which) securities should be acquired or disposed of. By contrast, credit ratings, as typically understood, do not include advice on whether securities should be acquired or disposed of.
17. Credit ratings may, indeed, be used to facilitate decisions on whether securities should be acquired or disposed of. However, the issuing of credit ratings has historically been considered to fall outside the definition of "advising on securities" on the basis that credit ratings are issued specifically for the purpose of indicating creditworthiness, rather than for facilitating decisions on whether securities should be acquired or disposed of. The draft definition of "providing credit rating services" is concerned with the *preparation* of credit ratings. Accordingly, those carrying on Type 10 business should not be regarded as carrying on the business of "advising on securities" and as being obliged to hold a Type 4 licence. However, for the avoidance of doubt, we propose that the definition of "advising on securities" in Schedule 5 of the SFO be amended to clarify that this activity does not include "providing credit rating services".
18. The SFC has considered whether the proposed regulatory oversight for CRAs will apply to the rating of sukuk (Shariah-compliant financial instruments, sometimes known as Islamic bonds). Essentially, the proposed regulatory oversight will apply if the financial instrument being rated constitutes an agreement to provide credit or if it acknowledges, evidences or creates indebtedness. This will be a question of fact. For example, an instrument may be structured to avoid violating the Islamic prohibition on charging or paying interest. However, if the instrument nonetheless conveys an obligation to pay a pre-determined amount of money, it would create "indebtedness" within its ordinary meaning. Thus, for licensing purposes, preparing or issuing credit ratings of such instruments could constitute "providing credit rating services".
19. The proposed new regulated activity of "providing credit rating services" has been defined to include the preparation of credit ratings for dissemination or distribution by subscription, whether in Hong Kong or elsewhere, or with a reasonable expectation that they will be so disseminated or distributed. However, we have endeavoured to exclude from the definition of "providing credit rating services" the conduct of activities which we consider should not be brought within the SFC's licensing regime, such as the activities involved in the operation of internal credit rating systems (e.g. banks' internal systems for assessing counterparty risk) and private credit ratings prepared pursuant to an individual order.



20. The objectives of this regulatory initiative do not include the creation of licensing obligations arising out of the sharing or analyzing of consumer or commercial credit data (such as through consumer or commercial credit reference agencies). Accordingly, the draft definition of “providing credit rating services”, excludes the gathering, collating, disseminating or distributing of information concerning the indebtedness or credit history of commercial enterprises. Also, the new regulatory regime will not apply to the sharing or analyzing of personal consumer credit data because the definition of “credit ratings” excludes opinions regarding the creditworthiness of individuals.
21. In addition, the draft definition would empower the SFC or the Financial Secretary to exclude, by notice published in the Gazette, the activities of certain persons. We envisage that this power would only rarely be used to exclude persons who fall unintentionally within the definition of “providing credit rating services” and for whom licensing obligations would impose a compliance burden without furthering any clear regulatory objective.
22. The SFC proposes that Type 10 licensees be permitted to apply for temporary licences. Accordingly, no amendment to sections 117 and 121 of the SFO appears to be necessary.
23. Section 119(1) of the SFO permits authorized financial institutions to be registered for multiple regulated activities, with the exception of Type 3 (leveraged foreign exchange trading) and Type 8 (securities margin financing) regulated activities. As core activities of authorized financial institutions – which are regulated also by the Hong Kong Monetary Authority – leveraged foreign exchange trading and securities margin financing are exempted from registration requirement when conducted by authorized financial institutions (by virtue of the definitions in Schedule 5 of the SFO). There is no equivalent rationale to exempt authorized financial institutions from the intended licensing requirements in the event that they wish to provide credit rating services. However, it is not our intention that authorized financial institutions must be registered for Type 10 regulated activity in order to undertake the internal rating activities that they typically undertake already.

Questions

- Q3** *Do our draft amendments to the SFO effectively distinguish “providing credit rating services” from “advising on securities”?*
- Q4** *Should the proposed new licensing requirement apply to the rating of sukuk?*
- Q5** *Should the following activities be excluded from the proposed new licensing requirement:*
- (a) preparing credit ratings for an organization’s internal purposes;*
 - (b) preparing private credit ratings; and*
 - (c) sharing or analyzing consumer or commercial credit data (such as through consumer or commercial credit reference agencies)?*
- Q6** *Further to question 5, do our draft amendments to the SFO effectively exclude these activities from the proposed new licensing requirement?*



Subsidiary legislation

24. We propose that Schedule 1 of the Securities and Futures (Financial Resources) Rules (“FRR”) be amended to specify, for Type 10 regulated activity, a minimum amount of paid-up share capital of HK\$0 and a minimum amount of required liquid capital of HK\$100,000. This would be the same as the FRR requirements usually imposed on Type 4 licensees carrying on the business of advising on securities without holding client assets. Bearing in mind that Type 10 licensees will also not hold client assets, we think that the imposition of the same capital requirements would be generally consistent and appropriate. It would also be broadly consistent with the approach in other jurisdictions, including the United States and the European Union, which do not currently impose any minimum paid-up share capital or liquid capital requirements for CRAs.

Question

- Q7** *Are the proposed paid-up share capital and liquid capital requirements for Type 10 regulated activity appropriate?*

SFC codes and guidelines

25. We have prepared a draft Code of Conduct for Persons Providing Credit Rating Services (“**CRA Code of Conduct**”), setting out factors that will guide the SFC in deciding whether a person is, or remains, fit and proper to be licensed or registered for Type 10 regulated activity. The CRA Code of Conduct is attached to this consultation paper as Appendix B. It supplements, and is intended to be read in conjunction with, the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.
26. For the sake of convergence with the regulatory regimes of other jurisdictions, the CRA Code of Conduct reflects the provisions of the IOSCO Code – to the extent possible within the Hong Kong context.
27. The CRA Code of Conduct and the IOSCO Code require CRAs to separate, operationally and legally, their credit rating business from other types of business in which they are involved and which could give rise to conflicts of interest. In the event of a person wishing to be licensed for providing credit rating services as well as other regulated activities, the person would need to demonstrate that appropriate segregation of business and the existence of safeguards against conflicts of interest can be maintained. Alternatively, potential conflicts of interest might be addressed by prohibiting CRAs from carrying on any business (or any regulated activity) other than that of providing credit rating services – that is, that they be subject to a sole business (or sole regulated activity) restriction. Each of these alternative approaches would appear to require the imposition of appropriate licensing conditions at the time of the granting of a Type 10 licence.
28. In considering whether an individual is competent to carry on any regulated activity, the SFC is also guided by the Guidelines on Competence. The draft list of Recognized Industry Qualifications and Local Regulatory Framework Papers that the SFC proposes to incorporate into the Guidelines on Competence in relation to Type 10 regulated activity is set out in Appendix C to this consultation paper. The SFC is in the course of discussion with the Hong Kong Securities Institute (“**HKSI**”) on the modification of the existing Recognized Industry Qualifications and Local Regulatory Framework Papers to reflect the industry and regulatory knowledge in relation to Type 10 regulated activity. The Guidelines



on Competence will be updated accordingly. CRAs' licensed representatives, unless grandfathered under transitional arrangements (please see paragraph 30 below), will be required to satisfy the competence requirements.

Questions

- Q8** *Does the CRA Code of Conduct satisfactorily set out the factors that should guide CRAs in the conduct of their business and which should be relied upon by the SFC in considering whether a person is, or remains, fit and proper to be licensed or registered for Type 10 regulated activity?*
- Q9** *Should persons licensed or registered for Type 10 regulated activity be permitted to be licensed or registered for other types of regulated activity?*
- Q10** *Should persons licensed or registered for Type 10 regulated activity be subject to a sole business restriction?*
- Q11** *Is the draft list of Recognized Industry Qualifications and Local Regulatory Framework Papers for Type 10 regulated activity appropriate?*

Implementation and transitional arrangements

29. It is proposed that the necessary amendments to the existing licensing regime be finalised and implemented by the end of January 2011 so that the licensing process for CRAs and their staff can be completed during the ensuing four months.
30. In light of the existence in Hong Kong of well established CRAs, which have been providing credit rating services for a lengthy period of time and whose rating agents invariably are highly qualified, we are proposing a "grandfathering" approach to bring these existing staff members within the new regulatory regime. The competence of staff who become licensed as responsible officers or representatives of CRAs during the transitional period will be assessed in accordance with the academic qualification, relevant industry experience and management experience tests applicable to all types of regulated activity (if relevant depending on the chosen assessment option and whether the individual will be a responsible officer). However, for reasons of timing such staff will not be required to pass the Local Regulatory Framework Papers. Instead, they will be required, within six months of securing licensing approval, to complete a course of not less than five hours relating to the legal and regulatory framework for Type 10 regulated activity, conducted by a Continuous Professional Training Provider. This will be in addition to fulfilling the normal Continuous Professional Training requirements.

Question

- Q12** *Are the proposed transitional arrangements appropriate?*

Concluding remarks

31. It is proposed that the regulatory oversight of CRAs in Hong Kong be significantly enhanced by the creation of a new type of regulated activity under the SFO – Type 10: "providing credit rating services". We seek comments on the questions raised in this paper



(which, for convenience, are reproduced in Appendix D) as well as any additional and related comments which might be considered relevant to the future regulation of CRAs in Hong Kong. We will consider your comments and publish consultation conclusions in due course.



Appendix A

Proposed legislative amendments

Legislation	Amendment
SFO Schedule 5 Part 1 (Regulated activities)	Insert new regulated activity – Type 10: providing credit rating services.
SFO Schedule 5 Part 2 (Definitions)	Insert definitions of “credit ratings”, “debt securities” and “providing credit rating services” (see below).
SFO Schedule 5 Part 2 (Definitions)	Amend the concluding paragraph of the definition of “advising on securities” to read “but does not include the giving of such advice that falls within the meaning of ‘advising on corporate finance’ or ‘ providing credit rating services ’”.
FRR, Schedule 1	Insert paid-up share capital and liquid capital requirements for Type 10 regulated activity.
FRR, sections 2, 5 & 56	Amend the respective provisions to include Type 10 regulated activity.

Draft definitions for inclusion in Part 2 of Schedule 5 of the SFO

“**credit ratings**” (信貸評級) means opinions, expressed using a defined ranking system, primarily regarding the creditworthiness of:

- (a) a person other than an individual;
- (b) debt securities; or
- (c) an agreement to provide credit;

“**debt securities**” (債務證券) means debenture stock, loan stock, debentures, bonds, notes, indexed bonds, convertible debt securities, bonds with warrants, non-interest bearing debt securities, preferred securities and other securities or instruments acknowledging, evidencing or creating indebtedness;

“**providing credit rating services**” (提供信貸評級服務) means preparing credit ratings for:

- (a) dissemination to the public, whether in Hong Kong or elsewhere, or with a reasonable expectation that they will be so disseminated; or
- (b) distribution by subscription, whether in Hong Kong or elsewhere, or with a reasonable expectation that they will be so distributed,

but does not include-



- (i) preparing, pursuant to an individual order, a credit rating which is exclusively prepared for, and provided to, the person who placed the order and which is neither intended for dissemination to the public or distribution by subscription, whether in Hong Kong or elsewhere, nor reasonably expected to be so disseminated or distributed;
- (ii) gathering, collating, disseminating or distributing information concerning the indebtedness or credit history of commercial enterprises; or
- (iii) the preparation, dissemination or distribution of credit ratings by any such person or class of persons as [the Commission / the Financial Secretary] may specify by notice published in the Gazette;



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**Code of Conduct for
Persons Providing Credit Rating Services**



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Introduction

1. This Code applies to persons licensed by or registered with the Securities and Futures Commission (“**SFC**”) for Type 10 regulated activity (providing credit rating services), including, except where the context otherwise requires, their representatives (as defined in section 167 of the Securities and Futures Ordinance, Cap. 571 (“**SFO**”)). The SFC recognizes that some aspects of compliance with this Code might not be within the control of a particular representative. In considering the conduct of representatives under this Code, the SFC will take into account their levels of responsibility within their firms, any supervisory duties they may perform, and the levels of control or knowledge they may have concerning any failure by their firms or individuals under their supervision to follow this Code.
2. The SFC will be guided by this Code in considering whether a licensed or registered person satisfies the requirement that it is fit and proper to remain licensed or registered. This Code, which is based on the revised Code of Conduct Fundamentals for Credit Rating Agencies issued by the International Organization of Securities Commissions in May 2008 (“**IOSCO Code**”)¹, does not have the force of law and does not replace any legislative provisions, nor any other codes or guidelines issued by the SFC. In particular, it supplements, and should be read in conjunction with, the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.
3. For the purposes of this Code:
 - (a) “**ratings**” has the same meaning as “credit ratings” (as defined in Schedule 5 of the SFO);
 - (b) “**rating target**” means the subject of a credit rating and may be a person, debt securities or an agreement to provide credit;
 - (c) “**rated entity**” means the rating target or, in the case of a rating target that is debt securities or an agreement to provide credit, the issuer of the debt securities or the person agreeing to provide credit; and
 - (d) “**structured investment product**” includes a structured investment product (regardless of the legal form that it may take):-
 - (i) which, or the issue of any advertisement, invitation or document in respect of which, requires the Commission’s authorization pursuant to Part IV of the SFO; and
 - (ii) which involves derivative arrangements and is commonly regarded in the market as an equity, index, commodity or credit-linked investment product.

¹ <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD271.pdf>



Part 1 - Quality And Integrity Of The Rating Process

Quality of the Rating Process

4. A licensed or registered person should adopt, implement and enforce written procedures to (a) document reporting lines and allocate functions and responsibilities, and (b) ensure that the credit ratings it prepares are based on a thorough analysis of all information known to the licensed or registered person that is relevant to its analysis according to the licensed or registered person's published rating methodology.
5. A licensed or registered person should use rating methodologies that are rigorous, systematic, and, where possible, result in ratings that can be subjected to some form of objective validation based on historical experience, including back-testing.
6. A licensed or registered person should keep records properly and in line with all applicable statutory requirements, including the provisions of the Securities and Futures (Keeping of Records) Rules. Proper record keeping includes maintaining records to support credit ratings prepared by the licensed or registered person. A licensed or registered person should keep such records for not less than seven years, in writing in the Chinese or English language, or in such a manner as to enable the records to be readily accessible and readily convertible into written form in the Chinese or English language.
7. A licensed or registered person should use representatives who, individually or collectively (particularly where rating committees are used) have appropriate knowledge and experience in developing a rating for the type of credit being applied. Representatives should apply a given methodology in a consistent manner, as determined by the licensed or registered person.
8. A licensed or registered person should ensure that the credit ratings it prepares are assigned by the licensed corporation or registered institution (or its affiliated corporation) and not by any individual representative.
9. A licensed or registered person should take steps to avoid issuing any credit ratings that contain misrepresentations or are otherwise misleading as to the general creditworthiness of the rating target.
10. A licensed or registered person should ensure that it has and devotes sufficient resources to carry out high-quality credit assessments of all its rating targets. When deciding whether to rate or continue rating a rating target, it should assess whether it is able to devote sufficient personnel with sufficient skill sets to make a proper rating assessment, and whether its personnel likely will have access to sufficient information needed in order to make such an assessment. A licensed or registered person should adopt reasonable measures so that the information it uses in assigning a rating is of sufficient quality to support a credible rating. A licensed or registered person should refrain from assigning a rating, and should ensure that any existing rating is withdrawn, if the licensed or registered person does not have sufficient quality information to support a credible rating. If the rating involves a type of financial product presenting limited historical data (such as an innovative financial vehicle), the licensed or registered person should make clear, in a prominent place within the rating report, the limitations of the rating.



11. A licensed or registered person should establish a formal review function made up of one or more senior staff members with appropriate experience to review the feasibility of providing a credit rating for a financial product that is materially different from the financial products the licensed or registered person currently rates.
12. A licensed or registered person should establish and implement rigorous and formal review functions responsible for periodically reviewing (a) the methodologies and models and significant changes to the methodologies and models it uses, and (b) the adequacy and effectiveness of its systems and internal control mechanisms. Where feasible and appropriate for the size and scope of its credit rating services, this function should be independent of the business lines that are principally responsible for rating various classes of rating targets. A licensed or registered person should take appropriate measures to address any deficiencies.
13. A licensed or registered person should assess whether existing methodologies and models for determining credit ratings of structured investment products are appropriate when the risk characteristics of the assets underlying a structured investment product change materially. In cases where the complexity or structure of a new type of structured investment product or the lack of robust data about the assets underlying the structured investment product raise serious questions as to whether the licensed or registered person can determine a credible credit rating for it, the licensed or registered person should refrain from issuing a credit rating.
14. A licensed or registered person should structure its rating teams to promote continuity and avoid bias in the rating process. Where practicable, in view of a licensed or registered person's staffing resources, representatives who are involved in the rating process should be subject to an appropriate rotation mechanism which should provide for gradual change in rating teams.

Monitoring and Updating

15. A licensed or registered person should ensure that adequate personnel and financial resources are allocated to monitoring and updating its ratings. Except for ratings that clearly indicate they do not entail ongoing surveillance, once a rating is published the licensed or registered person should monitor on an ongoing basis and update the rating by:
 - (a) regularly reviewing the rating target's creditworthiness;
 - (b) initiating a review of the status of the rating upon becoming aware of any information that might reasonably be expected to result in including revision or termination of the rating, consistent with the applicable rating methodology; and
 - (c) updating the rating on a timely basis, as appropriate, based on the results of such review.
16. Subsequent monitoring should incorporate all cumulative experience obtained. Changes in methodologies, models or key assumptions used in preparing credit ratings should be applied where appropriate to both initial ratings and subsequent ratings. A licensed or registered person should review affected credit ratings as soon as possible and not later



than within six months after the change, and should in the meantime place those ratings under observation.

17. If a licensed or registered person uses separate analytical teams for determining initial ratings and for subsequent monitoring of ratings each team should have the requisite level of expertise and resources to perform their respective functions in a timely manner.
18. Where a rating is made available to the public, the licensed or registered person should in a timely manner publicly announce (or ensure that its affiliate publicly announces) if the rating is discontinued. Where a rating is provided only to subscribers, the licensed or registered person should in a timely manner announce (or ensure that its affiliate announces) to the subscribers if the rating is discontinued. In both cases, the licensed or registered person should ensure that continuing publications of the discontinued rating indicate the date the rating was last updated and the fact that the rating is no longer being updated.
19. A licensed or registered person should ensure that its “private ratings” (prepared pursuant to an individual order, and which are provided exclusively to the person who placed the order without being intended for dissemination to the public or distribution by subscription, whether in Hong Kong or elsewhere), are only subsequently disseminated to the public or distributed by subscription, whether in Hong Kong or elsewhere, if such ratings have been prepared in compliance with the provisions of this Code.

Integrity of the Rating Process

20. A licensed or registered person should deal fairly and honestly with issuers, investors, other market participants, and the public.
21. Representatives of a licensed or registered person should maintain high standards of integrity, and a licensed or registered person should not employ individuals with demonstrably compromised integrity.
22. A licensed or registered person should not, either implicitly or explicitly, give any assurance or guarantee of a particular rating prior to the issue of a rating. This does not preclude a licensed or registered person from developing prospective assessments used in structured investment products and similar transactions.
23. A licensed or registered person should prohibit its representatives who are involved in the rating process from making proposals or recommendations regarding the design of structured investment products that the licensed or registered person rates.
24. A licensed or registered person should institute policies and procedures that clearly specify a person responsible for compliance by the licensed or registered person and its employees with the provisions of its code of conduct (as further described under paragraph 71 of this Code) and with any law, rules, regulations and codes administered or issued by the SFC and the requirements of any regulatory authority which apply to the licensed or registered persons. This person’s reporting lines and compensation should be independent of the licensed or registered person’s rating operations.
25. A licensed or registered person should institute policies and procedures requiring its representatives and employees, upon becoming aware that another representative,



employee or entity under common control with the licensed or registered person is or has engaged in conduct that is illegal, unethical or contrary to the licensed or registered person's code of conduct, to report such information immediately to the individual in charge of compliance or a responsible officer of the licensed or registered person, as appropriate, so proper action may be taken. A licensed or registered person's representatives and employees are not necessarily expected to be experts in the law. Nonetheless, they are expected to report the activities that a reasonable person would question. A licensed or registered person should ensure that its compliance officer or responsible officer who receives such a report from a representative or employee is obligated to take appropriate action, as determined by any law, rules, regulations and codes administered or issued by the SFC, the requirements of any regulatory authority which apply to the licensed or registered persons and rules, guidelines and codes set forth by the licensed or registered person. A licensed or registered person should prohibit retaliation by other representatives or employees, or by the licensed corporation or registered institution itself, against any representatives or employees who, in good faith, make such reports.



Part 2 - Independence And Avoidance Of Conflicts Of Interest

General

26. A licensed or registered person should not forbear or refrain from preparing or revising any rating based on the potential effect (economic, political, or otherwise) on the licensed or registered person, an issuer, an investor, or other market participant.
27. A licensed or registered person should use care and professional judgment to maintain both the substance and appearance of independence and objectivity.
28. The determination of a credit rating should be influenced only by factors relevant to the credit assessment.
29. The credit rating a licensed or registered person assigns to a rating target should not be affected by the existence of or potential for a business relationship between the licensed or registered person (or its affiliates) and the issuer (or its affiliates) or any other party, or by the non-existence of such a relationship.
30. A licensed or registered person should separate, operationally and legally, its credit rating business and representatives who are involved in the rating process from any other businesses of the licensed or registered person, including consulting businesses, which may present a conflict of interest. A licensed or registered person should ensure that ancillary business operations which do not necessarily present conflicts of interest with the licensed or registered person's rating business have in place procedures and mechanisms designed to minimize the likelihood that conflicts of interest will arise. A licensed or registered person should also define what it considers, and does not consider, to be an ancillary business and why.
31. A licensed or registered person should not enter into any contingent fee arrangement for providing credit rating services. Contingent fees are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm. For the purposes of this paragraph, a fee is not regarded as being contingent if established by a court or other public authority.

Procedures and Policies

32. A licensed or registered person should adopt written internal procedures and mechanisms to (a) identify, and (b) eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence (i) the ratings a licensed or registered person makes, or (ii) the judgment and analyses of the representatives who are involved in the preparation of ratings. A licensed or registered person's code of conduct should also state that the licensed or registered person will disclose such conflict avoidance and management measures.
33. A licensed or registered person's disclosures of actual and potential conflicts of interest should be complete, timely, clear, concise, specific and prominent.



34. A licensed or registered person should publicly disclose the general nature of its compensation arrangements with rated entities, including:
 - (a) Where a licensed or registered person or its related corporation receives from a rated entity compensation unrelated to its ratings service, a licensed or registered person should disclose the proportion such non-rating fees constitute against the fees the licensed or registered person or its corporate group receives from the entity for ratings services; and
 - (b) A licensed or registered person should disclose if it or its corporate group receives 10% or more of its annual revenue from a single issuer, originator, arranger, client or subscriber (including any affiliates of that issuer, originator, arranger, client or subscriber).
35. Licensed or registered persons should encourage issuers and originators of structured investment products to publicly disclose all relevant information regarding these products so that investors and other licensed or registered persons can conduct their own analyses independently of the licensed or registered person contracted by the issuers or originators to provide a rating. Licensed or registered persons should ensure that rating announcements include disclosure as to whether the issuer of a structured investment product has informed it that it is publicly disclosing all relevant information about the product being rated or if the information remains non-public.
36. A licensed or registered person should ensure that it and its employees do not engage in any securities or derivatives trading presenting conflicts of interest with the licensed or registered person's rating activities.
37. In instances where rated entities (e.g. governments) have, or are simultaneously pursuing, oversight functions related to the licensed or registered person, the licensed or registered person should use representatives to prepare and revise its ratings who are not the same individuals involved in its oversight issues.
38. Licensed or registered persons issuing or maintaining a credit rating for securities or a money market instrument issued by an asset pool or as part of any asset-backed or mortgage-backed securities transaction that was paid for by the issuer, sponsor, or underwriter of the securities or money market instrument, should maintain on a password-protected website a list of all such securities or money market instruments for which the licensed or registered person maintains or is currently in the process of determining a credit rating. The list should include information identifying the type of securities or money market instrument, the name of the issuer, the date the rating process was initiated, and the internet address where the issuer, sponsor, or underwriter of the securities or money market instrument represents that information (which currently should be relied on to determine or monitor the credit rating) about the characteristics of the assets underlying or referenced by the securities or money market instrument, the legal structure of the securities or money market instrument, and the characteristics and performance of the assets underlying or referenced by the securities or money market instrument can be accessed.
39. Licensed or registered persons maintaining such a website should provide free and unlimited access to such website during each calendar year to any Type 10 licensee, providing such licensee:



- (a) Determined and maintained credit ratings for at least 10% of the issued securities and money market instruments for which it accessed information pursuant to this paragraph in the previous calendar year, if it accessed such information for ten or more issued securities or money market instruments; or
 - (b) Has not accessed information pursuant to this paragraph ten or more times during the previous calendar year.
40. Licensed or registered persons maintaining such a website should obtain from the issuer, sponsor, or underwriter of all such securities or money market instruments, a written representation that can reasonably be relied upon that the issuer, sponsor, or underwriter will:
- (a) Maintain on a password-protected website information (which currently should be relied on to determine or monitor the credit rating) about the characteristics of the assets underlying or referenced by such securities or money market instruments, the legal structure of the securities or money market instruments, and the characteristics and performance of the assets underlying or referenced by the securities or money market instruments; and
 - (b) Provide free and unlimited access to such website during each calendar year to any Type 10 licensee, providing such licensee:
 - (i) Determined and maintained credit ratings for at least 10% of the issued securities and money market instruments for which it accessed information pursuant to this paragraph in the previous calendar year, if it accessed such information for ten or more issued securities or money market instruments; or
 - (ii) Has not accessed information pursuant to this paragraph ten or more times during the previous calendar year.

Representatives' Independence

- 41. Reporting lines for representatives, and their compensation arrangements, should be structured to eliminate or effectively manage actual and potential conflicts of interest.
- 42. A licensed or registered person's code of conduct should state that a representative will not be compensated or evaluated on the basis of the amount of revenue that the licensed or registered person derives from rated entities that the representative rates or with which the representative regularly interacts.
- 43. A licensed or registered person (or its related corporation) should conduct formal and periodic reviews of compensation policies and practices for its representatives who participate in or who might otherwise have an effect on the rating process to ensure that these policies and practices do not compromise the objectivity of its rating process.
- 44. Representatives who are directly involved in the rating process should not initiate, or participate in, discussions regarding fees or payments with any entity they rate.



45. No licensed or registered person (or its representative) should prepare (or participate in or otherwise influence the determination of) a rating of any particular rating target) if the licensed or registered person (or its representative, as applicable):
 - (a) Owns securities or derivatives of the rated entity, other than holdings in collective investment schemes;
 - (b) Owns securities or derivatives of any entity related to a rated entity, the ownership of which may cause or may be perceived as causing a conflict of interest, other than holdings in collective investment schemes;
 - (c) Has had a recent employment or other significant business relationship with the rated entity that may cause or may be perceived as causing a conflict of interest;
 - (d) Has an immediate relation (i.e. a spouse, partner, parent, child, or sibling) who currently works for the rated entity; or
 - (e) Has, or had, any other relationship with the rated entity or any related entity thereof that may cause or may be perceived as causing a conflict of interest.
46. A representative involved in the rating process (or his/her spouse, partner, minor children or account controlled by the representative in which the representative has a beneficial interest) should not buy or sell or engage in any transaction in any securities or derivative based on securities issued, guaranteed, or otherwise supported by any entity within such representative's area of primary analytical responsibility, other than holdings in collective investment schemes.
47. Without prejudice to paragraph 2.4 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission, representatives and employees of a licensed or registered person should be prohibited from soliciting money, gifts or favours from anyone with whom the licensed or registered person does business and should be prohibited from accepting gifts offered in the form of cash or any gifts exceeding a minimal monetary value.
48. Any representative who becomes involved in any personal relationship that creates the potential for any real or apparent conflict of interest (including, for example, any personal relationship with an employee of a rated entity or agent of such entity within his or her area of analytic responsibility), should be required to disclose such relationship to the compliance officer or responsible officer of the licensed or registered person designated for such purpose by the licensed or registered person's compliance policies.
49. A licensed or registered person should establish policies and procedures for reviewing the past work of representatives that leave the employ of the licensed or registered person and join an issuer the representative has been involved in rating, or a financial firm with which the representative has had significant dealings as part of his or her duties as a representative or employee of the licensed or registered person.



Part 3 - Responsibilities To The Investing Public and Issuers

Transparency and Timeliness of Ratings Disclosure

50. A licensed or registered person should ensure that its ratings and updates are distributed in a timely manner.
51. A licensed or registered person should ensure that the policies for distributing its ratings and updates are publicly disclosed.
52. A licensed or registered person should ensure that each of its ratings includes a clear indication of when the rating was first distributed and when it was last updated. Ratings of debt securities should include information on whether the credit rating concerns newly issued debt securities and whether the licensed or registered person is rating the debt securities for the first time. Each rating announcement should also indicate the principal methodology or methodology version that was used in determining the rating and where a description of that methodology can be found. Where the rating is based on more than one methodology, or where a review of only the principal methodology might cause investors to overlook other important aspects of the rating, the licensed or registered person should ensure that this fact is explained in the ratings announcement. Such explanation should include a discussion of how the different methodologies and other important aspects were factored into the rating decision.
53. A licensed or registered person should ensure that sufficient clear and easily comprehensible information is published about its procedures, methodologies and assumptions (including financial statement adjustments that deviate materially from those contained in the issuer's published financial statements and a description of the rating committee process, if applicable) to enable other parties to understand how a rating was determined. This information should include (but not be limited to) the meaning of each rating category and the definition of default or recovery, and the time horizon the licensed or registered person used when making a rating decision.
54. A licensed or registered person should disclose to what extent it has examined the quality of information used in the rating process and whether it is satisfied with the quality of information it bases its rating on.
55. Where a licensed or registered person rates a structured investment product, the licensed or registered person should ensure that the public (in the case of a rating which is made available to the public) or subscribers (in the case of a rating which is made provided only to subscribers) are provided with sufficient information about its loss and cash-flow analysis so that an investor allowed to invest in the product can understand the basis for the rating. A licensed or registered person should also ensure disclosure of the degree to which it analyzes how sensitive a rating of a structured investment product is to changes in the licensed or registered person's underlying rating assumptions.
56. A licensed or registered person should differentiate ratings of structured investment products from traditional corporate bond ratings, preferably through a different rating symbology or by using an additional symbol which differentiates them from rating categories used for other rating targets. A licensed or registered person should also disclose how this differentiation functions. A licensed or registered person should clearly



define a given rating symbol and apply it in a consistent manner for all types of debt securities to which that symbol is assigned.

57. A licensed or registered person should assist investors in developing a greater understanding of what a credit rating is, and the limits to which credit ratings can be put to use vis-à-vis a particular type of financial product that the licensed or registered person rates. A licensed or registered person should clearly indicate the attributes and limitations of each credit rating, and the limits to which the licensed or registered person verifies information provided to it by the rated entity.
58. When issuing or revising a credit rating, the licensed or registered person should explain in its press releases and reports the key elements underlying the rating.
59. Where feasible and appropriate, prior to issuing or revising a rating, the licensed or registered person should inform the issuer of the critical information and principal considerations upon which a rating will be based and afford the issuer an opportunity to clarify any likely factual misperceptions or other matters that the licensed or registered person would wish to be made aware of in order to produce an accurate rating. A licensed or registered person will duly evaluate the response. Where in particular circumstances the licensed or registered person has not informed the issuer prior to issuing or revising a rating, the licensed or registered person should inform the issuer as soon as practical thereafter and, generally, should explain the reason for the delay.
60. In order to promote transparency and to enable the market to best judge the performance of the ratings, a licensed or registered person should, where sufficient historical data exists, publish information about the historical default rates of rating categories and about ratings transition frequency. In addition, a licensed or registered person should disclose whether the default rates of rating categories have changed over time. The information should be sufficient to help interested parties understand the historical performance of each category, as well as whether and how rating categories have changed. It should also help interested parties draw quality comparisons among ratings given by different licensed or registered persons. If the nature of the rating or other circumstances make a historical default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the rating, the licensed or registered person should explain this. This information should include verifiable, quantifiable historical information about the performance of its rating opinions, organized and structured, and, where possible, standardized in such a way to assist investors in drawing performance comparisons between different providers of credit rating services.
61. A licensed or registered person should state prominently in each credit rating whether or not the rated entity or any related entity thereof participated in the credit rating process, and (for an unsolicited rating) whether the licensed or registered person had access to the accounts and other relevant internal documents of the rated entity or its related third party. A licensed or registered person should also disclose its policies and procedures regarding unsolicited ratings.
62. Because users of credit ratings rely on an existing awareness of a licensed or registered person's methodologies, practices, procedures and processes, the licensed or registered person should fully and publicly disclose any material modification to its methodologies and significant practices, procedures, and processes. Where feasible and appropriate, disclosure of such material modifications should be made prior to their going into effect. A licensed or registered person should carefully consider the various uses of credit ratings



before modifying its methodologies, practices, procedures and processes. When methodologies, models or key rating assumptions used in preparing any of its credit ratings are changed, a licensed or registered person should immediately disclose the likely scope of credit ratings to be affected by using the same means of communication as was used for the distributions of the affected credit ratings.

The Treatment of Confidential Information

63. A licensed or registered person should adopt procedures and mechanisms to protect the confidential nature of information shared with them by issuers under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially. Unless otherwise permitted by the confidentiality agreement and consistent with applicable laws or regulations, the licensed or registered person (or its representatives, as applicable) should not disclose confidential information in press releases, through research conferences, to future employers, or in conversations with investors, other issuers, other persons, or otherwise.
64. A licensed or registered person should use confidential information only for purposes related to its rating activities or in accordance with any confidentiality agreements with the issuer.
65. A licensed or registered person should take all reasonable measures to protect all property and records belonging to or in its possession from fraud, theft or misuse.
66. Licensed or registered persons should prohibit their representatives and employees from engaging in transactions in securities when they possess confidential information concerning the issuer of such securities. A representative (or his/her spouse, partner, minor children or account controlled by the representative in which the representative has a beneficial interest) should not engage in transactions in securities when the representative possesses confidential information concerning the issuer of such securities.
67. In preservation of confidential information, representatives of licensed or registered persons should familiarize themselves with the internal securities trading policies maintained by the licensed or registered person, and periodically certify their compliance as required by such policies.
68. A licensed or registered person should not selectively disclose any non-public information about ratings or possible future issue or revision of ratings of the licensed or registered person, except to the issuer or its designated agents.
69. A licensed or registered person should not share confidential information entrusted to it with employees of any affiliated entities that are not regulated credit rating agencies. Representatives should not share confidential information with other representatives or employees of the licensed or registered person or of any affiliated entities except on an “as needed” basis and as permitted under any relevant confidentiality agreement.
70. A licensed or registered person should ensure that its representatives and employees do not use or share confidential information for the purpose of trading securities, or for any other purpose except carrying on Type 10 regulated activity.



Part 4 - Disclosure Of The Code Of Conduct And Communication With Market Participants

71. A licensed or registered person should have its own code of conduct and should disclose it to the public and describe how its provisions fully implement the provisions of this Code. If a licensed or registered person's code of conduct deviates from this Code, the licensed or registered person should explain where and why these deviations exist, and how any deviations nonetheless achieve the objectives contained in this Code. A licensed or registered person should also describe generally how it intends to enforce its code of conduct and should disclose on a timely basis any changes to its code of conduct or how it is implemented and enforced.
72. A licensed or registered person should establish a function within its organization (or that of its affiliates) charged with communicating with market participants and the public about any questions, concerns or complaints that the licensed or registered person may receive. The objective of this function should be to help ensure that the licensed or registered person's officers and management are informed of those issues that they would want to be made aware of when setting the organization's policies.
73. A licensed or registered person should publish in a prominent position on its home webpage links to: (a) the licensed or registered person's code of conduct; (b) a description of the methodologies it uses; and (c) information about the licensed or registered person's historic ratings performance data, or that of its corporate group.



Appendix C

Guidelines on Competence

Draft list of Recognized Industry Qualifications and Local Regulatory Framework Papers for Type 10 regulated activity

Table 1 – Recognized Industry Qualifications and Local Regulatory Framework Papers by Regulated Activities (Responsible Officer)

RA	Country	Recognized Industry Qualifications	Local Regulatory Framework Papers
10	Hong Kong	<ul style="list-style-type: none">- HKSI LE Paper 7 + new industry paper- HKSI PDFM Modules 1+2+3+6+7	<ul style="list-style-type: none">- HKSI LE Paper 1[*] + new regulatory paper- HKSI PDFM Modules 4+5

Note: ^{*} Not required for a licensed representative applying to be a responsible officer.

Table 2 – Recognized Industry Qualifications and Local Regulatory Framework Papers by Regulated Activities (Representative)

RA	Country	Recognized Industry Qualifications	Local Regulatory Framework Papers
10	Hong Kong	<ul style="list-style-type: none">- HKSI LE Paper 7 + new industry paper- HKSI PDFM Modules 1+2+3+6+7	<ul style="list-style-type: none">- HKSI PDFM Modules 4+5- HKSI LE Paper 1

Note: Qualifications and exams that are shaded are also applicable to responsible officer.



Appendix D

List of Questions

- Q1** Is it appropriate for Hong Kong to subject CRAs to a regulatory oversight regime consistent with international developments?
- Q2** Should regulatory oversight of CRAs be achieved by extending the existing licensing regime under the SFO to CRAs and those of their staff who perform regulated functions?
- Q3** Do our draft amendments to the SFO effectively distinguish “providing credit rating services” from “advising on securities”?
- Q4** Should the proposed new licensing requirement apply to the rating of sukuk?
- Q5** Should the following activities be excluded from the proposed new licensing requirement:
- (a) preparing credit ratings for an organization’s internal purposes;
 - (b) preparing private credit ratings; and
 - (c) sharing or analyzing consumer or commercial credit data (such as through consumer or commercial credit reference agencies)?
- Q6** Further to question 5, do our draft amendments to the SFO effectively exclude these activities from the proposed new licensing requirement?
- Q7** Are the proposed paid-up share capital and liquid capital requirements for Type 10 regulated activity appropriate?
- Q8** Does the CRA Code of Conduct satisfactorily set out the factors that should guide CRAs in the conduct of their business and which should be relied upon by the SFC in considering whether a person is, or remains, fit and proper to be licensed or registered for Type 10 regulated activity?
- Q9** Should persons licensed or registered for Type 10 regulated activity be permitted to be licensed or registered for other types of regulated activity?
- Q10** Should persons licensed or registered for Type 10 regulated activity be subject to a sole business restriction?
- Q11** Is the draft list of Recognized Industry Qualifications and Local Regulatory Framework Papers for Type 10 regulated activity appropriate?
- Q12** Are the proposed transitional arrangements appropriate?