



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

Consultation Paper on the Draft Guidelines on Good Disclosure of Securities Services Related Fees and Charges

Hong Kong
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FOREWORD

This Consultation Paper invites comments from the public on the Draft Guidelines on Good Disclosure of Securities Services Related Fees and Charges (the “Guidelines”) at Attachment 1 to this Paper. The Guidelines set forth the best practice for intermediaries to disclose securities services related fees and charges by categorizing them in a standardized structure, supplemented by an illustrative example, so as to promote fair competition, pricing transparency and comparability of fees and charges among service providers, and therefore enable investors to make informed choices.

The Securities and Futures Commission (the “Commission”) invites interested parties to submit written comments on the proposals discussed in this Consultation Paper and the Guidelines, and to comment on related matters that might have a significant impact upon the proposals, **no later than 30 November 2003**.

All comments from the public will be carefully considered before the Guidelines are finalized. A summary conclusion will be published after the end of the consultation period.

Any persons wishing to comment on the proposals should provide details of any organization whose views they represent. Please note that the names of the commentators and the contents of their submissions may be published on the Commission’s website and in other documents to be published by the Commission. In this connection, please read the Personal Information Collection Statement at Attachment 2 to this Consultation Paper.

You may not wish your name to be published by the Commission. If this is the case, please state that you wish your name to be withheld from publication when you make your submission.

Written comments may be sent:

By mail to: Intermediaries and Investment Products Division
The Securities and Futures Commission
8/F Chater House
8 Connaught Road Central
Hong Kong

By fax to: (852) 2293 5981

By on-line submission: <http://www.hksfc.org.hk>

By e-mail to: fees_and_charges@hksfc.org.hk

For further information, please contact the Intermediaries and Investment Products Division at (852) 2283 6844.

Additional copies of the Consultation Paper may be obtained from the above address of the Commission. A copy of this Paper can also be found on the Commission's website at <http://www.hksfc.org.hk>.

Consultation Paper on the Draft Guidelines on Good Disclosure of Securities Services Related Fees and Charges

BACKGROUND

1. The issuance of this Consultation Paper is to implement the recommendations made by the Working Group on the Business Environment of the Stock-broking Industry (the “WGBE”)⁽¹⁾. In the report submitted to the Secretary for Financial Services and the Treasury on 15 April 2003, the WGBE recommended, inter alia, that the Commission and the Hong Kong Monetary Authority (the “HKMA”) should continue to monitor rigorously the disclosure by brokers and banks of fees and charges on their securities trading services.
2. As revealed by a survey report published by the Consumer Council on 17 February 2003, there are over 70 types of fees and charges applicable to the use of securities related services, which can be confusing. They cover commission, stock settlement fees, and fees on account maintenance, transfer, deposit or withdrawal of stocks, and registration and scrip fees. The vast variety of fees and charges is such that it is difficult for the investing public to understand the circumstances in which fees and charges are imposed and to compare fees and charges of different intermediaries. Differences in nomenclature adopted by brokers and banks add to the confusion of investors. For example, according to the report, banks generally charge a custody fee for providing share custodial services and deposit fees for transferring shares into a securities trading account, while brokers do not impose such fees and charges. On the other hand, brokers usually recover from their clients the scrip fees charged by the Central Clearing and Settlement System (the “CCASS”) of the Hong Kong Exchanges and Clearing Limited (the “HKEx”), while most banks do not impose such fees and charges.
3. One of the Commission’s regulatory objectives is to maintain and promote a fair, transparent and orderly market where intermediaries are free to offer various types of services and where investors are able to make informed choices. The Commission shares the views of the WGBE that an effective means to promote competition is to facilitate free flow and transparency of information in the market on the nature of services provided by intermediaries and fees and charges for such services in order for investors to compare and choose the services of

⁽¹⁾ On 15 January 2003, the Secretary for Financial Services and the Treasury announced the establishment of the Working Group on the Business Environment of the Stock-broking Industry to examine with the local stock-broking industry ways to enhance the competitiveness of the small and medium sized brokerage firms, and asked the WGBE to submit to him a report in three months’ time. The WGBE comprises representatives from the Financial Services and the Treasury Bureau, the Securities and Futures Commission and the Hong Kong Exchanges and Clearing Limited.

different intermediaries.

4. In this connection, the WGBE has recommended that the Commission and the HKMA work with the industry to standardize the broad categories of more than 70 items of fees and charges in the market. The reason for standardizing the broad categories instead of limiting the number of fees and charges is to provide flexibility for intermediaries as they structure and organize their services now and into the future. The Commission acknowledges that such standardization will help promote fair competition, pricing transparency and comparability of fees and charges among service providers. It can help intermediaries explain to their clients how they should compare fees and charges among service providers and therefore enable investors to make informed choices.
5. Against the above background, the Commission formed the Working Group on Categorization of Fees and Charges Relating to Securities Services (the “Working Group”) with representatives from four stock-broking industry associations and one trade union⁽²⁾ in May 2003. The Working Group’s objective is to classify securities services related fees and charges into broad and standardized categories and decide how the Guidelines in this respect should be structured and implemented.
6. After a number of meetings, the Working Group reached general consensus on how securities services related fees and charges should be categorized and how the proposed categorization should be set out in the Guidelines and implemented by intermediaries. The Commission also sought the views of the HKMA and received its endorsement of the proposed categorization and implementation approach, as set out in the Guidelines.

CODE OF CONDUCT REQUIREMENTS

7. Intermediaries are expected to observe the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (the “Code of Conduct”) in their dealings with clients. The Code of Conduct provides that a licensed or registered person should act honestly, fairly, and in the best interests of its clients and the integrity of the market. A licensed or registered person should also make adequate disclosure of relevant material information in its dealings with its clients.

⁽²⁾ The representatives are from:
Hong Kong Stockbrokers Association Limited;
Hong Kong Securities Professionals Association;
Institute of Securities Dealers Limited;
Hong Kong Association of Online Brokers; and
Hong Kong Securities and Futures Industry Staff Union.

Therefore, irrespective of the release of the Guidelines, intermediaries are expected under the Code of Conduct to make full and accurate disclosure of information to clients.

PRINCIPLES OF GOOD DISCLOSURE

8. Intermediaries are expected to observe the general principles of good disclosure in their dealings with clients. In essence, the disclosure should:
 - be timely, relevant and complete;
 - highlight important information;
 - promote product understanding and comparability; and
 - have regard to the needs of clients.

9. In respect of the disclosure of securities services related fees and charges, intermediaries should follow the general principles of good disclosure and adopt the following practice:
 - *Pre-contractual disclosure* – A client should have access to all relevant information on applicable fees and charges including (a) charging rates, (b) any maximum or minimum amounts charged, (c) timing when such fees and charges are incurred and (d) all relevant factors impacting on the level of fees and charges.
 - *Notice of changes* – A client should be provided with sufficient advance notice in relation to any changes made to fees and charges.

ABOUT THE GUIDELINES

Scope of application of the Guidelines

10. The Guidelines will be issued under section 399 of the Securities and Futures Ordinance (the “SFO”) (Cap. 571) and is expected to take effect from 1 April 2004. They set out the recommended best practice for disclosure of securities services related fees and charges provided by all licensed corporations and registered institutions to their clients other than professional investors as defined in Part 1 of Schedule 1 of the SFO. Professional investors are excluded from the application of the Guidelines on consideration that they are generally regarded as more

capable of protecting their own interests when they use securities related services provided by intermediaries.

11. The Guidelines do not have the effect of law and as such, they will not affect the requirements under the SFO and any rules, codes and guidelines made there under.

Summary of recommended disclosure

12. In summary, the Guidelines (at Attachment 1 to this Consultation Paper) propose to:
 - standardize the format for disclosure of securities services related fees and charges by intermediaries into six broad categories. The definition for each category is defined in the Categorization Schedule at Appendix 1 to the Guidelines;
 - encourage intermediaries to group all fees and charges applicable to their own securities related services into the above six categories and disclose them to clients in accordance with the Sample Fees and Charges Disclosure Sheet at Appendix 2;
 - encourage intermediaries to also provide an Illustrative Example showing how fees and charges are calculated and when such fees and charges are levied under six prescribed scenarios set out in the Sample Illustrative Example at Appendix 3;
 - encourage intermediaries to follow certain recommended mode of dissemination and disclosure of securities services related fees and charges to clients;
 - encourage intermediaries to give clients advance written notice of at least 30 days in relation to any changes made to securities services related fees and charges and, at the same time, provide new Fees and Charges Disclosure Sheet and new Illustrative Example, where applicable, to clients;
 - entitle intermediaries to claim compliance with the Guidelines by issuing a Compliance Statement as set out in the Guidelines after satisfying all the requirements stated in the Guidelines; and
 - encourage intermediaries to give clients advance written notice of at least 30 days should they elect to cease following the Guidelines.

Categorization of fees and charges

13. The Guidelines propose that securities services related fees and charges

should be grouped into six broad categories according to the Categorization Schedule. The sample constituent items listed in the Categorization Schedule are illustrative and not meant to be exhaustive. The six categories are:

- *Trade-related* – This covers the fees and charges relating to execution of trades.
- *Scrip Handling and Settlement-related* – This covers the fees and charges relating to handling of physical scrip and settlement of securities.
- *Information Services* – This covers the fees and charges for provision of information about the market and other communication fees and charges.
- *Account Maintenance* – This covers the fees and charges for maintenance of a client’s securities trading account (other than financing charges which are included in a separate category below).
- *Nominee Services and Corporate Actions* – This covers the fees and charges for nominee services and those arising from corporate actions.
- *Financing Charges and Others* – This covers financing fees and charges relating to provision of securities related services and other miscellaneous fees and charges.

14. The Guidelines recommend that securities services related fees and charges should not be bundled. Instead, each item should be separately entered into one and only one of the above categories, as appropriate. In case an intermediary charges a client for any fees and charges that are not separately listed as examples of constituent items under the Categorization Schedule, it should still list these items of fees and charges under any one of the six categories, as appropriate. In case any one of the six categories is not applicable to an intermediary, it should be clearly marked as such in the Fees and Charges Disclosure Sheet provided to clients.
15. Where an intermediary imposes on clients a particular item of fees and charges that is applicable not solely to securities related services but also to other services offered by the intermediary and the details of such fees and charges have been set out in another schedule (“Other Schedule”) provided to all affected clients, the intermediary may make cross reference in the Fees and Charges Disclosure Sheet to Other Schedule. The recommended mode of disclosure described elsewhere in the Guidelines remains valid.

Collection of fees and charges on behalf of third parties

16. Under the Guidelines, where an intermediary collects securities services related fees and charges on behalf of third parties, it may disclose such fact in the Fees and Charges Disclosure Sheet. For the avoidance of doubt, this disclosure is optional in relation to an intermediary's claim of compliance with the Guidelines.

Examples of such fees and charges are:

- Transaction Levy payable to the Commission;
- Investor Compensation Levy payable to the Investor Compensation Fund;
- Trading Fees and Tariffs payable to the HKEx; and
- Stamp Duty payable to the HKSAR Government.

Illustrative Example under certain prescribed scenarios

17. The Guidelines propose that, in addition to providing a client with a Fees and Charges Disclosure Sheet, an intermediary should provide the client with an Illustrative Example showing how fees and charges are calculated and when such fees and charges are levied. For the purposes of the illustration, an intermediary should show the computation of its fees and charges by (a) assuming a transaction of 25 board lots (or 25,000 shares) at \$1 each for each of the following six prescribed scenarios and (b) using actual charging rates and amounts applicable to its own securities related services.

- Stock purchases;
- Overdue settlement on cash trading account;
- Dividend distribution;
- Placing of stocks for safe custody;
- Physical scrip withdrawal; and
- Sale of physical scrip.

Recommended mode of disclosure

18. It is recommended that the Fees and Charges Disclosure Sheet and Illustrative Example should be in English or Chinese according to the language preference of clients.
19. It is further recommended that the Fees and Charges Disclosure Sheet and Illustrative Example should be displayed in a prominent place at an intermediary's office premises and each of its branches, where applicable. Should an intermediary have a website, it is recommended that these documents should also be posted on the website. An intermediary should ensure that the documents so posted are up-to-date and reflect fees and charges relevant at the time of display and posting, as appropriate.
20. Where an intermediary makes any changes to its fees and charges, it is recommended that it should give advance written notice of at least 30 days to its clients and, at the same time, provide new Fees and Charges Disclosure Sheet and new Illustrative Example, where applicable, to clients. These documents should be displayed at and posted on the intermediary's office premises and each of its branches and website, as appropriate.
21. In addition to the above general disclosure, an intermediary is recommended to make specific disclosure to its clients of all applicable fees and charges and their subsequent changes. For new clients, it is recommended that an intermediary attach the Fees and Charges Disclosure Sheet and Illustrative Example to client agreements at the time of account opening. For existing clients, it is recommended that, upon observance of the Guidelines, an intermediary should send the Fees and Charges Disclosure Sheet and Illustrative Example to its clients when it sends its clients their next monthly statements of account.

Claim of compliance with the Guidelines

22. To encourage compliance with the Guidelines, it is recommended that an intermediary who satisfies all the requirements specified under the Guidelines shall have the right to issue the following Compliance Statement in the Fees and Charges Disclosure Sheet or other marketing materials:

[Name of intermediary] has disclosed the fees and charges in relation to the securities related services provided to clients in compliance with the Guidelines on Good Disclosure of Securities Services Related Fees and Charges issued by the Securities and Futures Commission.

23. It follows that an intermediary who does not satisfy all the requirements specified under the Guidelines shall not be entitled to claim compliance with the Guidelines. It is considered that this approach will differentiate intermediaries who have followed and those who have not followed the Guidelines in their disclosure of fees and charges to clients. The Working Group envisages that market forces will gradually drive most intermediaries to adhere to the recommended best practice set forth in the Guidelines.
24. Should an intermediary claim compliance with the Guidelines before satisfying all the requirements under the Guidelines, the Commission will undertake a review of the intermediary's fitness and properness to remain licensed by or registered with the Commission and take appropriate disciplinary action.
25. Should an intermediary subsequently elect not to follow the Guidelines in its disclosure of fees and charges to its clients, it should give clients advance written notice of at least 30 days.

IMPLEMENTATION APPROACH

26. The Working Group has carefully considered whether the Guidelines should be made mandatory requirements, or merely "best practice" for the industry. In order to provide flexibility to intermediaries so that they can opt for their own desired model of disclosure of fees and charges to clients, the Working Group prefers to adopt the latter approach. In other words, intermediaries may elect to comply or not comply with the Guidelines, or selectively adopt the recommended model of disclosure in a liberal fashion.
27. It should, however, be noted that irrespective of the extent of compliance with the Guidelines, all intermediaries are required to observe the principles of good disclosure enshrined in the Guidelines and standard of conduct expected of intermediaries in their dealings with clients under the existing Code of Conduct.
28. Should intermediaries elect not to follow the Guidelines, they are still required to satisfy the Commission or the HKMA that alternative procedures and practice are in place to achieve the same standard of pricing transparency and comparability of securities services related fees and charges.
29. While compliance of the Guidelines is not mandatory, non-compliance of the Guidelines is a piece of relevant material information that should

be provided to clients under the Code of Conduct. It is therefore proposed that should an intermediary elect not to follow the Guidelines, it is required to disclose such fact by way of statement in writing to new clients at the time of account opening, and to existing clients in their monthly statements of account. However, we do not have a position as to whether it should be an ongoing requirement for an intermediary to disclose its non-compliance with the Guidelines to its clients in their monthly statements of account, or just once, in their next monthly statements of account. In the Guidelines at Attachment 1, we have tentatively adopted the position of ongoing disclosure requirement on the basis that this will enhance investors' awareness of the practice of disclosure of fees and charges of an intermediary, hence enabling investors to make more informed choices. However, we are also cognizant of the business impacts and costs implied if this requirement is to be made ongoing instead of one-off. We therefore invite views from the public on the proposal. Once a view is formed, for the sake of avoidance of doubt, it is recommended that consequential changes shall be made to the Code of Conduct to reflect the proposed requirement.

FURTHER INITIATIVES

30. In tandem with the issuance of the Guidelines, the Commission will, as recommended by the WGBE, step up its publicity efforts to educate investors so that they will be better placed to understand and compare fees and charges levied by intermediaries.
31. In addition, the Commission will continue to monitor developments and issue further industry guidelines, where appropriate.

COMMENTS SOUGHT ON THIS CONSULTATION

32. The Commission would like to seek comments from the public on the above recommendations and in particular, the following:

Question 1:

Do you agree with the proposed approach that the Guidelines merely represent best industry practice which intermediaries are free to follow or not? If not, please advise why you think the Guidelines should be treated as mandatory requirements instead.

Question 2:

Do you think that the proposed categories under the Categorization

Schedule are appropriate and have captured all the broad categories of fees and charges for provision of securities related services by intermediaries? If not, please suggest alternative categorizations.

Question 3:

Do you think that giving, under each categorization, examples of constituent items of fees and charges is useful and would guide intermediaries in determining whether any particular fees and charges fall within the category? If not, please suggest alternative guidance that could be provided.

Question 4:

Do you consider that the six prescribed scenarios under the Sample Illustrative Example reflect the typical situations under which fees and charges are levied for securities related services provided by intermediaries? If not, please suggest what other scenarios should be included in the Sample Illustrative Example.

Question 5:

Do you agree with the proposal that intermediaries should not claim compliance with the Guidelines unless they satisfy all the requirements set out in the Guidelines? If not, please suggest alternative approaches for distinguishing intermediaries who comply and those who do not comply with the Guidelines.

Question 6:

In summary, to what extent do you agree that the recommended model of disclosure under the Guidelines will help promote fair competition, pricing transparency and comparability of securities services related fees and charges and therefore enable investors to make informed choices when choosing the services of different intermediaries?

Question 7:

To what extent do you agree that should an intermediary elect not to follow the Guidelines, it is required to disclose such fact to clients according to the description in paragraph 29, and that this shall be a mandatory requirement under the Code of Conduct?

Question 8:

What is your view as to whether an intermediary should disclose its

non-compliance with the Guidelines by way of statement in writing in its monthly statements of accounts to clients for so long as it does not follow the Guidelines, or just once, in their next monthly statements of account to clients?

Attachment 1

Draft Guidelines on Good Disclosure of Securities Services Related Fees and Charges (the “Guidelines”)

INTRODUCTION

1. The Guidelines are issued by the Securities and Futures Commission (the “Commission”) under section 399 of the Securities and Futures Ordinance (the “SFO”) (Cap. 571) and carry the endorsement of the Hong Kong Monetary Authority (the “HKMA”).
2. The Guidelines aim to promote good disclosure and transparency of information in the market on the nature of services provided by intermediaries and fees and charges for such services in order for investors to compare and choose the services of different intermediaries.
3. Under the Guidelines, securities services related fees and charges are grouped into broad categories using standardized definition for each category. The reason for standardizing the broad categories instead of limiting the number of fees and charges is to provide flexibility for intermediaries as they structure and organize their services now and into the future. It is considered that such standardization will help promote fair competition, pricing transparency and comparability of fees and charges among service providers. It can help intermediaries explain to clients how they should compare fees and charges among service providers and therefore enable investors to make informed choices.

IMPLEMENTATION APPROACH

4. The Guidelines are not mandatory requirements but “best practice” for the industry. Intermediaries are strongly encouraged to comply with the Guidelines. Should they fully satisfy all the requirements listed in the Guidelines, they are entitled to claim compliance with the Guidelines.
5. As compliance with the Guidelines is not mandatory, intermediaries may elect to comply or not comply with the Guidelines, or selectively adopt the recommended model of disclosure under the Guidelines in a liberal fashion. It should, however, be noted that irrespective of the extent of compliance with the Guidelines, intermediaries are required to observe the general principles of good disclosure enshrined in the Guidelines and

standard of conduct expected of intermediaries in their dealings with clients under the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (the “Code of Conduct”).

6. Should intermediaries elect not to follow the Guidelines, they are still required to satisfy the Commission or the HKMA that alternative procedures and practice are in place to achieve the same standard of pricing transparency and comparability of securities services related fees and charges. In addition, as non-compliance with the Guidelines is a piece of relevant material information for clients under the Code of Conduct, intermediaries are required to disclose such fact by way of a statement in writing to new clients at the time of account opening, and to existing clients in their monthly statements of account for so long as they do not follow the Guidelines.

SCOPE OF APPLICATION

7. The Guidelines set out the recommended best practice for disclosure of securities services related fees and charges provided by all licensed corporations and registered institutions to their clients other than professional investors as defined in Part 1 of Schedule 1 of the SFO. Professional investors are excluded from the application of the Guidelines on consideration that they are generally regarded as more capable of protecting their own interests when they use securities related services provided by intermediaries
8. The Guidelines do not have the effect of law and as such, they will not affect the requirements under the SFO and any rules, codes and guidelines made there under.

EFFECTIVE DATE OF IMPLEMENTATION

9. The Guidelines come into effect on 1 April 2004.

DEFINITIONS AND INTERPRETATIONS

10. The definitions of the terms used in the Guidelines are as follows:

“Category”, means any one of the six broad categories in the Categorization Schedule.

“Categorization Schedule”, means the Categorization Schedule at

Appendix 1 to the Guidelines.

“CCASS”, means the Central Clearing and Settlement System of the Hong Kong Exchanges and Clearing Limited.

“Client”, does not include a professional investor and other than this exclusion, has the meaning assigned to it in Part 1 of Schedule 1 of the Securities and Futures Ordinance, and includes either a new or an existing client of an intermediary.

“Code of Conduct”, means the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

“Commission” means the Securities and Futures Commission.

“Common Constituent Fees and Charges”, means the constituent items of fees and charges listed as samples under a Category in the Categorization Schedule.

“Compliance Statement”, means the following statement declaring compliance with the Guidelines in an intermediary’s Fees and Charges Disclosure Sheet or other marketing materials:

“[Name of intermediary] has disclosed the fees and charges in relation to the securities related services provided to clients in compliance with the Guidelines on Good Disclosure of Securities Services Related Fees and Charges issued by the Securities and Futures Commission”.

“Fees and charges”, means all payments made by clients in exchange for securities related services provided by intermediaries and such payments include (a) Common Constituent Fees and Charges and (b) those constituent items of fees and charges not so listed as samples under each Category in the Categorization Schedule.

“Fees and Charges Disclosure Sheet”, means a written information sheet, in either hard copy or electronic form, which discloses all applicable fees and charges for provision of securities related services to clients in accordance with the format prescribed under the Guidelines. A Sample Fees and Disclosure Sheet is provided at Appendix 2 to the Guidelines.

“Guidelines”, means the Guidelines on Good Disclosure of Securities Services Related Fees and Charges issued by the Commission.

“HKEx”, means the Hong Kong Exchanges and Clearing Limited.

“HKSAR Government”, means the Hong Kong Special Administrative Region Government.

“Illustrative Example”, means an illustrative example showing how fees and charges are calculated and when such fees and charges are levied under six prescribed scenarios set out in the Sample Illustrative Example at Appendix 3 to the Guidelines.

“Intermediary”, has the meaning assigned to it in Part 1 of Schedule 1 of the Securities and Futures Ordinance.

“Professional investors”, has the meaning assigned to it in Part 1 of Schedule 1 of the Securities and Futures Ordinance.

“Registered institution”, has the meaning assigned to it in Part 1 of Schedule 1 of the Securities and Futures Ordinance.

“Securities related services”, means the services provided by intermediaries to clients relating to any securities listed, or about to be listed, on a recognized stock market in Hong Kong, including but not limited to acquiring, disposing of, subscribing for, settlement and clearing, of securities and any activity relating thereto such as handling of securities scrip, provision of related information services, maintenance of securities trading accounts, nominee services, corporate actions and financing services, etc.

“SFO”, means the Securities and Futures Ordinance.

11. Unless stated or the context requires otherwise, any word or phrase used in the Guidelines shall be construed in accordance with the SFO.

CODE OF CONDUCT REQUIREMENTS

12. Intermediaries are expected to observe the Code of Conduct in their dealings with clients. The Code of Conduct provides that a licensed or registered person should act honestly, fairly, and in the best interests of its clients and the integrity of the market. A licensed or registered person should also make adequate disclosure of relevant material information in its dealings with its clients. Therefore, irrespective of the release of the Guidelines, intermediaries are expected under the Code of Conduct to make full and accurate disclosure of information to clients.
13. As the Guidelines are best practices that intermediaries are expected to follow, non-compliance with the Guidelines is a piece of relevant material information to clients. To comply with the Code of Conduct

requirements, intermediaries are expected to disclose such fact by way of statement in writing to new clients at the time of account opening, and to existing clients in their monthly statements of account for so long as they do not follow the Guidelines.

PRINCIPLES OF GOOD DISCLOSURE

14. Intermediaries are expected to observe the general principles of good disclosure in their dealings with clients. In essence, the disclosure should:
 - be timely, relevant and complete;
 - highlight important information;
 - promote product understanding and comparability; and
 - have regard to the needs of clients.

15. In respect of the disclosure of securities services related fees and charges, intermediaries should follow the general principles of good disclosure and adopt the following practice:
 - *Pre-contractual disclosure* - A client should have access to all relevant information on applicable fees and charges including (a) charging rates, (b) any maximum or minimum amounts charged, (c) timing when such fees and charges are incurred and (d) all relevant factors impacting on the level of fees and charges.
 - *Notice of changes* - A client should be provided with sufficient advance notice in relation to any changes made to fees and charges.

SUMMARY OF RECOMMENDED DISCLOSURE

16. In summary, intermediaries are encouraged to:
 - standardize the format for disclosure of securities services related fees and charges into six broad categories. The definition for each category is defined in the Categorization Schedule at Appendix 1 to the Guidelines;
 - group all fees and charges applicable to their own securities related services into the above six categories and disclose them to clients in accordance with the Sample Fees and Charges Disclosure Sheet at Appendix 2;
 - provide an Illustrative Example showing how fees and charges

are calculated and when such fees and charges are levied under six prescribed scenarios set out in the Sample Illustrative Example at Appendix 3;

- follow certain recommended mode of dissemination and disclosure of securities services related fees and charges to clients;
- give clients advance written notice of at least 30 days in relation to any changes made to securities services related fees and charges and, at the same time, provide new Fees and Charges Disclosure Sheet and new Illustrative Example, where applicable, to clients;
- claim compliance with the Guidelines by issuing a Compliance Statement as set out in the Guidelines after satisfying all the requirements stated in the Guidelines; and
- give clients advance written notice of at least 30 days should they elect to cease following the Guidelines.

CATEGORIZATION OF FEES AND CHARGES

17. Securities services related fees and charges should be grouped into six broad categories according to the Categorization Schedule. The sample constituent items listed in the Categorization Schedule are illustrative and not meant to be exhaustive. The six categories are:

- *Trade-related* – This covers the fees and charges relating to execution of trades.
- *Scrip Handling and Settlement-related* – This covers the fees and charges relating to handling of physical scrip and settlement of securities.
- *Information Services* – This covers the fees and charges for provision of information about the market and other communication fees and charges.
- *Account Maintenance* – This covers the fees and charges for maintenance of a client's securities trading account (other than financing charges which are included in a separate category below).
- *Nominee Services and Corporate Actions* – This covers the fees and charges for nominee services and those arising from corporate actions.
- *Financing Charges and Others* – This covers financing fees and charges relating to provision of securities related services and

other miscellaneous fees and charges.

18. Securities services related fees and charges should not be bundled. Instead, each item should be separately entered into one and only one of the categories, as appropriate. In case an intermediary charges a client for any fees and charges that are not separately listed as examples of constituent items under the Categorization Schedule, it should still list these items of fees and charges under any one of the six categories, as appropriate. In case any one of the six categories is not applicable to an intermediary, it should be clearly marked as such in the Fees and Charges Disclosure Sheet provided to clients.
19. Where an intermediary imposes on clients a particular item of fees and charges that is applicable not solely to securities related services but also to other services offered by the intermediary and the details of such fees and charges have been set out in another schedule (“Other Schedule”) provided to all affected clients, the intermediary may make cross reference in the Fees and Charges Disclosure Sheet to Other Schedule. The recommended mode of disclosure described elsewhere in the Guidelines remains valid.

COLLECTION OF FEES AND CHARGES ON BEHALF OF THIRD PARTIES

20. Where an intermediary collects securities services related fees and charges on behalf of third parties, it may disclose such fact in the Fees and Charges Disclosure Sheet. For the avoidance of doubt, this disclosure is optional in relation to an intermediary’s claim of compliance with the Guidelines.

Examples of such fees and charges are:

- Transaction Levy payable to the Commission;
- Investor Compensation Levy payable to the Investor Compensation Fund;
- Trading Fees and Tariffs payable to the HKEx; and
- Stamp Duty payable to the HKSAR Government.

ILLUSTRATIVE EXAMPLE UNDER CERTAIN PRESCRIBED SCENARIOS

21. In addition to providing a client with a Fees and Charges Disclosure Sheet, an intermediary should provide the client with an Illustrative Example showing how fees and charges are calculated and when such

fees and charges are levied. For the purposes of the illustration, an intermediary should show the computation of fees and charges by (a) assuming a transaction of 25 board lots (or 25,000 shares) at \$1 each for each of the following six prescribed scenarios set out in the Sample Illustration Example at Appendix 3 and (b) using actual charging rates and amounts applicable to its own securities related services.

- Stock purchases;
- Overdue settlement on cash trading account;
- Dividend distribution;
- Placing of stocks for safe custody;
- Physical scrip withdrawal; and
- Sale of physical scrip.

RECOMMENDED MODE OF DISCLOSURE

22. The Fees and Charges Disclosure Sheet and Illustrative Example should be in English or Chinese according to the language preference of clients.
23. Furthermore, the Fees and Charges Disclosure Sheet and Illustrative Example should be displayed in a prominent place at an intermediary's office premises and each of its branches, where applicable. Should an intermediary have a website, these documents should also be posted on the website. An intermediary should ensure that the documents so posted are up-to-date and reflect fees and charges relevant at the time of display and posting, as appropriate.
24. Where an intermediary makes any changes to its fees and charges, it should give advance written notice of at least 30 days to its clients and, at the same time, provide new Fees and Charges Disclosure Sheet and new Illustrative Example, where applicable, to clients. These documents should be displayed at and posted on the intermediary's office premises and each of its branches and website, as appropriate.
25. In addition to the above general disclosure, an intermediary should make specific disclosure to each client of all applicable fees and charges and their subsequent changes. For new clients, an intermediary should attach the Fees and Charges Disclosure Sheet and Illustrative Example to client agreements at the time of account opening. For existing clients, an intermediary should, upon observance of the Guidelines, send the Fees and Charges Disclosure Sheet and Illustrative Example to clients when it sends clients their next monthly statements of account.

CLAIM OF COMPLIANCE WITH THE GUIDELINES

26. An intermediary who satisfies all the requirements specified under the Guidelines shall have the right to issue the following Compliance Statement in its Fees and Charges Disclosure Sheet or other marketing materials:

[Name of intermediary] has disclosed the fees and charges in relation to the securities related services provided to clients in compliance with the Guidelines on Good Disclosure of Securities Services Related Fees and Charges issued by the Securities and Futures Commission.

27. It follows that an intermediary who does not satisfy all the requirements specified under the Guidelines shall not be entitled to claim compliance with the Guidelines. It is considered that this approach will differentiate intermediaries who have followed and those who have not followed the Guidelines in their disclosure of fees and charges to clients.
28. Should an intermediary claim compliance with the Guidelines before satisfying all the requirements under the Guidelines, the Commission will undertake a review of the intermediary's fitness and properness to remain licensed by or registered with the Commission and take appropriate disciplinary action.
29. Should an intermediary subsequently elect not to follow the Guidelines in its disclosure of fees and charges to its clients, it should give clients advance written notice of at least 30 days.

REVIEW OF THE GUIDELINES

30. The Commission will continue to monitor developments and issue further industry guidelines, where appropriate.

Categorization Schedule

Under the Guidelines for Good Disclosure of Securities Services Related Fees and Charges issued by the Securities and Futures Commission, intermediaries are encouraged to provide to clients a “Fees and Charges Disclosure Sheet” showing all applicable securities services related fees and charges grouped under six broad categories of fees and charges.

The six broad categories of fees and charges and the sample constituent items under each Category are set out below. The sample constituent items are illustrative and not meant to be exhaustive.

(A) Trade-related

Definition:

This covers the fees and charges relating to execution of trades.

Common Constituent Fees and Charges:

1. Brokerage commission;
2. Transaction Levy payable to the Securities and Futures Commission;
3. Investor Compensation Levy payable to the Investor Compensation Fund;
4. Trading Fee payable to the HKEx;
5. Trading Tariff payable to the HKEx; and
6. Stamp Duty payable to the HKSAR Government.

(B) Scrip Handling and Settlement-related

Definition:

This covers the fees and charges relating to handling of physical scrip and settlement of securities.

Common Constituent Fees and Charges:

1. CCASS stock settlement fee;
2. Money settlement fee (Delivery versus Payment, Real Time Delivery versus Payment, etc);
3. Physical scrip deposit;
4. Physical scrip withdrawal;
5. Deposit transaction charge (for buy transactions);

6. Settlement Instruction;
7. Investor Settlement Instruction; and
8. Compulsory share buy-back.

(C) Information Services

Definition:

This covers the fees and charges for provision of information about the market and other communication fees and charges.

Common Constituent Fees and Charges:

1. Real-time price quotes; and
2. Short message services (“SMS”).

(D) Account Maintenance

Definition:

This covers the fees and charges for maintenance of a client’s securities trading account (other than financing charges which are included in a separate category below).

Common Constituent Fees and Charges:

1. Custodial services;
2. Dormant account; and
3. Stock segregated account with CCASS statement.

(E) Nominee Services and Corporate Actions

Definition:

This covers the fees and charges for nominee services and those arising from corporate actions.

Common Constituent Fees and Charges:

1. Scrip fee (at book-close dates / deemed book-close dates);
2. Collection of cash / scrip dividend;
3. Collection of bonus issue;
4. Rights issue entitlement charge;

5. Exercise rights;
6. Excess rights application;
7. Takeover;
8. Privatization;
9. Share consolidation / split;
10. Convertible securities / warrant conversion; and
11. Request for financial reports, circulars, etc.

(F) Financing Charges and Others

Definition:

This covers financing fees and charges relating to provision of securities related services and other miscellaneous fees and charges.

Common Constituent Fees and Charges:

1. Securities subscription handling charge;
2. Cash account overdue interest;
3. Margin account financing charge;
4. Financing charge for subscribing for securities;
5. Banking service charges (including bank charges on electronic fund transaction);
6. Change of registration at share registrar;
7. Unclaimed benefit entitlement;
8. Stock balance or account confirmation;
9. Charges for copies of transaction documents;
10. Forced liquidation;
11. Inter-account transfer (e.g. due to default in margin call);
12. e-Certificate; and
13. Payment gateway.

Sample Fees and Charges Disclosure Sheet

Broad Categories of Fees and Charges	Payable to ^{See Note}	Rate/Amount
(A) Trade-related		
Brokerage commission	[Name of intermediary]	0.25% of transaction amount (minimum charge \$100 per transaction)
Transaction levy	The Securities and Futures Commission	0.005% of transaction amount
Investor compensation levy	Investor Compensation Fund	0.002% of transaction amount
Trading fee	HKEx	0.005% of transaction amount
Trading tariff	HKEx	\$0.5 per transaction (waived by this brokerage)
Stamp Duty	HKSAR Government	0.1% of transaction amount (round up to the nearest dollar)
.....		
(B) Scrip Handling and Settlement-related		
CCASS stock settlement fee	CCASS	0.002% of transaction amount (minimum \$2 and maximum \$100 per transaction)
Physical scrip withdrawal	CCASS and [Name of intermediary]	\$5 per board lot (CCASS charges \$3.5 per board lot)
.....		
(C) Information Services		
Short Message Services (“SMS”)	[Name of intermediary]	\$50 per month
.....		
(D) Account Maintenance		
Custodial services	CCASS and [Name of intermediary]	\$100 payable semi-annually on 30 June and 31 December (CCASS charges \$0.012 per

^{Note} Disclosure made in this column is optional and is not a mandatory requirement for an intermediary to claim full compliance with the Guidelines.

		board lot per month)
.....		
(E) Nominee Services and Corporate Actions		
Scrip fee		
• At book-close dates	CCASS	\$1.5 per board lot on net increase in aggregate balance
• At deemed book-closed dates	CCASS	\$0.75 per board lot on net increase in aggregate balance
Collection of dividends		
• Cash dividend	CCASS and [Name of intermediary]	0.5% of dividend collected or minimum charge \$20 per collection (CCASS charges 0.12% of dividend collected)
• Scrip dividend	[Name of intermediary]	\$30 per collection
(F) Financing Charges and Others		
Cash account overdue interest	[Name of intermediary]	Prime rate plus 3%
Copies of transaction documents	[Name of intermediary]	\$1 per sheet
Change of registration at share registrar	Share Registrar and [Name of intermediary]	\$5 per board lot (Share Registrar charges \$2.5 per board lot)
.....		

Sample Illustrative Example of Fees and Charges for Prescribed Scenarios of Securities Related Services

Scenario 1**Stock purchases:**

Client buys 25 board lots or 25,000 shares (1,000 shares per board lot) of Company A. Total value of transaction is \$25,000.

Broad Category of Fees and Charges	Details	Amount (\$) of Fees and Charges
Trade-related:		
Brokerage commission	0.25% of transaction amount (minimum charge \$100 per transaction)	100 [Note: 25,000 x 0.25% = 62.5, less than \$100]
Transaction Levy payable to the Securities and Futures Commission	0.005% of transaction amount	25,000 x 0.005% = 1.25
Investor Compensation Levy payable to the Investor Compensation Fund	0.002% of transaction amount	25,000 x 0.002% = 0.5
Trading Fee payable to the HKEx	0.005% of transaction amount	25,000 x 0.005% = 1.25
Trading Tariff payable to the HKEx	\$0.5 per transaction	Waived
Stamp Duty payable to the HKSAR Government	0.1% of transaction amount (round up to the nearest dollar)	25,000 x 0.1% = 25
Scrip Handling and Settlement-related:		
CCASS stock settlement fee	0.002% of transaction amount (minimum \$2 and maximum \$100 per transaction)	2 [Note: 25,000 x 0.002% = 0.5, less than \$2]

Client pays \$130 [= \$100 + \$1.25 + \$0.5 + \$1.25 + \$25 + \$2].

Scenario 2

Overdue settlement on cash trading account:

Client deposits money (settlement amount \$25,130) into account one day after the settlement due date of T+2.

Broad Category of Fees and Charges	Details	Amount (\$) of Fees and Charges
Financing Charges and Other Fees:		
Cash account overdue interest	Prime rate plus 3%	$25,130 \times (5 + 3)\% \times 1 / 365 = 5.51$ [Note: current prime rate is 5%]

Scenario 3

Dividend distribution:

Company A distributes dividend of \$0.03 per share. Shareholders can choose cash or scrip dividend.

Firstly, client pays a scrip fee of \$37.5 for the 25 board lots of Company A shares held. Secondly, client pays a fee for collection of dividend. For a cash dividend of \$750, client pays \$20 for collection of cash dividend or \$30 for receiving scrip dividend.

Broad Category of Fees and Charges	Details	Amount (\$) of Fees and Charges
Nominee Services and Corporate Actions:		
Scrip fee (at book-close dates)	\$1.5 per board lot	$25 \text{ board lots} \times 1.5 = 37.5$
Collection of dividends <ul style="list-style-type: none">Cash dividendScrip dividend	0.5% of dividend collected or minimum charge \$20 per collection (CCASS charges 0.12% of dividend collected) \$30 per collection	20 [Note: $750 \times 0.5\% = 3.75$, less than \$20] 30

Client selecting cash dividend pays \$57.5 [= \$37.5 + \$20], whereas client selecting scrip dividend pays \$67.5 [= \$37.5 + \$30].

Scenario 4**Placing of stocks for safe custody:****On 30 June or 31 December, client pays \$100 for safe-keeping of shares.**

Broad Category of Fees and Charges	Details	Amount (\$) of Fees and Charges
Account Maintenance:		
Custodial services	Flat fee of \$100, payable semi-annually	100

Scenario 5**Physical scrip withdrawal:****Client requests to receive physical scrip of the 25 board lots of Company A shares.**

Broad Category of Fees and Charges	Details	Amount (\$) of Fees and Charges
Scrip Handling and Settlement-related:		
Physical scrip withdrawal	\$5 per board lot (CCASS charges \$3.5 per board lot)	25 board lots x 5 = 125

Scenario 6

Sale of physical scrip:

Client holds share certificates representing 25 board lots or 25,000 Company A shares. At the time of sale, the total value of client's Company A shares is \$50,000.

Broad Category of Fees and Charges	Details	Amount (\$) of Fees and Charges
Trade-related:		
Brokerage commission	0.25% of transaction amount (minimum charge \$100 per transaction)	$50,000 \times 0.25\% = 125$
Transaction Levy payable to the Securities and Futures Commission	0.005% of transaction amount	$50,000 \times 0.005\% = 2.5$
Investor Compensation Levy payable to the Investor Compensation Fund	0.002% of transaction amount	$50,000 \times 0.002\% = 1$
Trading Fee payable to the HKEx	0.005% of transaction amount	$50,000 \times 0.005\% = 2.5$
Trading Tariff payable to the HKEx	\$0.5 per transaction	Waived
Stamp Duty payable to the HKSAR Government	0.1% of transaction amount	$50,000 \times 0.1\% = 50$
Scrip Handling and Settlement-related:		
CCASS stock settlement fee	0.002% of transaction amount (minimum \$2 and maximum \$100 per transaction)	2 [Note: $50,000 \times 0.002\% = 1$, less than \$2]
Financing Charges and Others		
Change of registration at share registrar	\$5 per board lot (Share Registrar charges \$2.5 per board lot)	$25 \text{ board lots} \times 5 = 125$

Client pays a total of \$308 [= \$125 + \$2.5 + \$1 + \$2.5 + \$50 + \$2 + \$125].

Personal Information Collection Statement

1. This Personal Information Collection Statement (the “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 Data⁽³⁾ will be used following collection, what you are agreeing to with respect to the Commission’s use of your Personal Data and your rights under the Personal Data (Privacy) Ordinance, Cap 486 (the “PDPO”).

Purpose of Collection

2. The Personal Data provided in your submission to the Commission in response to this Consultation Paper may be used by the Commission for one or more of the following purposes:
 - to administer the relevant provisions⁽⁴⁾ and codes and guidelines published pursuant to the powers vested in the Commission;
 - in performing the Commission’s statutory functions under the relevant provisions;
 - for research and statistical purposes;
 - for other purposes permitted by law.

Transfer of Personal Data

3. Personal Data may be disclosed by the Commission to members of the public in Hong Kong and elsewhere, as part of the public consultation on the Consultation Paper. The names of persons who submit comments on the 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 Commission’s web site and in documents to be published by the Commission 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

⁽³⁾ Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance.

⁽⁴⁾ Defined in Schedule 1 of the Securities and Futures Ordinance (Cap. 571) (“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.

right to obtain a copy of your Personal Data provided in your submission on the Consultation Paper. The Commission has the right to charge a reasonable fee for processing any data access request.

Retention

5. Personal Data provided to the Commission in response to the Consultation Paper will be retained for such period as may be necessary for the proper discharge of the Commission's functions.

Enquiries

6. Any enquiries regarding the Personal Data provided in your submission on the Consultation Paper, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

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