



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

Invitation to Tender for Independent Assessment of the operations of the Hong Kong Investor Identification Regime

7 January 2022

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Introduction

1. Background

- 1.1 The Hong Kong Investor Identification Regime (“HKIDR”) will be implemented tentatively during the second half of 2022. Under HKIDR, Relevant Regulated Intermediaries¹ would have to:
- 1.1.1 ensure that a unique “Broker-to-Client Assigned Number” (“BCAN”) be assigned to, and client identification data (“CID”)² be collected from Relevant Clients³ who have placed or propose to place on-exchange orders on or off-exchange trades reportable to the Stock Exchange of Hong Kong (“SEHK”) in securities listed or traded on SEHK’s trading system (save for odd lots due to their low turnover);
 - 1.1.2 ensure that the Relevant Client’s BCAN has been included in the order information for each on-exchange order, off-exchange order and included in all reporting of off-exchange trades to SEHK; and
 - 1.1.3 adopt relevant data privacy and security measures to safeguard the personal data collected, transmitted and stored, including by obtaining express client consent (“client consent”) in compliance with the Personal Data (Privacy) Ordinance.
- 1.2 To support the operation of HKIDR, the Securities and Futures Commission (“SFC”) is working jointly with the Hong Kong Exchanges and Clearing Limited (“HKEX”) to establish a secure digital submission platform for market participants to report the information as specified by the new regime.
- 1.3 The SFC is responsible for developing a delegated access infrastructure, which will be delivered by a third-party vendor, for authenticating and authorising Relevant Regulated Intermediaries to access the digital submission platform in a secured and protected manner; and also enhancing its internal system for facilitating market surveillance by identifying the originators of orders and trades, where CID will be processed.
- 1.4 Given that data integrity, data security and data accuracy are of paramount importance, we would like to engage a professional consultant to conduct an independent assessment by reviewing, evaluating and reporting on the adequacy, reliability and effectiveness of the operational controls of the HKIDR, the data security controls for safeguarding CID and project management controls over the delegated access infrastructure project delivered by a third-party vendor.
- 1.5 Security controls of the delegated access infrastructure will be covered in a separate IT security review.

¹ For details of the meaning of “Relevant Regulated Intermediary”, please refer to the Consultation Conclusions Paper (“Conclusions”).

² CID includes the investor’s name, identity document issuing country, identity document type and number. It will be stored in the SFC’s surveillance system for market surveillance and performance of other regulatory functions.

³ For details and examples of the meaning of “Relevant Client”, please refer to the Conclusions.

2. Invitation to Tender and Interpretation

- 2.1 The SFC invites tenders submitting proposals for providing independent assessment of the operations for the Hong Kong Investor Identification Regime (HKIDR).
- 2.2 The scope of the independent assessment required are included in section 3 of this Invitation to Tender.
- 2.3 In this Invitation to Tender, the following terms shall have the following meanings:
- 2.3.1 “**Contract**” means a formal agreement to be entered into between the SFC and those successful tenderer(s) in relation to the independent assessment of the operations for the Hong Kong Investor Identification Regime containing such terms and conditions as the parties shall agree, including (but not limited to) those terms set out in this Invitation to Tender (unless the same shall have been modified by the SFC);
- 2.3.2 “**Independent Assessment**” means the project described in section 3 hereof; and
- 2.3.3 “**Tenderer**” means the person or persons or corporation tendering for the project and includes the executors and administrators and permitted assignments of such person or persons or corporation.

Requirement

3. Tender objectives, requirements and scope of work

- 3.1 The objectives for the independent assessment aim to assess the risks related to the HKIDR operations, evaluate compliance with the established industry practices, international standards and relevant laws and regulations, assess the effectiveness of the operational controls being implemented, identify issues of the operations and ensure that all the identified issues have been mitigated by performing a follow-up review.
- 3.2 The independent assessment will be commenced in March 2022. The scope of work of the independent assessment focuses on the processes and controls supporting HKIDR operations. The awarded consultant will conduct an independent assessment on the operations for the HKIDR, as well as the effectiveness of various implemented controls including those related to the CID security and project management process over the delegated access infrastructure project delivered by a third-party vendor. The consultant shall identify any design and operational deficiencies in each of the following areas against relevant laws and regulations (e.g. the Personal Data (Privacy) Ordinance (“PDPO”), relevant Codes of Practice and Guidance Materials issued by the Privacy Commissioner, General Data Protection Regulation (“GDPR”)), international standards or industry practices, and provide feasible recommendations:

- 3.2.1 System development and project management for the delegated access infrastructure project;
- 3.2.2 Privacy impact assessment for the HKIDR operations, which should include, but not limited to, the following areas:
 - (a) Data classification and risk assessment;
 - (b) Data security policies, training and staff awareness for safeguarding investor data;
 - (c) Controls over access, storage and transmission of the investor data;
 - (d) Controls over BYOD (Bring Your Own Device) and remote access for accessing investor data;
 - (e) Physical security controls over and office environment related to investor data;
 - (f) Regular review / audit over measures on investor data protection;
 - (g) Retention and erasure policies of investor data;
 - (h) Collection, accuracy and use of investor data, including the requirement of consent;
 - (i) Steps for handling data access and data correction requests; and
 - (j) Investor data housekeeping measures, including backup and recovery of investor data.
- 3.2.3 Problem and incident management⁴ for the HKIDR operations; and
- 3.2.4 Contingency arrangements in case of the system disruption which impacts the normal HKIDR operations.

4. Deliverables

- 4.1 The following key deliverables are expected from the awarded consultant:
 - 4.1.1 a detailed project plan;
 - 4.1.2 a kick-off meeting to provide an overview on the review scope, approach, logistics and timeline;
 - 4.1.3 bi-weekly progress reports and meetings with the SFC project team;
 - 4.1.4 a closing meeting to walkthrough the identified issues and recommendations;

⁴ Problems and incidents may include, but not limited to, operational and security incidents related to systems supporting HKIDR, and personal data breach.

- 4.1.5 a final report covering, but not limited to, the following items:
- (a) Scope of work;
 - (b) Executive summary of the assessment;
 - (c) Issues and their impacts; and
 - (d) Recommendations with priority.
- 4.1.6 a follow-up review report upon the completion of the follow-up review of all the issues identified in the assessment.

Tenderers are welcome to propose other relevant information as part of the report.

Guidelines for Tenderers

These guidelines are intended to provide Tenderers with guidance on the procedure for submitting their proposals and the approach that the SFC will generally adopt in assessing such proposals. They do not bind, and are not intended to bind, the SFC in any way. The SFC reserves the right to accept or reject all or any part of a proposal.

5. Preparation and Submission of Proposal

- 5.1 What must the proposal cover?
- 5.1.1 In the proposal, the Tenderers should present their company profiles, including the organisation of the company and the project team structure. References for similar past projects delivered should also be presented.
 - 5.1.2 Tenderers may propose alternatives based on the SFC's conditions and requirements if they consider that the requirements are either not feasible or do not provide the SFC with the best solution in the circumstances.
- 5.2 What form must the proposal take?
- 5.2.1 All proposals in writing must be submitted in both physical and electronic form.
 - 5.2.2 One hardcopy of each proposal must be provided, together with a softcopy on CD-ROM or USB. The softcopy should be in Microsoft Word or PDF format.
 - 5.2.3 The SFC will not consider any proposal that is submitted in writing without an accompanying softcopy.
- 5.3 To whom must the proposal be submitted?
- 5.3.1 The written proposal should be marked with the reference **"Independent Assessment of the operations of the Hong Kong Investor**

Identification Regime” and must be submitted in a sealed envelope and deposited to the **TENDER BOX** at the following address:

Securities and Futures Commission
54/F, One Island East
18 Westlands Road
Quarry Bay
Hong Kong

5.4 When is the deadline for the submission of proposal?

5.4.1 The proposal must be received by the SFC at the above-mentioned address on or before **2:00 pm on 28 January 2022 (Friday)**.

5.4.2 The SFC will not consider any late proposal.

5.5 How must the proposal be set out?

5.5.1 Each proposal must be separated into the following parts:

- (a) a Technical Part describing the proposal;
- (b) a Price Schedule; and
- (c) a Letter:
 - (i) offering to carry out the work described in the Technical Part for the prices detailed in the Price Schedule in compliance with the “**Payment and Other Terms**” set out in section 4 of this Invitation to Tender;
 - (ii) stating the period that the offer is to remain open;
 - (iii) undertaking to negotiate in good faith to finalise promptly the Contract and to commence work immediately thereafter;
 - (iv) containing an acknowledgement and agreement that the SFC:
 - is not bound to accept the lowest tender or any tender;
 - reserves the right to make changes to the project requirement; and
 - will not defray any expenses incurred in tendering and/or in negotiating the Contract, whether successful or otherwise; and
 - (v) signed by the Tenderer (in the case of an individual) or a duly authorised officer of the tenderer (in the case of a company).

- 5.5.2 For the proposal hardcopy as well as its softcopy, the Technical Part, the Price Schedule and the Letter must be submitted as separate documents and placed in separate envelopes. The envelope containing the Technical Part must be clearly marked “**Technical Proposal**”. The envelope containing the Price Schedule must be clearly marked “**Price Schedule**”. The envelope containing the Letter must be clearly marked “**Offer Letter**”. Price information must not be specified in the Technical Part.
- 5.5.3 Details in relation to what should be specified in each part are set out in **Appendix A (Technical Part)** and **B (Price Schedule)** to this Invitation to Tender.
- 5.6 How long should Tenderers’ offers remain open?
- 5.6.1 By submitting a proposal in response to this Invitation to Tender, a Tenderer will be treated as having made an offer to the SFC. A Tenderer should clearly state in its proposal how long this offer will remain open.
- 5.6.2 In order to allow the SFC sufficient time to consider all proposals validly submitted, Tenderers should keep their offers open for at least 90 days from the closing date of this Invitation to Tender. If this cannot be done, the reason must be stated in the proposal.
- 5.7 Queries regarding this Invitation to Tender or proposal made in response
- 5.7.1 What if the SFC has any queries about a particular proposal?
- If the SFC considers that any aspect of a proposal requires clarification from the Tenderer, the SFC may request that the Tenderer:
- (a) supplement its proposal; or
 - (b) answer SFC’s queries
- orally or in writing, or in any manner that the SFC deems fit.
- 5.7.2 What if a Tenderer has any queries?
- If you have any queries regarding this Invitation to Tender, please email them to hkidr_ias@sfc.hk on or before 21 January 2022. The SFC reserves the right not to answer any questions received after 21 January 2022.
- Note: Please sign and return the Confidentiality Acknowledgement (Appendix C) before making any enquiry.

- 5.8 Notification of result and rejection of proposal
- 5.8.1 The SFC will notify each shortlisted Tenderer by email within three months of finalising its selection as to whether or not they have been selected by the SFC.
- 5.8.2 The SFC retains the right to reject any or all tender(s) submitted.
- 5.9 Acceptance
- 5.9.1 No tender (or part thereof) shall be taken to have been accepted unless and until execution of the Contract.

Payment and Other Terms

6. **Payment terms**
- 6.1 The SFC has a performance-based payment policy, under which payments will be made on the actual delivery of services or products.
- 6.2 Wherever possible, and if the SFC considers appropriate in the circumstances, the SFC will make payments to the successful Tenderer of the project as follows:
- 6.2.1 10% of the implementation service price upon the SFC and the successful Tenderer entering into a binding contract;
- 6.2.2 40% of the implementation service price will be paid on the acceptance of the draft report for the independent assessment;
- 6.2.3 30% of the implementation service price will be paid on the acceptance of the final report for the independent assessment;
- 6.2.4 20% of the implementation service price will be paid on the acceptance of the follow-up review report and all the required deliverables.
- 6.3 Termination of service
- 6.3.1 The successful Tenderer shall use its best endeavours to perform the Contract with such due care, skill and diligence as is expected of a provider of similar services and products and of a comparable standing in the industry. However, if for whatever reason, the SFC in its opinion concludes that the successful Tenderer is in breach of the Contract or does not provide the level of service required by the SFC, the SFC shall have the right to terminate the Contract by notice in writing to the successful Tenderer.
- 6.4 Sub-contracting of services
- 6.4.1 If a Tenderer wishes to sub-contract any part (or all) of its obligations under its proposal, this must be clearly specified in the proposal. The tender must also clearly specify the person(s) to whom the Tenderer

wishes to sub-contract, and the precise services or obligations intended by the Tenderer to be subject to such sub-contract. Sub-contracting of services will not normally be permitted. The SFC reserves the right to either accept or reject the sub-contracting of services.

6.5 Conflicts of interest

6.5.1 A Tenderer must have no actual or potential conflicts of interest with its duties to the SFC under the proposal. If a Tenderer has actual or potential conflicts of interest with its duties to the SFC under the proposal, the Tenderer should clearly state this in the proposal. This requirement extends to the Tenderer's affiliates, associates, associated persons, group companies and each member of the Tenderer's professional staff (and their affiliates, associates and associated persons).

6.6 The incorporation of proposal into the Contract signed with the SFC

6.6.1 Any proposal and responses submitted by the successful Tenderer to the SFC's enquiries may form part of the Contract made between the SFC and such Tenderer.

6.6.2 Every representation by the successful Tenderer (whether of fact or performance, and whether set out in the proposal or otherwise) will be incorporated as warranties in any Contract between the SFC and such Tenderer. The SFC preserves the right to seek for an indemnity should the awarded Tenderer fail to keep these warranties. Therefore, any statement of fact or performance that the Tenderer does not wish to be treated as a warranty should be clearly indicated.

6.7 Code of Conduct for onsite consultants

6.7.1 All employees, sub-contractors and consultants of the successful Tenderer working at the SFC's office on a full-time basis will be bound by the SFC Staff Code of Conduct. They will also be subject to prior police vetting and be required to disclose all dealing in securities and futures to the SFC. Exemption may be granted on a case by case basis.

6.8 SFC Specified Contract

6.8.1 The successful tenderer is expected to enter into the SFC specified contract upon awarding of this project. Any waiver, cancellation, alteration or amendment of or to any of the provisions of the SFC specified contract must be agreed to by both parties and effected in writing by the tenderer and the SFC. A sample of the contract template is available to Tenderer upon signing of the Confidentiality Acknowledgement (Appendix C).

Grievance Procedures

7. As a public body, the SFC has a duty to conduct its affairs in a responsible and transparent manner. Accordingly, the SFC has put in place the Grievance Procedures with effect from 1 April 2004. The Policy on Public Interest Grievances is intended to assist persons who are engaged by or to work in / with the SFC who believe that they have discovered improper practices or misconduct relating to the running of the SFC or work related activities of employees of the SFC to report these in a constructive manner.
- 7.1 This policy is for any person who has an employment contract with the SFC, is on secondment to the SFC, is engaged as an independent consultant by the SFC or is a contractor or supplier of services to the SFC. Public Interest Grievances might include one or more of the following:
 - 7.1.1 criminal activity, such as accepting a bribe;
 - 7.1.2 financial or administrative malpractice;
 - 7.1.3 misconduct or improper behaviour;
 - 7.1.4 failure to comply with legal obligations such as those set out in the Securities and Futures Ordinance;
 - 7.1.5 endangering occupational health or safety; and
 - 7.1.6 attempts to suppress or conceal information relating to any of the above.

The Policy on Public Interest Grievances can be found on the SFC website under **“Lodge a complaint > Against the SFC > Staff/contractor complaints against the SFC or its employees”**. Please contact the Commission Secretary of the SFC if you have any questions in this regard.

Appendix A: The Technical Part

The Tenderer is free to include any information that it considers to be relevant to its proposal. However, as a minimum, this part should contain all of the following:

Table of Contents

1. Executive Summary
 - 1.1 This section should provide a full summary of the proposed solution.
2. The Proposed Solutions and Service Plan
 - 2.1 This section should describe the proposal in detail and explain how the proposal meet the conditions and requirements set out in section 2, and describe any limitations and compatibility issues associated with the proposal.
3. Exceptions to the SFC's Conditions and Requirements
 - 3.1 If a Tenderer wishes to propose alternatives to the SFC's conditions and requirements, these alternatives should be specified here. The Tenderer should explain:
 - 3.1.1 why the SFC's conditions and requirements do not provide the SFC with the best solution in the circumstances; and
 - 3.1.2 the ways in which their alternatives are better.
4. Vendor Profile
 - 4.1 The Tenderer should provide full details of its company profile, including the following:
 - 4.1.1 the Tenderer's background, history, office location and number of full-time staff.
 - 4.1.2 the Tenderer's financial strength, supported by an audited report or financial summary;
 - 4.1.3 the Tenderer's experience in similar projects;
 - 4.1.4 references for similar projects (please provide the Scope, Team Size, Type of Services Provided, etc.); and
 - 4.1.5 other relevant information.
5. Appendices
 - 5.1 Project Team and Structure

5.1.1 The Tenderer should provide names, detailed qualifications and work experience for team members to be assigned to implement the project and the team structure.

5.2 Other relevant information

5.2.1 The Tenderer can include any other information that it considers to be relevant to its proposal.

Appendix B: The Price Schedule

This part should contain all of the following:

1. Executive Summary
 - 1.1 This part should provide a full summary of the project fee structure, and any payment arrangements.

2. Fees Schedule
 - 2.1 All fees must be quoted in Hong Kong Dollars.
 - 2.2 All fees should be properly itemised and explained, and include all amounts payable by way of royalty, licence fee, software licence fee or otherwise for patent, any copyright design or other intellectual property rights. The fee on hardware, software and consultancy services must be separately stated.
 - 2.3 The SFC reserves the right to accept or reject all or any part of a proposal.

3. Payment Terms and Arrangements
 - 3.1 Payment must correlate with major milestone / achievements or deliverables, in accordance with the SFC's performance-based payment policy (see "**Payment and Other Terms**" in section 6 of this Invitation to Tender).

Appendix C: Confidentiality Acknowledgement

Acknowledgement and Undertaking

Acknowledgment in relation to the preservation of secrecy pursuant to section 378 of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) (“SFO”) and avoidance of conflict of interests pursuant to section 379 of the SFO.

Terms in this acknowledgement shall have the same meaning as defined in the SFO, unless otherwise defined herein.

To: _____

Section 378 of the SFO binds you and in particular subsection (1) of that section which provides as follows:

- (1) Subject to subsection 13(A), except in the performance of a function under, or for the purpose of carrying into effect or doing anything required or authorized under, any of the relevant provisions, a specified person -
 - (a) shall preserve and aid in preserving secrecy with regard to any matter coming to his knowledge by virtue of his appointment under any of the relevant provisions, or in the performance of any function under or in carrying into effect any of the relevant provisions, or in the course of assisting any other person in the performance of any function under or in carrying into effect any of the relevant provisions;
 - (b) shall not communicate any such matter to any other person; and
 - (c) shall not suffer or permit any other person to have access to any record or document which is in his possession by virtue of the appointment, or the performance of any such function under or the carrying into effect of any such provisions, or the assistance to the other person in the performance of any such function under or in carrying into effect any such provisions.

TAKE NOTICE THAT IF YOU CONTRAVENE SECTION 378(1) OF THE SFO YOU COMMIT AN OFFENCE UNDER SECTION 378(10) OF THE SFO. ANY PERSON WHO COMMITS AN OFFENCE UNDER SECTION 378(10) IS LIABLE:

- (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for two years; or
- (b) on summary conviction to a fine of HK\$100,000 and to imprisonment for six months.

Section 379 of the SFO binds you and in particular subsections (1), (2) and (3) of that section which provide as follows:

- (1) Subject to subsection (2), any member of the Commission or any person performing any function under any of the relevant provisions shall not directly or indirectly effect or cause to be effected, on his own account or for the benefit of any other person, a transaction regarding any securities, structured product, futures

contract, leveraged foreign exchange contract, or an interest in any securities, structured product, futures contract, leveraged foreign exchange contract or collective investment scheme -

- (a) which transaction he knows is or is connected with a transaction or a person that is the subject of any investigation or proceedings by the Commission under any of the relevant provisions or the subject of other proceedings under any provision of the SFO; or
- (b) which transaction he knows is otherwise being considered by the Commission.

(2) Subsection (1) does not apply to any transaction which a holder of securities or a structured product effects or causes to be effected by reference to any of his rights as such holder -

- (a) to exchange the securities or structured product or to convert the securities or structured product to another form of securities or structured product;
- (b) to participate in a scheme of arrangement sanctioned by the Court of First Instance under the OFC rules, the Companies Ordinance (Cap. 622) or the relevant Ordinance;
- (c) to subscribe for other securities or another structured product or dispose of a right to subscribe for other securities or another structured product;
- (d) to charge or pledge the securities or structured product to secure the repayment of money;
- (e) to realize the securities or structured product for the purpose of repaying money secured under paragraph (d); or
- (f) to realize the securities or structured product in the course of performing a duty imposed by law.

(3) Any member of the Commission or any person performing any function under any of the relevant provisions shall forthwith inform the Commission if, in the course of performing any function under any such provisions, he is required to consider any matter relating to -

- (a) any securities, futures contract, leveraged foreign exchange contract, structured product, or an interest in any securities, futures contract, leveraged foreign exchange contract, collective investment scheme or structured product -
 - (i) in which he has an interest;
 - (ii) in which a corporation, in the shares of which he has an interest, has an interest; or
 - (iii) which -
 - (A) in the case of securities, is of or issued by the same issuer, and of the same class, as those in which he has an interest;
 - (B) in the case of a futures contract, is interests, rights or property based upon securities of or issued by the same issuer, and of the same class, as those in which he has an interest; or
 - (C) in the case of a structured product, is interests, rights or property based on a structured product of or issued by the same issuer, and of the same class, as that in which he has an interest; or

- (b) a person -
 - (i) by whom he is or was employed;
 - (ii) of whom he is or was a client;
 - (iii) who is or was his associate; or
 - (iv) whom he knows is or was a client of a person with whom he is or was employed or who is or was his associate.

TAKE NOTICE THAT IF YOU CONTRAVENE SECTION 379(1) AND/OR SECTION 379(3) OF THE SFO YOU COMMIT AN OFFENCE UNDER SECTION 379(4) OF THE SFO. ANY PERSON WHO COMMITS AN OFFENCE UNDER SECTION 379(4) IS LIABLE:

- (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for two years; or
- (b) on summary conviction to a fine of HK\$100,000 and to imprisonment for six months.

The term “specified person” is defined in section 378(15) of the SFO and means-

- (a) the Commission;
- (b) any person who is or was a member, an employee, or a consultant, agent or adviser, of the Commission; or
- (c) any person who is or was -
 - (i) a person appointed under any of the relevant provisions;
 - (ii) a person performing any function under or carrying into effect any of the relevant provisions; or
 - (iii) a person assisting any other person in the performance of any function under or in carrying into effect any of the relevant provisions.

The term “person” has the meaning attributed to it in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) which provides that “person” includes any public body and any body of persons, corporate or unincorporate, and this definition shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation.



I/We acknowledge that I/we have received and read carefully a copy of sections 378 and 379 of the Securities and Futures Ordinance (Cap. 571), and understand that these sections (in particular, sections 378(1) and 379(1), (2) and (3)) impose statutory obligations on me/us. I/We further confirm that I/we understand and agree to be bound by the provisions of sections 378 and 379 of the Securities and Futures Ordinance (Cap. 571).

Signature

Name / Entity name (as applicable)

Name of authorized signatory (in the case of an entity)

Title of authorized signatory (in the case of an entity)

Date

Witnessed by:

Signature

Name

Title

Date

