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

ANNEX 4

Annex 4 : Proposed ePO Guidelines (marked-up version)

Guidelines for Electronic Public ~~Offerings~~ Offers

~~Hong Kong~~
~~April 2003~~

[*Date*]

1. Introduction

1.1 For the purpose of these Guidelines, an electronic public offer~~ing~~ (**ePO**) takes place where electronic facilities (particularly the Internet~~ (or other electronic means[1]~~)~~ is~~ are used to display or provide access to prospectuses[2]~~, applications forms~~ and~~/or~~ to collect applications~~ or application instructions~~ from the public (**applicants**) during an initial public offer~~ing~~ (~~"~~**IPO**~~"~~) or a follow-on public offer~~ing~~.

1.2 These Guidelines aim at providing guidance to persons who offer ePO services in respect of prescribed securities.[3] Such persons should also refer to and comply with~~ the Guidance Note on the Regulation of Electronic Provision of Regulated Activities~~ any other codes or guidance issued by the Commission~~ (or~~, and applicable to such persons, in respect of their use of electronic systems or facilities to provide services~~ parts of that Guidance Note as apply to them)~~.

1.3 The Commission would like to stress that investors should be encouraged to make informed investment decisions and takes the view that intermediaries[4], approved securities registrars (**ASRs**) and other industry participants should assist investors in this respect, including facilitating their access to relevant documents. Therefore, persons offering electronic facilities to~~ distribute and/or~~ collect applications~~ or application instructions~~ in an ePO~~ securities offering~~ should ensure that~~ the application forms or~~ facilities enabling the collection of applications ~~instructions~~ (eg, in the case of the Internet, the application input screen) are accompanied by, or provide ready access to, a copy of the relevant prospectus (and any supplemental prospectus relating to the offer~~ing~~).

1.4 These Guidelines do not have the force of law. A failure by any person to comply with any provision of the Guidelines that applies to~~ it or him~~ the person may reflect adversely on the person's fitness and properness to perform or offer relevant functions or services.

1.5 These Guidelines supersede the Guidelines for~~ Registered Persons Using the Internet to Collect Applications for Securities in an Initial~~ Electronic Public Offerings published by the Commission in~~ July 2000~~ April 2003.

1.6 In these Guidelines, unless the context otherwise requires, terms defined in the Securities and Futures Ordinance (Cap 571, **SFO**) bear the same meaning when used here.

~~[1] In these Guidelines, "other electronic means" refers to electronic trading mechanisms (e.g. hand held or wireless trading devices.~~

[2] In these Guidelines, "prospectus":

- in the case of prescribed securities that are shares, bears the meaning given in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32); and
- in the case of any other prescribed securities, refers to any equivalent document issued or proposed to be issued in connection with a public offer of such securities.

[3] The list of "prescribed securities" is set out in Schedule 3A to the Securities and Futures Ordinance (Cap 571).

~~[4] In these Guidelines, "intermediaries" has the same meaning as in the Securities and Futures Ordinance.~~

Background

~~1.6 There are various forms of ePO. The sections below describe the more popular methods currently used in the Hong Kong securities market.~~

~~1.7 In traditional public offerings, an applicant wishing to participate would collect a paper copy of the prospectus and application form published by the issuer of the prospectus, complete the application form[5] and deliver it with a cheque to receiving banks[6] in person. Alternatively, where an applicant uses the services of an intermediary, the application form may be completed and delivered with a cheque to the receiving bank by the intermediary. Receiving banks would send the application forms to the relevant share registrar for processing after the cheques have been honoured. ePOs differ from traditional public offerings in that all or some of the processes in the public offering are electronic rather than manual or paper-based.~~

~~1.8 In some ePOs, the interaction between the applicant and the intermediary (the front-end process of the public offering) may be done electronically, e.g., electronic prospectuses are made available or disseminated, and/or applications are collected electronically. The procedures between the intermediary, the receiving bank, share registrar and issuer (the back-end process of the ePO) may also be electronic, e.g., the application data from applicants are sent on a CD-ROM (or other media) with a completed bulk application form[7] by the intermediary to the receiving bank.~~

~~1.9 Alternatively, where the front-end process is electronic, the back-end process can be completed via the traditional method, e.g., by the manual delivery of completed paper application forms to the receiving bank in person. The Commission is aware that this method is common in respect of traditional yellow application forms.~~

1.7 In practice, the process for public offers of prescribed securities in Hong Kong is now largely electronic.[8]

1.7.1 The Listing Rules[9] no longer require paper prospectuses to be issued. Instead, it is sufficient for issuers to make available prospectuses in electronic form on both the issuer's website and on the website of Hong Kong Exchanges and Clearing Limited

~~[5] In these Guidelines, "application forms" means paper copies of the application forms prescribed by the issuer of the prospectus, and where appropriate, electronic or scanned copies of such paper application forms. It does not include arrangements to collect application instructions or application instructions input screens, where these are not prescribed by the issuer.~~

~~[6] An exception is in cases where yellow/nominee forms are used. Investors would provide their application information to intermediaries, and the intermediary completes the yellow/nominee form on their behalf.~~

~~[7] Also referred to as "ESP application forms". These are paper application forms that are prescribed by the issuer and completed by ESPs when the submission of applications from the ESP to the receiving bank is done electronically.~~

[8] The only exception is when an issuer adopts a mixed media offer in which application forms are also printed and distributed.

[9] In these Guidelines, "Listing Rules" refers to the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (**Main Board Listing Rules**) and the Rules Governing the Listing of Securities on GEM of The Stock Exchange of Hong Kong Limited (**GEM Listing Rules**).

(**HKEX**).[10]

1.7.2 Additionally, given that the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32) requires application forms for shares to be issued together with the relevant prospectus, application channels also tend to be electronic.

1.8 With the implementation of a new regime for the regulation of securities registrars[11], there are now the following two main forms of ePO.

~~1.10~~1.8.1 ~~An ePO can also be described as “issuer-driven” or “registrant-driven”. For the purposes of these Guidelines, an~~ **Issuer-driven ePO**: An “issuer-driven” ePO is where the issuer decides to offer an ePO mechanism through ~~intermediaries who are eligible service providers (“ESPs”)[12] . This usually involves~~ an ASR that acts as its agent. Investors may subscribe for prescribed securities electronically via facilities made available by the ASR. The securities successfully subscribed for will then be held and registered in the investors’ own name. As the ASR acts as the issuer’s agent, the issuer will have some role in or control over the provision of this service. ~~an electronic prospectus by the issuer to ESPs, the electronic collection of application information from applicants by ESPs, and the electronic collection and transmission of application data from ESPs to receiving banks or share registrars.[13] Thus, in “issuer-driven” ePOs, both front-end and back-end processes of the ePO would normally be done electronically.~~

~~1.11~~1.8.2 **Intermediary-driven ePO**: An ~~“registrant-driven”~~ “intermediary-driven” ePO is where an intermediary offers ePO services but is not part of an issuer’s syndicate. ~~differs in that an~~ The intermediary ~~may~~ collects applications from its clients (either electronically ~~(~~or otherwise ~~manually~~[14]) and then submits them (on behalf of the investors concerned) through HKEX’s FINI platform.[15] The prescribed securities successfully subscribed for will then be held on behalf of such investors but registered in the name of the central nominee (ie, HKSCC Nominees Limited). ~~but the applications may be delivered to the issuer or the receiving bank either in the traditional, paper-based manner or in any other way specified by the issuer (e.g., in recent public offering of retail bonds, applications can only be made through designated placing banks who have entered into a contractual arrangement with the issuer. Or, an online broker/intermediary who offers ePO services but is not part of the issuer’s syndicate).~~

[10] See Rules 12.11 and 12.11A of the Main Board Listing Rules and Rules 16.04C and 16.04D of the GEM Listing Rules.

[11] The regime is set out in the Securities and Futures (Approved Securities Registrars) Rules (Cap 571 sub leg [ ]). Under this regime, the provision of ePO services by ASRs as agents of an issuer constitutes a “securities registrar service”.

~~[12] These are intermediaries who have passed the data conformity tests organized by the Federation of Share Registrars.~~

~~[13] “The Operational Procedures for eIPO Applications Submitted Via Banks/Stockbrokers” is available at the Federation of Share Registrars’ website at www.fedsrltd.com.~~

[14] Where application data is collected ~~manually~~ otherwise than electronically (eg, by phone or in paper form), the ‘electronic’ element in the ePO process may be the electronic display or distribution of the prospectus via the Internet, on or through the intermediary’s ~~website~~ ePO channel.

[15] FINI stands for Fast Interface for New Issuance. It is an online platform, operated by HKEX, which enables market participants and regulators to manage workflows during the settlement process of a new listing.

Because the intermediary does not act as the issuer's agent, ~~T~~the issuer ~~would~~ will have little or no role in or control over the provision of this service. ~~Thus, in "registrant-driven" ePOs, the front-end process of the ePO may be manual or electronic whilst the back-end process is normally manual.~~

2. Issuer-driven ePO

2.1 *General*

2.1.1 In an issuer-driven ePO, responsibility for the coordination, the capacity of ~~back-end~~ systems, testing, contingency planning and decision-making etc of all aspects of the ePO fall on the issuer, the sponsor and the issuer's ASR ~~share registrar~~. In practice, ~~where the issuer uses a sponsor,~~ the sponsor would be expected to drive and coordinate the ePO.

2.1.2 The need for and the level of coordination, contingency planning and capacity testing etc will vary according to the scale of the ePO and the preferences of the issuer. These should be carefully considered by the issuer and the sponsor. Additionally, ~~S~~sponsors and ASRs acting for issuers should ~~also~~ refer to other SFC codes applicable to them (eg, paragraph 17 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission, the Corporate Finance Adviser Code of Conduct and the Code of Conduct for Approved Securities Registrars) ~~as amended from time to time~~ for additional guidance in relation to public offers~~ings~~.

2.1.3 The following sections set out some of the issues that an issuer, ~~the~~ sponsor or ASR ~~share registrar~~ should consider in an ePO. Issuers who collect ~~set up a standalone website for a public offering through which~~ applications ~~instructions are collected~~ from investors through their websites, including any standalone website for a public offer, should also have regard to the issues, where applicable, in paragraph ~~2.7~~ 2.6.

~~2.2 *Selection*~~

~~2.2.1 It is the issuer's choice whether to have an issuer-driven ePO in addition to the conventional, paper-based public offering. If the issuer wishes to do so, it should invite suitable intermediaries to provide ePO services or facilities.~~

~~2.2.2 Only intermediaries who are ESPs (i.e., those who have passed the data conformity tests organised by the Federation of Share Registrars) are eligible to take part in an issuer-driven ePO where the back-end of the ePO includes the electronic transmission of application data from the intermediary to a receiving bank and share registrar.~~

~~2.2.3 A list of current ESPs is available from the Federation of Share Registrars (www.fedsrltd.com).~~

~~2.3~~2.2 *Preparation of Prospectus*

~~2.3.1~~2.2.1 The issuer should prepare the prospectus (and any supplemental prospectus) in electronic form. The electronic form of such documents should be prepared in a format that cannot be tampered with.

~~2.4~~2.3 *Information to ~~ESP~~ ASRs*

~~2.4.1~~2.3.1 The issuer should provide detailed instructions, a timetable and other information relevant to the ~~ESP's~~ ASR's role in the ePO to ~~ESPs~~ the ASR prior to the commencement of the ePO. Such information should include:

(a) details of the documents that will be provided to the ~~ESP~~ ASR for displaying on the ASR's ePO channel[16] ~~ESPs website~~ (normally, the electronic prospectus and any supplemental prospectus and, where applicable, the application forms (all such documents, collectively, ~~“~~**the public offer documents**~~”~~));

(b) whether, and if so, the date on which, ~~a draft of~~ the public offer documents will be sent by the issuer to ~~ESPs~~ the ASR for the purposes of ~~formatting their websites~~ uploading the documents onto the ASR's ePO channel;

(c) whether hyperlinking to the public offer documents on the issuer's website[17] is permitted and the issuer's requirements, if any, for hyperlinking;

(d) the date, procedures and media (eg, CD-ROM, USB or other mass storage device, or file transfer) for ~~ESPs~~ the ASR to collect the public offer documents from the issuer;

(e) specific instructions, if any, as to how ~~ESPs should post~~ the public offer documents and application input screen should be made available or displayed on ~~their websites~~ the ASR's ePO channel;

(f) the date(s) and time(s) on which ~~ESPs~~ the ASR should post the public offer documents and application input screen on ~~their websites~~ its ePO channel;

(g) disclosure statements, warnings or legends, if any, which the issuer requires ~~ESPs~~ the ASR to post on ~~their websites~~ the ASR's ePO channel; and instructions, if any, if ~~ESPs are~~ the ASR is required to obtain consent from the issuer to posting the issuer's logo on ~~their websites~~ such channel;

(h) the dates and times from when the ASR:

(i) ~~on which ESPs~~ may begin to collect applications; and ~~the date and time when collections~~

(ii) must cease to collect applications;

~~(i) timing, procedures and other details in relation to the share registrar's procedures for acknowledging receipt of electronic applications from ESPs;~~

~~(j) details of pre-defined systems specifications, if required, for data submitted by ESPs to share registrars;~~

~~(k) the dates and procedures for ESPs to collect the ESP application form/bulk application forms from the issuer;~~

(~~l~~i) details of how and when ~~ESPs should submit~~ relevant information (ie, regarding the completed ~~electronic~~ applications and payments) should be uploaded to

[16] In these Guidelines, a person's “ePO channel” refers to any electronic channel or facility used by the person to provide ePO services, and includes any website, mobile app or other electronic facility provided by the person and via which prospectuses may be displayed or accessed and applications collected.

[17] This will include any standalone website for the public offer~~ing~~ which the issuer may set up for the duration of the offer~~ing~~.

HKEX's FINI platform and submitted to the issuer, the sponsor~~ to the relevant share registrar (and/~~ or the receiving bank (as applicable); and

(~~m~~j) procedures for the re-submission of application data[18], if this is permitted.[19]~~; and~~

~~(n) where there are exceptions (e.g., missing data, errors) to the data submitted by ESPs, the ESPs should be notified and the exceptions rectified.~~

~~2.5~~2.4 *Information to the public*

~~2.5.1~~2.4.1 If the issuer has its own website (including any standalone website set up by the issuer for the public offer~~ing~~), it should consider posting~~ a list of the participating ESPs,~~ on such website details of the ASR appointed to provide ePO services, as well as a timetable and other procedural details of the public offer~~ing~~ (including the ePO)~~ on its website~~.

~~2.5.2~~2.4.2 The availability of ePO services and details ~~a list ~~of the ASR appointed to provide such services~~ participating ESPs~~ should also be set out in the prospectus, application form and in any formal notice or announcement detailing the application procedures for the public offer~~ing~~.

~~2.6~~2.5 *Contingency and Planning*

~~2.6.1~~2.5.1 Issuers and sponsors should have a contingency plan to deal with emergency situations relating to the ePO.

~~2.6.2~~2.5.2 Issuers and sponsors should also ensure that there is a central point for the coordination of all parties involved in the ePO. The coordination team should consist of representatives of all parties involved in the ePO.

~~2.6.3~~2.5.3 The level of contingency planning and coordination may vary according to the scale of each public offer~~ing~~, the potential popularity of the public offer~~ing~~ and the preferences of the issuer.

~~2.7~~2.6 *~~ESP's~~The ASR's role*

~~2.7.1~~2.6.1 The ASR appointed to provide ePO services~~ ESP~~ is responsible for the compliance and system integrity~~ for the front-end process of the~~ of its ePO channel. This would include the processes for the collection and handling of applications received via such channel, and the electronic interface(s) of~~ its website~~ such channel.

~~2.7.2~~2.6.2 ~~Where applicable, a~~An ~~ESP~~ASR should ensure that:

(a) it adheres to the sponsor's ~~(or, where there is none, ~~and the issuer's~~) and the share registrar's~~ instructions in relation to the overall coordination and timing of

[18] This would apply, for example,~~ In some ePOs, the issuer (or its sponsor or share registrar) may accept re-submission of application data~~ where the application information initially submitted is found to contain errors or incomplete information and the issuer, the sponsor or the ASR accepts re-submission of application data.

[19] Ideally this should be communicated prior to the commencement of the ePO. However, if subsequent to the commencement, it is decided that re-submission of application data is permitted, this should be communicated to ~~ESPs ~~the ASR as soon as possible.

the ePO;

(b) the public offer documents and the application input screen are readily accessible on its~~ website.~~ ePO channel;

(c) ~~T~~the public offer documents~~ must be~~ displayed or accessible on its ePO channel are identical to those provided by the issuer;

(~~c~~d) the public offer documents and application input screen are complete, located close to each other and cannot be tampered with;

(~~d~~e) where a hyperlink to the public offer documents on the issuer's website is provided, the matters in paragraph 4.2 are satisfied;

(~~e~~f) the public offer documents (or a hyperlink to these documents)~~ on the ESP's website~~ are first displayed or made available on its ePO channel at the same time as the prospectus is made available to the public by the issuer;

(~~f~~g) information on its ~~website ~~ePO channel relating to the ePO is in both English and Chinese;

(~~g~~h) a statement is posted on its ePO channel to the effect that no applications or monies can be accepted once the public offer~~ing~~ closes, or where the ~~ESP~~ ASR has any reason to believe that: (i) the electronic public offer documents or processes for collection and handling of applications have been tampered with~~,~~; or (ii) where applicable~~)~~, duplicate or multiple applications have been made to the issuer;

(~~h~~i) information reasonably required by the sponsor~~ (or, where there is none,~~ or the issuer~~)~~ to enable it to monitor the ePO, including information in relation to the~~ level of application and volume the ESP processes during the ePO~~ number and size of applications received, is given to the sponsor ~~(~~or the issuer~~, as the case may be)~~ upon request;

(~~i~~j) the design~~ of its website~~ and~~ its~~ operation~~ should~~ of its ePO channel:

(i) gives applicants access to free software to download, extract compressed files (if necessary), view and print the public offer documents and~~/or~~ application input screen;

(ii) gives applicants contact information for technical support or enquiries in connection with the operation of the ePO channel and service~~ and the website~~;

(iii) gives applicants an opportunity to read or access the public offer documents before~~ being~~ they are given access to the webpages or mobile app screens where the particulars relating to their application (eg, number of prescribed securities to be applied for, selection of payment methods, etc) are collected;

(iv) requires applicants to confirm ~~separately ~~each of the following separately before~~ being~~ they are given access to the webpages or mobile app screens where their application information is collected, ie:

- that they have been provided~~ with~~ sufficient opportunity to access the public offer documents and the information disclosed in the documents;

- that they have read and agree to be bound by the terms and conditions set out in the ~~ePO service provider's website~~ ASR's ePO channel; ~~and~~
- that they are eligible to apply; and
- that they consent to the use of their personal information in accordance with the personal information collection statement in the relevant prospectus;

(v) requires the input and validation of applicants' HK identity card details, ~~(~~or other identity information, ~~) of applicants~~ as required by the issuer and consistent with any related requirements for using HKEX's FINI platform;[20]

(k) if the ASR intends to incorporate into an investor's application instructions any particulars or other information previously provided by the investor (eg, as part of a pre-registration service[21] provided by the ASR), the ASR has taken reasonable steps to ensure that such particulars and information are up-to-date;

(~~j~~l) a confirmation is given to the applicant~~s~~ as soon as possible once ~~it~~ the ASR has received the application submitted by them;

(~~k~~m) ~~the~~ applicants are able to print a copy of the relevant webpages or mobile app screens containing the details of application information inputted by them and the confirmation message;

(~~l~~n) the design ~~of the website~~ and presentation of ~~the~~ ePO information on the ePO channel encourages investors to make investment decisions based only on the contents of the public offer documents rather than other information, particularly promotional or marketing materials and media coverage;

(~~m~~o) there are sufficient procedures to monitor the ePO service it provides, and to ensure the ePO service is offered in accordance with the sponsor's ~~(or, where there is none,~~ and the issuer's~~)~~ instructions;

(~~n~~p) there are reasonable measures to ensure that its computer systems have sufficient capacity and security to protect the integrity of ~~the~~ transactions~~. Moreover~~, and that documented contingency plans ~~should be put~~ are in place to deal with the situation where the securities application collection service or the display/download of the public offer documents provided through ~~the Internet~~ its ePO channel is disrupted;

(~~o~~q) information is provided on its ~~website~~ ePO channel to enable potential applicants to determine whether the service is suitable for them, ~~. This should~~ including:

(i) the types of persons who are eligible to use the service (eg, existing clients);

(ii) a clear delineation of the area containing the public offer documents and

[20] These may require the use of specific identity document types when inputting identity information.

[21] "Pre-registration service" refers to any service provided by an ASR to an investor whereby the investor may submit personal particulars and other information to the ASR in advance in the expectation that such particulars and information will be incorporated by the ASR as part of the investor's application instructions when he/she next applies for prescribed securities in a public offer through the ASR's ePO channel.

a warning to applicants that any information falling outside those areas is not part of the public offer documents and the prescribed securities are offered solely on the basis of the information in the public offer documents;

(iii) the procedures which an applicant must go through to make a valid application, including accepting the issuer's terms and conditions;

(iv) dates and timing for various stages of the ePO, including deadlines for submitting applications and making payments;

(v) detailed instructions and information in relation to the application procedures, including any requirements or arrangement which applicants must have in place so that they can use the service, eg:

- a list of payment methods~~,~~;
- limitations associated with the payment methods (such as service lead time, ~~or~~ transaction limits, etc)~~,~~;
- circumstances and procedures for refunding monies to applicants~~,~~;
- procedures for distributing and registering prescribed securities ~~certificates or crediting to applicant's account),~~;
- description of the fees and charges that may be ~~made to the~~ payable by applicants~~,~~; and
- deadlines for submission of the application;

(vi) a statement that potential applicants should:

- read the public offer documents prior to making an investment decision; and
- ~~should~~ make their investment decision based on the public offer documents rather than on other information, particularly promotional or marketing materials and media coverage that may accompany the public offer~~ing~~; and

(vii) warnings that, in using the ePO service, the applicant assumes the risks associated with conducting transactions over the Internet (eg, that ~~the~~ transactions may be subject to interruption, transmission blackout, delayed transmission due to Internet traffic or incorrect data transmission due to the public nature of the Internet)~~;~~.

~~(viii) a list of suggested alternative places where applicants can obtain copies of the public offer documents[22]; and~~

~~(ix) a prominent statement on its website informing applicants that the website belongs to the ESP and not the issuer and that in using the ePO service, the ESP is the applicant's (and not the issuer's) agent.~~

~~[22] An ESP may point out in its website, the relevant pages containing this information in the electronic prospectus which is on the ESP's website (or accessible by hyperlink from the ESP's website).~~

3. ~~Registrant-driven~~ Intermediary-driven ePO

3.1 *General*

3.1.1 An ~~registrant-driven~~ intermediary-driven ePO differs from an issuer-driven ePO in that the issuer has little or no responsibility towards the intermediary ~~and the need for coordinating the back-end of the ePO is absent~~.

3.1.2 The intermediary's responsibilities in this type of ePO are almost the same as an ~~ESP's~~ ASR's in an issuer-driven ePO (namely, the matters set out in paragraph ~~2.7~~ 2.6 except ~~2.7.2~~ 2.6.2(a) and (~~h~~i)). In addition, the intermediary proposing to display (or through a hyperlink to the issuer's website, provide access to) the electronic prospectus should seek the issuer's prior consent to do so.[23] This is to ensure that the intermediary displays or provides access to all necessary public offer documents and to ensure that the electronic version of the public offer documents are identical to those provided or ~~issues~~ issued by the issuer ~~(where they are so issued or provided)~~. An intermediary choosing to display or provide access to public offer documents without the issuer's consent should ensure that the documents displayed or to which access is given include~~s~~ all relevant public offer documents and that these are first displayed or made available on its ~~website~~ ePO channel at the same time as or as soon as practicable after they are made available to the public by the issuer.

3.1.3 In intermediary-driven ePOs, ~~where~~ applicants submit application instructions to their intermediaries ~~by Internet or by other electronic means~~, after which the intermediaries submit the applications on or through the HKEX's FINI platform~~these instructions are then aggregated (with instructions from other clients of the intermediary). The intermediary then submits one application~~ on behalf of all ~~its~~ clients who have applied. Intermediaries offering this type of service should ensure that the matters stated in paragraph ~~2.7~~ 2.6 (except ~~2.7.2~~ 2.6.2(a) and (~~h~~i)), are addressed and also provide a clear explanation as to the nature of the service being offered and of any particular risks associated with this type of application that do not normally arise under an issuer-driven ePO or ~~a~~ the traditional paper-based application process that was previously used. Where applicable, it should explain that facilities enabling the collection of such application instructions may not result in any application being made on behalf of the investor and no legal relationship may exist between the investor and the issuer.

~~3.2 *Other types of registrant-driven ePOs*~~

~~3.2.1 The Commission is also aware that in some registrant-driven ePOs, electronic application forms[24] (in addition to the electronic prospectus) have been made available on intermediaries' websites for downloading and printing by applicants. The printed application forms are then handled in the traditional, paper-based method - i.e., they are completed manually by applicants and submitted to the intermediary who will then submit the paper forms to the receiving banks.~~

[23] ~~Whilst~~ While the SFC considers that it is good practice to obtain consent from the issuer (or third party) prior to creating a hyperlink, this is not an SFC requirement. Intermediaries who wish to create a hyperlink to other persons' websites, may also wish to consider whether there are any other legal issues involved (for example, whether there are any intellectual property issues).

~~[24] For example, scanned copies of the paper application forms prescribed by the issuer.~~

~~3.2.2 In addition to the issues listed in paragraph 3.1, intermediaries who offer this type of ePO service should ensure that they have the issuer's consent to do so. They should also ensure that the application forms collected by the intermediary and delivered to the issuer, the share registrar or receiving bank (as the case may be) will not be rejected by them. These intermediaries should liaise with the issuer for details of the format of the downloaded and printed application forms that the receiving bank will accept. If the issuer's consent and the required information are not given, the intermediary will usually be unable to offer this service.~~

4. Other matters

4.1 *Electronic prospectus*

~~4.1.1 Public offer documents in both English and Chinese versions must be displayed or accessible by hyperlink on the intermediary's website.~~

~~4.1.2~~4.1.1 The following enhancements or differences between the paper version and an electronic version of any public offer documents are acceptable:

(a) a search facility for defined expressions;

(b) hypertext links within the prospectus;

(c) prompts to assist readers to use and find information in the document which~~. The prompts~~ should not contain any information that does not appear in the registered paper document; and

(d) a zoom facility so that readers may enlarge or reduce the information displayed.

~~4.1.3~~4.1.2 ~~Whilst the~~ The issuer is expected to inform and provide ~~ESPs~~ its ASR with electronic supplemental prospectuses in an issuer-driven ePO. However, in ~~a registrant-driven~~ an intermediary-driven ePO, the intermediary is expected to ensure that a copy of any supplemental prospectus is provided or made available on its ~~website~~ ePO channel at the same time as or as soon as practicable after it is made available to the public by the issuer.

4.2 *Hyperlinking to electronic prospectuses*

4.2.1 As an alternative to providing a copy of the public offer documents on its ~~website~~ ePO channel, an ASR or intermediary providing ePO services may establish a hyperlink from its ~~website~~ ePO channel to the website of the issuer (or any standalone website set up by the issuer for the duration of the public offer~~ing~~) or that of a suitable third party. Any ASR or intermediary wishing to use this method should:

(a) consider obtaining prior consent from the issuer (or the third party) to establish the hyperlink[25]~~. The intermediary should~~, and indicate on ~~its~~ the webpage or mobile app screen containing the hyperlink whether consent has been obtained;

(b) ensure that the webpage or mobile app screen or ~~the~~ icon containing the hyperlink contains a clear message to inform applicants that they are leaving the

[25] Please refer to footnote ~~13~~ 23 above.

ASR’s or intermediary’s ~~website~~ ePO channel and entering the website of the other person;

(c) ensure that the webpage or mobile app screen or ~~the~~ icon containing the hyperlink clearly describes where the hyperlink leads~~.~~;

(d) ensure that, ~~S~~subject to paragraph (b) above, a hyperlink described as leading to the prospectus (or other public offer document, as the case may be) ~~must~~ provides direct access to the front cover or table of contents of the relevant document;[26]~~. Hyperlinks described as leading to the prospectus (or other public offer document) which lead to webpages containing information other than the relevant document or to certain parts of the document are not acceptable for these purposes;~~

(~~d~~e) put in place procedures to monitor the performance of the hyperlink to ensure that applicants using the ASR’s or intermediary’s webpage or mobile app screen can access the electronic public offer documents on the relevant website or mobile app screen for the duration of the public offer or for so long as applications are being accepted ~~through~~ by that ASR or intermediary; and

(~~e~~f) immediately cease to accept applications through its ~~website~~ ePO channel if the hyperlink fails to provide applicants with proper access to the public offer documents on the issuer~~/~~ or third party’s website.

4.3 *Non-prescribed securities*

4.3.1 Securities that are not prescribed securities may also be the subject of an ePO. Any person (including any intermediary or issuer) who chooses to provide ePO services in respect of such securities is also expected to comply with the requirements under these Guidelines. An ASR that intends to provide ePO services in respect of such securities will need to take measures to comply with the SFO, such as working with an intermediary which is licensed for Type 1 regulated activity, given that the provision of such services would constitute “dealing in securities” under Schedule 5 to the SFO. Such ASRs should approach the Commission as early as reasonably practicable.

[26] Hyperlinks described as leading to the prospectus (or other public offer document) but leading to webpages or mobile app screens containing information other than the relevant document, or to certain parts of the document, are not acceptable for these purposes.