



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

# Implementation of Regulatory Requirements for Online and Offline Sales of Complex Products

## A. Background

- The Guidelines on Online Distribution and Advisory Platforms will become effective on 6 July 2019 (3-month extension from original effective date).
- Objectives:
  - Provide tailored guidance on the design and operation of online platforms, including specific guidance on the provision of automated or robo-advice
  - Clarify how the Suitability Requirement would operate in an online environment
  - Facilitate distribution of simple products on online platforms and growth of fund distribution platforms, giving investors greater choice of products and advice
  - Provide additional protective measures for the sale of complex products in an online environment
- Paragraph 5.5 of the Code of Conduct for Persons Licensed by or Registered with the SFC – extend the additional protective measures to offline sale of complex products (effective on 6 July 2019)
- Where the Suitability Requirement is triggered, the suitability requirement would have to be complied with regardless of whether the investment product is a complex product or a non-complex product – for example, solicitation or recommendation is likely involved during interactive communications as part of the offline sales process
- From the effective date, additional protection will be provided to investors when they purchase a complex product without a solicitation or recommendation

## B. Application of the Code of Conduct on the sale of complex products

- Paragraph 5.5 of the Code of Conduct
  - Additional protective measures (i.e. Suitability Requirement, minimum information and warning statements) will apply to the sale of complex products without a solicitation or recommendation
  - The policy intent is to provide protection to investors when they wish to purchase a complex product. In an online environment, it is likely to be difficult for an average investor to fully understand the nature and risks associated with a complex product based only on the information posted on an online platform. Under this circumstance, an intermediary is required to adopt the additional protective measures. The same additional protective measures apply in an offline environment. When an investor wishes to purchase a complex product on an unsolicited basis, the intermediary shall adopt the same additional protective measures so as to help investors make informed investment decisions.

## B. Application of the Code of Conduct on the sale of complex products

- Paragraph 5.2 of the Code of Conduct
  - When a solicitation or recommendation is involved, an intermediary should comply with paragraph 5.2 of the Code of Conduct regardless of whether the product is complex or non-complex
  - The FAQs on Compliance with Suitability Obligations by Licensed or Registered Persons (FAQs) require an intermediary to provide all relevant material information to clients and help them make informed investment decisions, for example:
    - providing client with up-to-date prospectuses or offering circulars and other up-to-date documents relevant to the investments
    - explaining the nature and extent of risks the investment products bear
    - presenting balanced views
    - drawing client's attention to the disadvantages and downside risks

## C. Definition of a complex product

### Guidelines on Online Distribution and Advisory Platforms (“Guidelines”)

- Paragraph 6.1 of the Guidelines
  - A complex product is an investment product whose terms, features and risks are not reasonably likely to be understood by a retail investor because of its complex structure.
  - Factors to determine whether an investment product is complex or not:
    - i. whether the investment product is a derivative product;
    - ii. whether a secondary market is available for the investment product at publicly available prices;
    - iii. whether there is adequate and transparent information about the investment product available to retail investors;
    - iv. whether there is a risk of losing more than the amount invested;
    - v. whether any features or terms of the investment product could fundamentally alter the nature or risk of the investment or pay-out profile or include multiple variables or complicated formulas to determine the return; and

*Note: This would include, for example, investments that incorporate a right for the investment product issuer to convert the instrument into a different investment.*
    - vi. whether any features or terms of the investment product might render the investment illiquid and/or difficult to value.

## C. Definition of a complex product

### Guidelines on Online Distribution and Advisory Platforms (“Guidelines”)

- Paragraph 6.2 of the Guidelines
  - A Platform Operator should determine whether a product may be treated as non-complex or complex with due skill, care and diligence. In making such determination, the Platform Operator should have regard to the factors set out in paragraph 6.1 and the non-exhaustive list of examples of non-complex and complex products (which may be updated from time to time) set out on the SFC’s website.
  - A Platform Operator should consider whether an investment product is of the same type as an investment product in the list of examples of non-complex and complex products and whether the product is being regulated in or traded on an exchange in a specified jurisdiction.

## C. Definition of a complex product

### Code of Conduct for Persons Licensed by or Registered with the SFC ("Code of Conduct")

- Paragraph 5.5 of the Code of Conduct
  - Same definition as paragraph 6.1 of the Guidelines
  - A licensed or registered person should refer to the guidance (eg, guidelines and FAQs) issued by the Commission from time to time for examples of complex products, lists of specified jurisdictions, etc.

## D. Determining whether a product is complex or non-complex

- Consider:

- (1) Factors set out in paragraph 6.1 of the Guidelines

- (2) List of examples of non-complex and complex products

Non-complex products	Complex products – derivatives traded on an exchange	Complex products
<ol style="list-style-type: none"> <li>1. Shares traded on the SEHK;</li> <li>2. Non-complex bonds (including callable bonds without other special features) (please refer to the definition for "complex bonds" in the complex products column);</li> <li>3. Non-derivative funds authorized by the SFC under the UT Code;</li> <li>4. SFC-authorized non-derivative ETFs traded on the SEHK;</li> <li>5. SFC-authorized REITs traded on the SEHK; and</li> <li>6. Any other investment product the SFC may specify from time to time.</li> </ol>	<ol style="list-style-type: none"> <li>1. Futures contracts traded on the HKFE;</li> <li>2. Equity derivatives traded on the SEHK (eg, DWs, CBBCs and listed share options);</li> <li>3. Synthetic ETFs and futures-based ETFs authorized by the SFC and traded on the SEHK;</li> <li>4. L&amp;I products authorized by the SFC and traded on the SEHK; and</li> <li>5. Any other investment product the SFC may specify from time to time.</li> </ol>	<ol style="list-style-type: none"> <li>1. Complex bonds. Complex bonds are bonds with special features (including, but not limited to, perpetual or subordinated bonds, or those with variable or deferred interest payment terms, extendable maturity dates, or those which are convertible or exchangeable or have contingent write down or loss absorption features, or those with multiple credit support providers and structures) and/or bonds comprising one or more special features;</li> <li>2. Funds authorized by the SFC under the UT Code which are derivative funds;</li> <li>3. Funds authorized by the SFC under 8.7 of the UT Code (ie, SFC-authorized hedge funds);</li> <li>4. SFC-authorized unlisted structured investment products (including SFC-authorized equity-linked deposits, equity-linked instruments/investments, etc.);</li> <li>5. Other non-exchange-traded structured investment products; and</li> <li>6. Any other investment product the SFC may specify from time to time.</li> </ol>



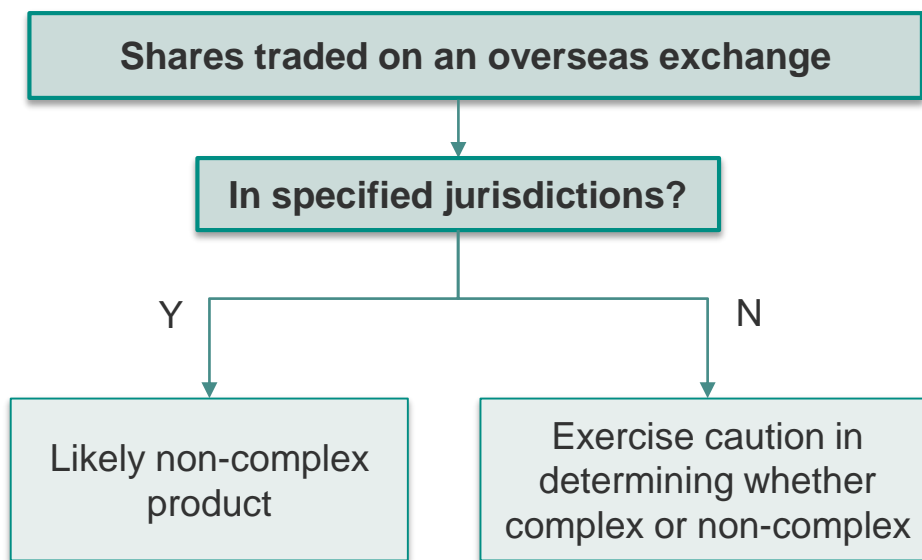
# D. Determining whether a product is complex or non-complex

- **Consider:**
  - (3) Regulated in or traded on an exchange in a specified jurisdiction (for both unlisted and listed investment products)

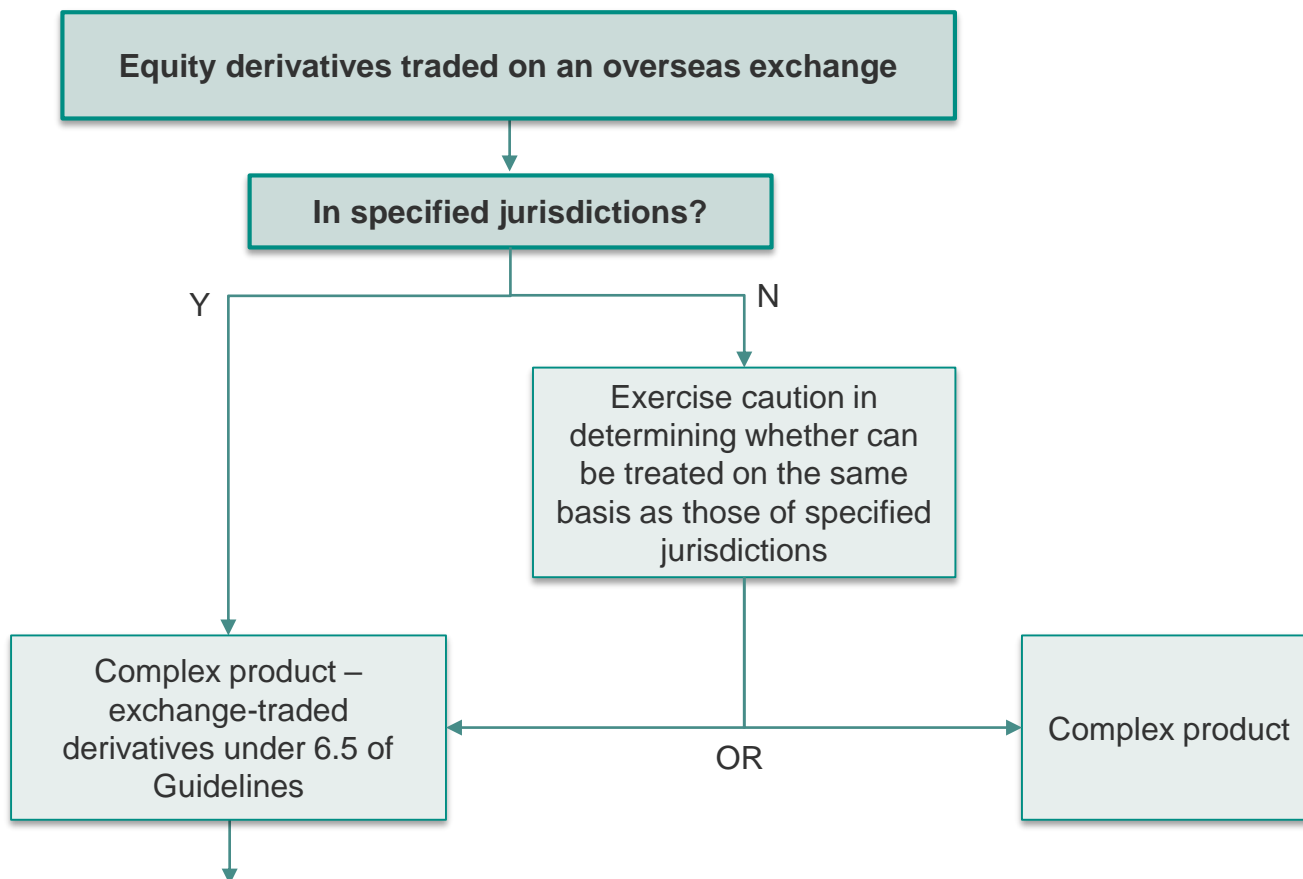
<b>Non-exchange-traded unauthorized funds (15)</b> (Includes jurisdictions in which Recognized Jurisdictions Schemes (RJS) are regulated and jurisdictions where there is a Mutual Recognition of Funds (MRF) arrangement in place)	<b>Exchange-traded products (29)</b> (Includes jurisdictions in which the specified exchanges set out in the SFO and the Securities and Futures (Financial Resources) Rules are located)
<ul style="list-style-type: none"> <li>▪ <u>Asia Pacific</u> – Australia, Mainland China, Malaysia, Taiwan</li> <li>▪ <u>Europe</u> – France, Germany, Guernsey, Ireland, Isle of Man, Jersey, Luxembourg, Netherlands, Switzerland, the UK</li> <li>▪ <u>America</u> – the US</li> </ul>	<ul style="list-style-type: none"> <li>▪ <u>Asia Pacific</u> – Australia, India, Japan, Korea, Mainland China, Malaysia, New Zealand, the Philippines, Singapore, Taiwan, Thailand</li> <li>▪ <u>Europe</u> – Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Norway, Spain, Sweden, Switzerland, the UK</li> <li>▪ <u>America</u> – Brazil, Canada, the US</li> </ul>

- An intermediary should determine whether a product may be treated as non-complex or complex with due skill, care and diligence
- For unauthorized funds – should consider, among others, the structure and strategy of the fund and the nature of underlying investments with reference to product disclosure documents
  - Detailed calculation of the fund’s allocation in each underlying investment is not expected
- FAQs on Guidelines on Online Distribution and Advisory Platforms (also applicable to offline transactions)
  - FAQs 27, 28, 33 and 34

## E. Examples – (1) Shares traded on an overseas exchange

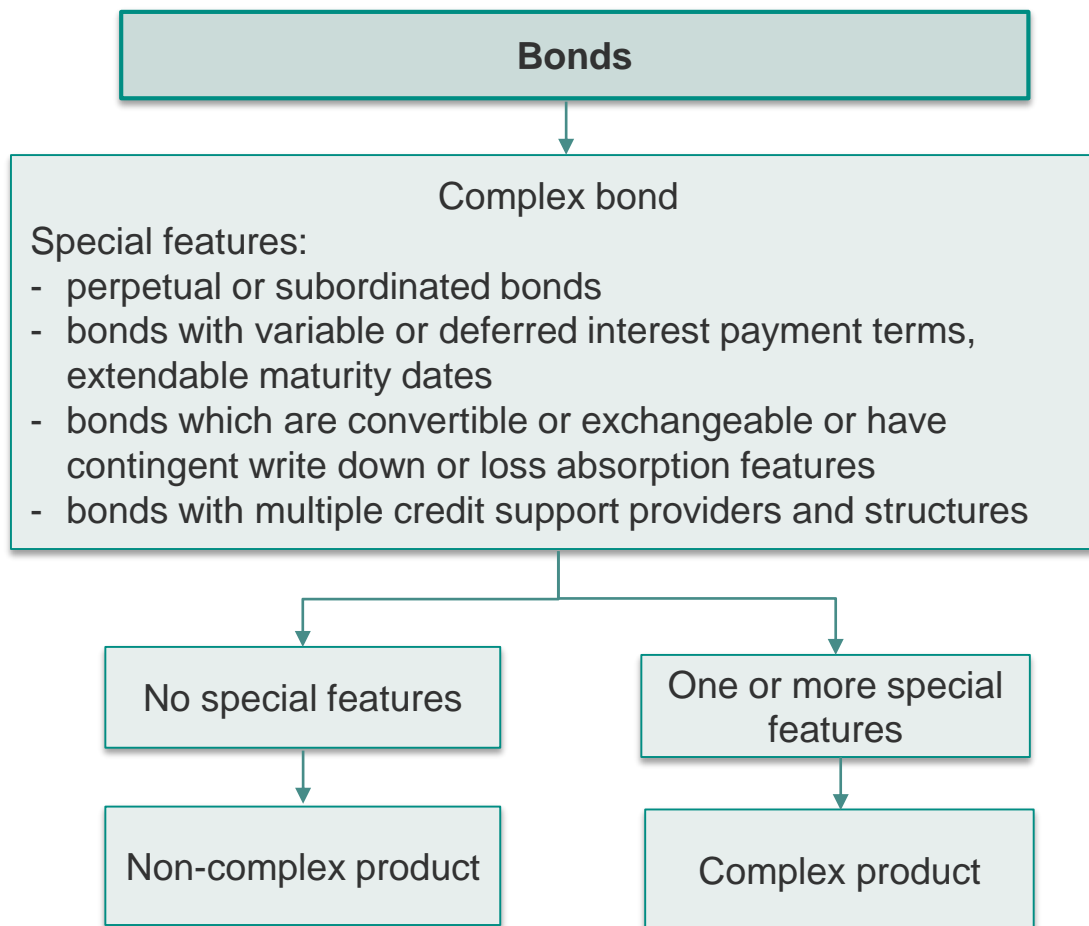


## E. Examples – (2) Equity derivatives traded on an overseas exchange

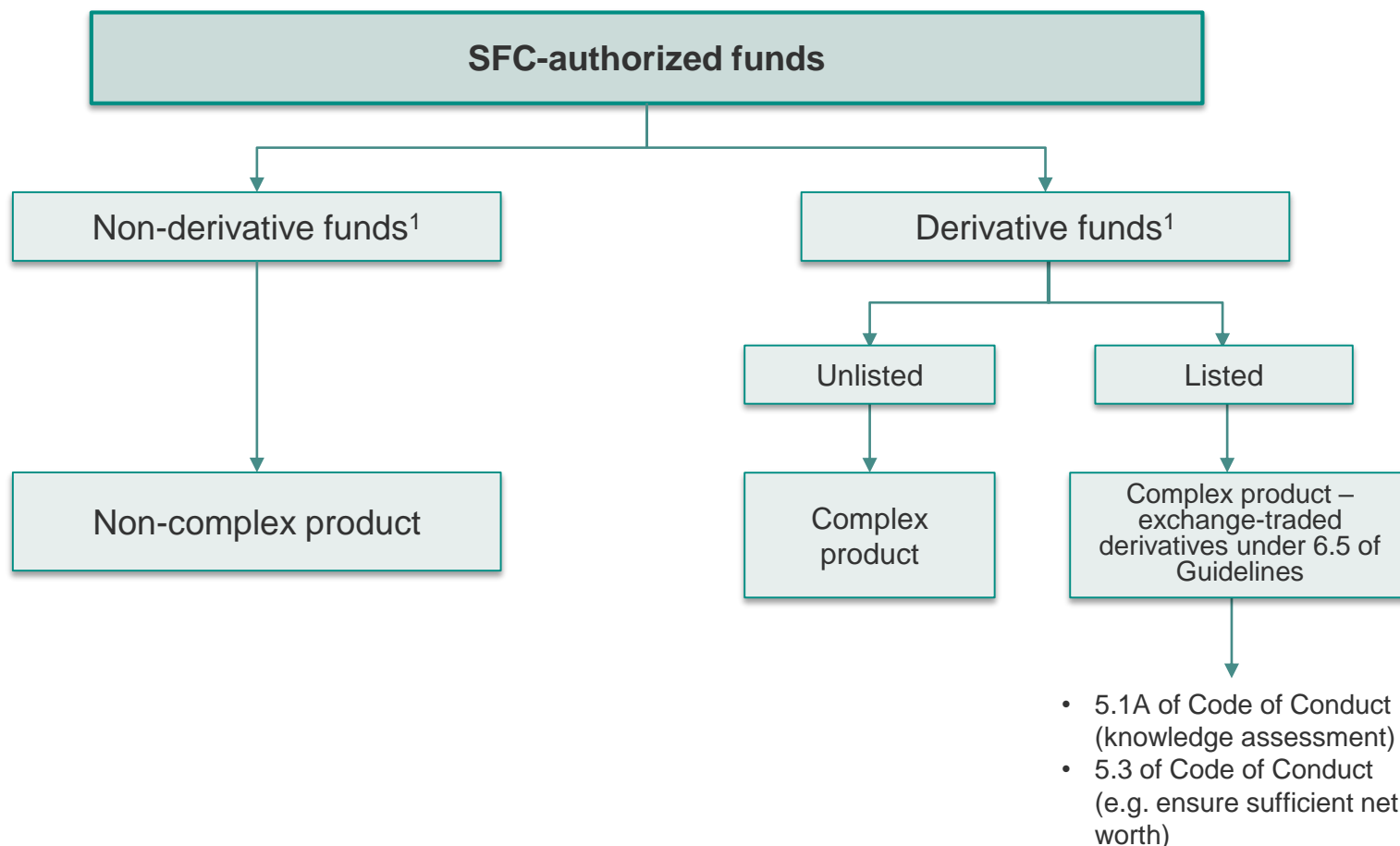


- 5.1A of Code of Conduct (knowledge assessment)
- 5.3 of Code of Conduct (e.g. ensure sufficient net worth)

## E. Examples – (3) Bonds

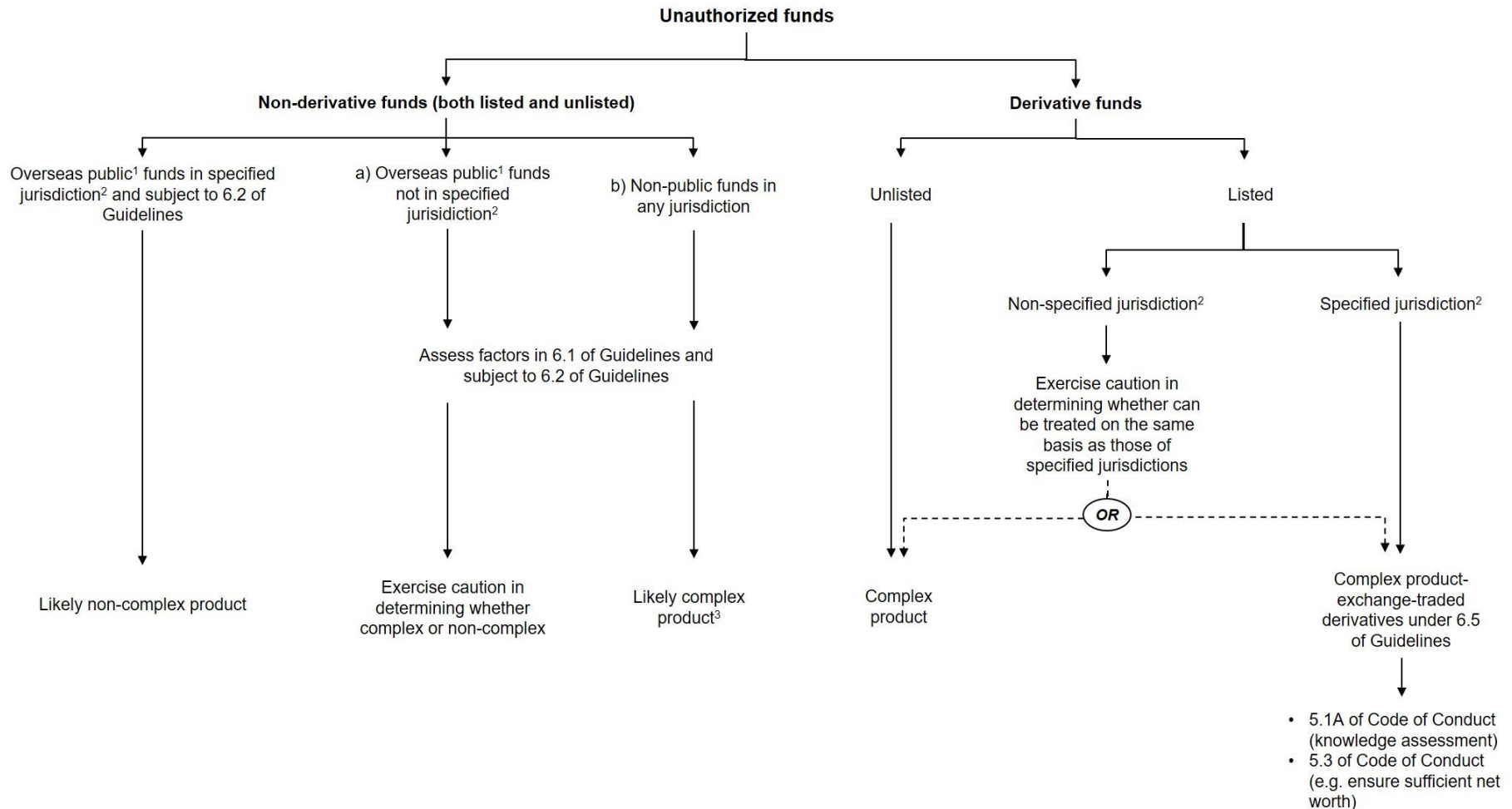


## E. Examples – (4) SFC-authorized funds



<sup>1</sup> The SFC has specified that non-derivative funds authorized by the SFC under the UT Code are considered to be non-complex products in its list of non-complex products on SFC's website. A non-derivative fund is defined as one with a net derivative exposure of up to 50% of its NAV under the UT Code effective on 1 January 2019 (subject to transition arrangements ending on 31 December 2019).

# E. Examples – (5) Unauthorized funds



<sup>1</sup>A public fund is a fund which has been authorized or approved for offering to retail investors by a regulator.

<sup>2</sup>Please refer to the list of specified jurisdictions for non-exchange-traded unauthorized funds or the list of specified jurisdictions for exchange-traded products at <https://www.sfc.hk/web/EN/rules-and-standards/suitability-requirement/non-complex-and-complex-products/list-of-specified-jurisdictions.html>, as applicable.

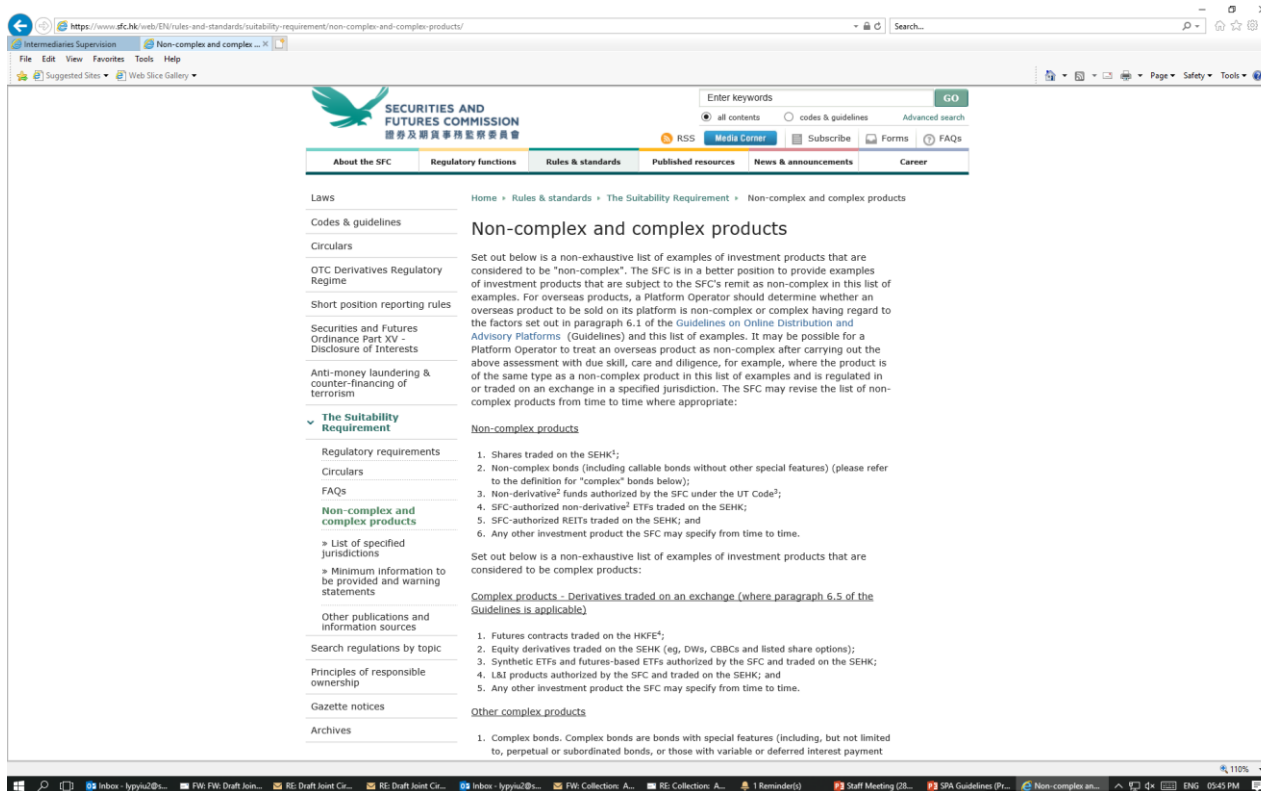
<sup>3</sup>It is less likely that a non-public unauthorized fund will be non-complex since it would not be likely to be able to satisfy factor (ii) of paragraph 6.1 of the Guidelines (whether a secondary market is available for the non-public fund at publicly available prices), factor (iii) of paragraph 6.1 of the Guidelines (whether there is adequate and transparent information about the investment product available to retail investors) and factor (vi) of paragraph 6.1 of the Guidelines (whether any features or terms of the non-public fund might render the investment illiquid and/or difficult to value).

# F. Reference materials

## Please refer to the “Suitability” webpage

<https://www.sfc.hk/web/EN/rules-and-standards/suitability-requirement/non-complex-and-complex-products/>

- FAQs
- List of specified jurisdictions
- List of non-exhaustive examples of complex and non-complex products
- Training PPT on Guidelines on Online Distribution an Advisory Platform
- Flowchart illustrating how to classify an unauthorized fund as complex or non-complex product



The screenshot shows the SFC website page for 'Non-complex and complex products'. The page is titled 'Non-complex and complex products' and is part of the 'Rules & standards' section. The main content area contains the following text:

Set out below is a non-exhaustive list of examples of investment products that are considered to be "non-complex". The SFC is in a better position to provide examples of investment products that are subject to the SFC's remit as non-complex in this list of examples. For overseas products, a Platform Operator should determine whether an overseas product to be sold on its platform is non-complex or complex having regard to the factors set out in paragraph 6.1 of the [Guidelines on Online Distribution and Advisory Platforms \(Guidelines\)](#) and this list of examples. It may be possible for a Platform Operator to treat an overseas product as non-complex after carrying out the above assessment with due skill, care and diligence, for example, where the product is of the same type as a non-complex product in this list of examples and is regulated in or traded on an exchange in a specified jurisdiction. The SFC may revise the list of non-complex products from time to time where appropriate:

**Non-complex products**

1. Shares traded on the SEHK<sup>1</sup>;
2. Non-complex bonds (including callable bonds without other special features) (please refer to the definition for "complex" bonds below);
3. Non-derivative<sup>2</sup> funds authorized by the SFC under the UT Code<sup>3</sup>;
4. SFC-authorized non-derivative<sup>4</sup> ETFs traded on the SEHK;
5. SFC-authorized REITs traded on the SEHK; and
6. Any other investment product the SFC may specify from time to time.

Set out below is a non-exhaustive list of examples of investment products that are considered to be complex products:

**Complex products - Derivatives traded on an exchange (where paragraph 6.5 of the Guidelines is applicable)**

1. Futures contracts traded on the HKFE<sup>5</sup>;
2. Equity derivatives traded on the SEHK (eg, DWs, CBBs and listed share options);
3. Synthetic ETFs and futures-based ETFs authorized by the SFC and traded on the SEHK;
4. L&I products authorized by the SFC and traded on the SEHK; and
5. Any other investment product the SFC may specify from time to time.

**Other complex products**

1. Complex bonds. Complex bonds are bonds with special features (including, but not limited to, perpetual or subordinated bonds, or those with variable or deferred interest payment

# F. Reference materials

## List of Derivative and non-Derivative authorised funds

<https://www.sfc.hk/web/EN/regulatory-functions/products/list-of-publicly-offered-investment-products/>

(d) Please note that it may take time for the SFC to process the information and representations received from the product issuers and the information herein may not be always up-to-date. You can contact the relevant product issuers for the latest information.

(6) The effective date of the current Code is 1 January 2019 ("Effective Date"). A transition period of 12 months from the Effective Date will be provided for existing SFC-authorized schemes categorized under 8.1 and 8.4A of the previous Code to be reclassified into other Chapters of the current Code and comply with the relevant requirements.

Product (CE No.)	Sub-fund (CE No.)	Issuer	Authorisation date	Documents	Derivative funds
AB (HK) Unit Trust Series (BFF199)	AB (HK) American Income Portfolio (BFF203)	AllianceBernstein Hong Kong Limited	22/7/2015	Offering Documents	
AB (HK) Unit Trust Series (BFF199)	AB (HK) Asia Ex-Japan Equity Portfolio (BFF201)	AllianceBernstein Hong Kong Limited	22/7/2015	Offering Documents	
AB (HK) Unit Trust Series (BFF199)	AB (HK) Emerging Markets Multi-Asset Portfolio (BFF205)	AllianceBernstein Hong Kong Limited	22/7/2015	Offering Documents	
AB (HK) Unit Trust Series (BFF199)	AB (HK) European Income Portfolio (BFF204)	AllianceBernstein Hong Kong Limited	22/7/2015	Offering Documents	
AB (HK) Unit Trust Series (BFF199)	AB (HK) Global High Yield Portfolio (BFF202)	AllianceBernstein Hong Kong Limited	22/7/2015	Offering Documents	
AB (HK) Unit Trust Series (BFF199)	AB (HK) Global Value Portfolio (BFF200)	AllianceBernstein Hong Kong Limited	22/7/2015	Offering Documents	
ABCI Investment Funds (BDW215)	ABCI Dynamic Income Fund (BDW216)	ABCI Asset Management Limited	9/12/2014	Offering Documents	
Allianz Global Investors Asia Fund (BDN048)	Allianz Selection European Equity Dividend (BDN049)	Allianz Global Investors Asia Pacific Limited	5/9/2014	Offering Documents	No
Allianz Global Investors Asia Fund (BDN048)	Allianz Selection Income and Growth (BDN051)	Allianz Global Investors Asia Pacific Limited	5/9/2014	Offering Documents	No
Allianz Global Investors Asia Fund (BDN048)	Allianz Selection US High Yield (BDN052)	Allianz Global Investors Asia Pacific Limited	5/9/2014	Offering Documents	No
Allianz Global Investors Choice Fund (AFH733)	Allianz Choice Asian Fund (A11640)	Allianz Global Investors Asia Pacific Limited	23/2/2004	Offering Documents	No
Allianz Global Investors Choice Fund (AFH733)	Allianz Choice "Best Styles" Europe Fund (BGA508)	Allianz Global Investors Asia Pacific Limited	22/8/2016	Offering Documents	No
Allianz Global Investors Choice Fund (AFH733)	Allianz Choice "Best Styles" US Fund (BGA509)	Allianz Global Investors Asia Pacific Limited	22/8/2016	Offering Documents	No
Allianz Global Investors Choice Fund (AFH733)	Allianz Choice Flexi Balanced Fund (A11642)	Allianz Global Investors Asia Pacific Limited	23/2/2004	Offering Documents	No
Allianz Global Investors Choice Fund (AFH733)	Allianz Choice Global Fixed Income Fund (A11641)	Allianz Global Investors Asia Pacific Limited	22/8/2016	Offering Documents	No



A large, stylized teal graphic of a bird in flight, positioned on the left side of the page. The bird's wings are spread wide, and its tail feathers are visible. The graphic is semi-transparent, allowing the white background to show through.

**Thank you.**

**[www.sfc.hk](http://www.sfc.hk)**