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

Consultation Conclusions on the Client Agreement Requirements

8 December 2015

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Executive Summary

1. On 15 May 2013, the Securities and Futures Commission (**SFC**) issued a consultation paper on the proposed amendments to the professional investor regime and the client agreement requirements. In the consultation paper, the SFC proposed that, amongst other things, the Suitability Requirement[1] under the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commissions (**Code**) should be incorporated into client agreements as a contractual term.

2. Having considered the comments received during the public consultation, the SFC modified its proposals on the client agreement requirements and published the Consultation Conclusions on the Proposed Amendments to the Professional Investor Regime and Further Consultation on the Client Agreement Requirements (**Further Consultation Paper**) on 25 September 2014. The SFC invited comments from the public by 24 December 2014.

3. In the Further Consultation Paper, the SFC invited comments on a new clause (**New Clause**) which is proposed to be incorporated into client agreements (as set out below) pursuant to a new Code requirement[2]:

   "If we [the intermediary] solicit the sale of or recommend any financial product to you [the client], the financial product must be reasonably suitable for you having regard to your financial situation, investment experience and investment objectives. No other provision of this agreement or any other document we may ask you to sign and no statement we may ask you to make derogates from this clause."

4. During the further consultation period, the SFC received 12 submissions from the public, including industry associations, professional bodies and market participants. Further representations were made to the SFC by interested parties following the end of the further consultation process that were appropriately reviewed and considered.

5. In summary, the public comments are as follows:

[1] **"**Suitability Requirement**"** refers to the requirement under paragraph 5.2 of the Code that intermediaries should, when making a recommendation or solicitation, ensure the suitability of the recommendation or solicitation for the client is reasonable in all the circumstances.

[2] Through the new paragraph 6.2(i) of the Code as set out in **Appendix A** to this paper.

(a) The majority of respondents suggested deleting “solicit” as a trigger under the New Clause. A number of respondents further suggested that the scope of “recommend” should be restricted to “personal recommendation” only.

(b) Many respondents requested clarification of the definition of “financial product”. A few respondents also suggested that certain products such as listed securities in Hong Kong should be excluded from the term “financial product” in the New Clause.

(c) A number of respondents expressed concerns that the standard of “reasonably suitable” is unclear, overly broad and open to divergent interpretation.

(d) With respect to the proposal that intermediaries should take into account the client’s personal circumstances, a few respondents suggested that an intermediary’s liability under the New Clause should only be based on its actual knowledge of a client’s personal circumstances.

(e) In relation to the second sentence of the New Clause (ie, the “non-derogation” component of the New Clause), a few respondents commented that it should be deleted as it does not foster harmonious relationship with clients and that it would be more appropriate to entrench the requirement in the Code rather than in client agreements.

(f) A few respondents expressed concerns that a Court’s construction and interpretation of the New Clause might be different from the SFC’s interpretation and application of the Suitability Requirement, and result in inconsistent standards and dual track procedures.

(g) Some respondents queried whether the New Clause should apply in a corporate finance context, or to fund managers who do not have any direct contractual relationship with the underlying fund investors.

(h) Some respondents considered that the SFC should defer the conclusion of the proposals until completion of the SFC’s internal study of the Suitability Requirement.

6. The SFC has thoroughly considered all the comments and has decided to proceed as follows:

(a) In relation to the comments on “solicit” and “recommend”, the SFC considers that the New Clause should retain the same main features that are in the Suitability Requirement, with which the market is familiar. Accordingly, the trigger in the New Clause should be making a “solicitation” or “recommendation”, which is the same as that in the Suitability Requirement.

(b) Regarding the comments on “financial product”, the SFC proposes to add a further Note under paragraph 6.2(i) of the Code to explain that in this context “financial product” refers to any “securities, futures contracts or leveraged foreign exchange contracts as defined under the SFO[3]. Regarding ‘leveraged foreign exchange contracts’, it is only applicable to those traded by persons licensed for Type 3 regulated activity.”

(c) In relation to the comments on “reasonably suitable”, the SFC considers that it is an objective standard which is sufficiently clear and familiar for a Court to readily interpret and apply it.

(d) Regarding the comments on intermediaries’ current knowledge of clients’ circumstances, the SFC emphasises that the Know-Your-Client (**KYC**) requirement in the Code is predicated on an intermediary taking “all reasonable steps” to establish the “true and full identity” of each client and his “financial situation, investment experience and investment objectives”. Where appropriate, each client’s information should also be updated on a continuous basis. The SFC believes that the expectations of this process are well understood and no further elaboration is required in this context.

(e) The SFC does not agree with the comments on the “non-derogation” component of the New Clause. It is of paramount importance to retain the “non-derogation” component of the New Clause so as to ensure that a client agreement would not contain any disclaimers or terms which would defeat the purpose of the New Clause or override other fundamental provisions of the Code. This aims at ensuring a fair and equitable balance in the relationship between intermediaries and their clients which will result in fairer agreements.

(f) With respect to the comments on potential divergence in interpretation between a Court and the SFC, the SFC considers that the New Clause is a self-contained contractual term and does not cross-refer to the Code’s Suitability Requirement.

[3] Securities and Futures Ordinance (Cap. 571).

There should not be any practical conflict arising from making the suitability obligation both a contractual and a regulatory requirement. If a Court gives referable guidance on the interpretation of the suitability obligation in the New Clause, the SFC would take such precedents into account when applying the Code's analogous suitability requirement.

(g) The SFC concludes that all intermediaries should include the New Clause in their client agreements. Giving the right or flexibility to certain particular types of intermediaries to opt out of the New Clause in their client agreements may lead to inconsistent application and potential abuse that could only be addressed by SFC disciplinary action which would not provide a remedy for aggrieved investors. The existing paragraph 6.4[4] of the Code, however, will remain intact.

(h) As discussed in the Further Consultation Paper, the SFC considers that the study of the Suitability Requirement is a separate exercise on the requirement under paragraph 5.2 of the Code, and may take some time to complete. The main purpose of the New Clause, however, is to enhance investor protection by filling an obvious gap through giving aggrieved investors a contractual right to claim damages if there is a breach of the suitability obligation under the New Clause. The purpose and scope of the two exercises are thus very different. Accordingly, the SFC considers that it is not necessary for the implementation timetable of the New Clause to be delayed until the SFC's internal study is completed.

7. The conclusions set out in paragraphs 6(a) to (h) above are reflected in the revised paragraph 6.2 of the Code, which appears in **Appendix A** to this paper**.** The new paragraph 6.5 of the Code as discussed in the Further Consultation Paper also appears in **Appendix A**.

8. Prior to the publication of this paper, the SFC consulted some industry associations and intermediaries regarding the time required for repapering the client agreements. Having taken into account the views expressed and the practical need of some intermediaries to review, redraft and re-execute their client agreements, the SFC has decided that all the proposed amendments set out in **Appendix A** will come into effect 18 months after the date of this paper. The SFC however expects all intermediaries to commence reviewing and revising their client agreements immediately to ensure timely completion of this

[4] Paragraph 6.4 of the Code provides that "A Client Agreement should properly reflect the services to be provided. Where the services to be provided are limited in nature, the Client Agreement may be limited accordingly…"

exercise. Intermediaries are also expected to make available revised client agreements expeditiously to enable new clients being on-boarded to execute the new client agreements and existing clients to enter into revised client agreements (by way of amending / replacing their existing agreements) as soon as possible.

9. The SFC reiterates that intermediaries should commence the client agreement review process immediately. The SFC emphasises that the length of the 18-month transitional period is mainly to cater for circumstances where intermediaries, despite their best efforts, encounter practical difficulties when arranging for the re-execution of agreements with some of their existing clients. It is expected that intermediaries should be able to complete the above exercise well before the end of the transitional period for all new clients and for all but a small minority of existing clients.

10. A list of the respondents who sent in submissions is at **Appendix B** to this paper, and the full text of the submissions can be viewed at the SFC's website at www.sfc.hk. Out of the 12 respondents who made submissions, one requested that its submissions be published without disclosing its name.

Public comments and the SFC's responses

Comments on "solicit" and "recommend"

Public comments

11. The majority of respondents suggested deleting "solicit" as a trigger under the New Clause. They expressed concern that the definition of "solicit" is unclear and that it might be broadly interpreted to include the following:

    (a) Mass marketing activities that are not directed to specific clients and are therefore not tailored to their individual needs and circumstances;

    (b) All incidental communication which is not intended as a personalised invitation, such as a high-level description of the products, or in the situation where an intermediary recommends particular products in compliance with the Suitability Requirement, but the customer proactively requests, on his initiative, another specific product; and

    (c) Orders made on an "execution-only" basis, including orders placed through a call-centre or e-platform and whereby staff of the intermediary have no direct contact with the client placing the order.

12. A respondent also pointed out that the concept of "solicit" as a trigger for suitability is not found in other key jurisdictions such as the United Kingdom, the United States, Singapore or Australia.

13. With respect to the trigger term "recommend", a number of respondents further commented that it should be confined to making a personal recommendation or giving personal investment advice to a client. Also, it should not capture the situation where an intermediary is merely providing information or explaining an investment product to a client.

The SFC's response

14. The New Clause is derived from the Suitability Requirement under the Code, which is the cornerstone of investor protection. This requirement has been in place for many years and intermediaries should be fully aware of their compliance obligations under it. However, because the Suitability Requirement is limited to being a regulatory obligation, the SFC can only take disciplinary action against the relevant intermediary which has

breached it; it cannot require the intermediary to compensate aggrieved investors for losses arising from such breach. The New Clause aims to enable aggrieved investors to seek redress as a contractual right under the client agreement in such a situation. Accordingly, it follows that the New Clause should retain the same main features that are in the Suitability Requirement, with which the market is familiar, including the same trigger for applicability, ie, making a “solicitation” or “recommendation”.

15. Moreover, whilst the experience and regulatory requirements of other jurisdictions are useful reference points, each regulatory regime needs to be viewed in its entirety and no single regulatory requirement should be viewed in isolation. The SFC notes that in other key jurisdictions, breach of the suitability requirement (or equivalent obligation) is actionable by an aggrieved investor in addition to any actions taken by regulators. For instance, a suitability requirement is prescribed in the primary law of Australia and Singapore while in the United Kingdom it is contained in rules and under primary law a right is conferred on aggrieved clients to bring an action for damages in the event of a breach of such rules. In light of Hong Kong’s departure from these standards, the SFC considers it appropriate and necessary to incorporate the New Clause into client agreements. This approach is consistent with the existing regulatory regime in Hong Kong in which certain minimum contents of client agreements are already prescribed in the Code. The SFC considers that this is effective and there is no present need to legislate in this area although it has power to do so under the SFO.

Comments on the definition of “financial product”

Public comments

16. Many respondents requested clarification of the definition of “financial product” in the New Clause. A few respondents also suggested that certain products such as listed securities in Hong Kong should be excluded from the term “financial product” in the New Clause.

17. One respondent commented that the New Clause would go beyond what the Suitability Requirement currently requires if its scope is the same as the definition of “financial product” in the SFO, as all structured products fall within that definition. Since the selling of some structured products may not be covered by the definition of “regulated activities” under Schedule 5 to the SFO, the relevant activities may fall outside the scope of the Suitability Requirement.

The SFC's response

18. The SFC considers that it is in fact unlikely in practice for a sale of a structured product to fall outside the definition of "regulated activities". In any event, as technically there is such a possibility, the SFC will clarify the ambit of the term "financial product" in the New Clause by adding a further Note under paragraph 6.2(i) of the Code (as set out in **Appendix A** to this paper) to explain that in this context "financial product" refers to any "securities, futures contracts or leveraged foreign exchange contracts as defined under the SFO. Regarding 'leveraged foreign exchange contracts', it is only applicable to those traded by persons licensed for Type 3 regulated activity." Intermediaries can either insert a footnote to the New Clause in their client agreements or reflect this in the definition section of their agreements.

19. The SFC does not consider there is a valid reason for carving out listed securities from the definition of "financial product". For example, the fact that shares or other financial products are listed does not necessarily mean that they are less risky or are suitable for every investor.

Comments on "reasonably suitable"

Public comments

20. Some respondents expressed concerns that the standard of "reasonably suitable" is unclear, overly broad and open to divergent interpretation. One respondent suggested making it explicit in the New Clause that the intermediary must have a reasonable basis to believe that the solicitation or recommendation in question is suitable, having regard to the client's financial situation, investment experience and investment objectives.

The SFC's response

21. The SFC takes the view that "reasonably suitable" is an objective standard which is sufficiently clear and familiar for a Court to readily interpret and apply the standard in the prevailing circumstances.

Comments on intermediaries' actual knowledge of client's circumstances

Public comments

22. A few respondents suggested that an intermediary's liability under the New Clause should only be based on its actual knowledge of a client's personal circumstances. One

respondent asked the SFC to consider a carve-out for intermediaries in situations where clients withhold information during the client due diligence process.

The SFC's response

23. The SFC emphasises that the KYC requirement in the Code is predicated on an intermediary taking "all reasonable steps" to establish the "true and full identity" of each client and his "financial situation, investment experience and investment objectives". Where appropriate, each client's information should also be updated on a continuous basis[5]. This is an important and existing requirement and if done properly should enable the intermediary to apply the Suitability Requirement in an appropriate manner. The SFC believes that the expectations of the KYC process are well understood and no further elaboration is required in this context. Naturally, if a client gives false or misleading information during the KYC process in circumstances where it would not have been reasonable for the intermediary to have discovered it, this would compromise the client's ability to pursue a claim successfully against the intermediary.

Comments on the "non-derogation" component of the New Clause

Public comments

24. A few respondents commented that the "non-derogation" component of the New Clause should be deleted as it does not foster harmonious relationship with clients and that it would be more appropriate to entrench the requirement in the Code rather than in client agreements.

The SFC's response

25. The SFC considers that it is of paramount importance to retain the "non-derogation" component of the New Clause so as to ensure that a client agreement does not contain any disclaimers or terms which would defeat the purpose of the New Clause or override other fundamental provisions of the Code.

26. The SFC has observed that some intermediaries have historically been able to circumvent liability despite a prima facie claim on the facts by using extremely wide (and one-sided) disclaimers in their client agreements. The inclusion of the "non-derogation" component of the New Clause would impose a contractual (as opposed to regulatory)

[5] Please refer to Question 2 of the frequently-asked-questions (FAQs) on suitability obligations of licensed and registered persons who are engaged in financial planning and wealth management business activities dated 8 May 2007: http://www.sfc.hk/web/doc/EN/faqs/super/faq_ia_eng.pdf.

obligation on intermediaries not to incorporate such disclaimers. This aims at ensuring a fair and equitable balance in the relationship between intermediaries and their clients which will result in fairer agreements.

Comments on potential divergence in interpretation between a Court and the SFC

Public comments

27. A few respondents expressed concerns that a Court's construction and interpretation of the New Clause may differ from the SFC's interpretation and application of the Suitability Requirement and result in inconsistent standards and dual track procedures. One respondent commented that the outcome would mean that intermediaries would be subject to different and potentially conflicting expectations in relation to the marketing and sale of financial products in Hong Kong.

28. Some respondents also commented that if the SFC intends to push ahead with the current proposal, the most appropriate route is through legislative amendment.

The SFC's response

29. The SFC considers that the New Clause is a self-contained contractual term and does not cross-refer to the Code's Suitability Requirement. Moreover, disciplinary sanctions for breach of a Code requirement are very different from compensation for breach of a contractual obligation. This is why the SFC proposes to include the New Clause in client agreements. There should not be any practical conflict arising from making the suitability obligation both a contractual and a regulatory requirement.

30. If, in a particular case, a Court gives referable guidance on the interpretation of the suitability obligation under the New Clause, the SFC would take such precedents into account when applying the Code's analogous suitability requirement.

31. Furthermore, even if the proposed new changes are made by way of amending the current legislation, it may not be able to avoid the potential divergence between the Court and SFC's interpretation. This is because ultimately it is up to the Court to interpret the New Clause in the client agreement and the Court will not be bound by the interpretation adopted by the SFC on the Suitability Requirement. Whether the New Clause is incorporated into a client agreement by way of a regulatory obligation or under statutory duty would make no difference in the argument concerning potential divergence in interpretation.

Comments that the new requirement should not be imposed on intermediaries who only engage in particular regulated activities

Public comments

32. Some respondents queried whether the New Clause should apply in a corporate finance context. One respondent also raised concerns about the application of the New Clause to fund managers who do not have any direct contractual relationship with the underlying fund investors.

33. Some respondents also suggested that the New Clause should not be required to be incorporated in some "international standard form documentation" (eg, the ISDA agreements) which is designed for and entered into between institutional/corporate professional investors and intermediaries.

The SFC's response

34. The SFC concludes that all intermediaries should include the New Clause when issuing client agreements. In practice, the New Clause would be redundant in certain situations if an intermediary does not solicit the sale of, or recommend, any financial products in the course of business. Nevertheless, the SFC considers it necessary to ensure consistency across all intermediaries. This is because giving the right or flexibility to certain particular types of intermediaries to opt out of the New Clause in their client agreements may lead to inconsistent application and potential abuse that could only be addressed by SFC disciplinary action which would not provide a remedy for aggrieved investors.

35. The existing provision of paragraph 6.4 of the Code will, however, remain intact. Accordingly, if an intermediary acts under a restricted mandate that clearly does not involve soliciting the sale of, or recommending, financial products, it will have the discretion to consider whether the inclusion of the New Clause is necessary. For example, the requirement to incorporate the New Clause is unlikely to be applicable in a standard corporate finance mandate which will not involve such solicitation or recommendation. The SFC however envisages there are very limited situations where intermediaries can rely on paragraph 6.4 of the Code.

36. Furthermore, under the new professional investor regime[6], intermediaries serving "Institutional Professional Investors" or "Corporate Professional Investors" (as defined

[6] The proposed amendments to the professional investor regime shall be effective on 25 March 2016. Please refer to the Further Consultation Paper for details of the proposed amendments.

under the new paragraph 15.2 of the Code) are entitled to certain Code exemptions. These include the discretion to waive the need to enter into a client agreement when dealing with these classes of investors under the new paragraph 15.4 of the Code[7]. Should an intermediary still choose to enter into a client agreement with such a client for business efficacy or other valid reasons, it would not be obliged to include the New Clause given that the requirement for an agreement can be waived under the Code in the first place. In this regard, the SFC does not expect the ISDA master agreement, which is a master service agreement mainly for derivative transactions between sophisticated institutional clients, to include the New Clause.

Comments that the SFC should defer these proposals until completion of its internal study of the Suitability Requirement

Public comments

37. Some respondents considered that the SFC should defer the conclusion of the proposals on client agreement requirements until the completion of the SFC's internal study of the Suitability Requirement.

The SFC's response

38. As discussed in the Further Consultation Paper, the SFC considers that the study of the Suitability Requirement is a separate exercise which will take some time to complete. In contrast, the New Clause is a standalone contractual term which is not linked to any regulatory obligation under the Code other than the requirement that it be included in client agreements. Its main purpose is to enhance investor protection by filling an obvious gap through giving aggrieved investors a contractual right to claim damages if there is a breach of the suitability obligation under the New Clause. The purpose and scope of the two exercises are thus very different. Accordingly, the SFC considers that it is not necessary for the implementation timetable of the New Clause to be delayed until the SFC's internal study of the Suitability Requirement is completed.

Conclusion and way forward

39. Having considered the responses received and the regulatory objectives of the proposals, the SFC will implement the revised proposals to amend paragraph 6.2 of the

[7] For an intermediary serving a Corporate Professional Investor to be exempt from the provisions set out in the new paragraph 15.4 of the Code, it should observe the assessment requirements set out in the new paragraph 15.3A and comply with the new paragraph 15.3B of the Code as well.

Code which appears in **Appendix A** to this paper. Separately, in the Further Consultation Paper, the SFC concluded that a new paragraph 6.5 (which also appears in **Appendix A**) will be inserted into the Code to disallow contractual terms in the client agreement which are inconsistent with the Code obligations or which misdescribe the actual services to a client. The new paragraph 6.5 of the Code would come into effect on the same date as the amended paragraph 6.2 of the Code.

40. Prior to the publication of this paper, the SFC consulted some industry associations and intermediaries regarding the time required for repapering client agreements. Having taken into account the views expressed and the practical need of some intermediaries to review, redraft and re-execute their client agreements, the SFC has decided that all the proposed amendments in **Appendix A** will come into effect 18 months after the date of this paper. The SFC however expects all intermediaries to commence reviewing and revising their client agreements immediately to ensure timely completion of this exercise. Intermediaries are also expected to make available revised client agreements expeditiously to enable new clients being on-boarded to execute the new client agreements and existing clients to enter into revised client agreements (by way of amending / replacing their existing agreements) as soon as possible.

41. The SFC reiterates that intermediaries should commence the client agreement review process immediately. The SFC emphasises that the length of the 18-month transitional period is mainly to cater for circumstances where intermediaries, despite their best efforts, encounter practical difficulties when arranging for the re-execution of agreements with some of their existing clients. It is expected that intermediaries should be able to complete the above exercise well before the end of the transitional period for all new clients and for all but a small minority of existing clients.

42. The SFC would like to take this opportunity to thank all respondents who sent in submissions for their time, effort and contribution.

Appendix A

Paragraph 6 of the Code

Client agreement

6.2 Minimum content of client agreement

Subject to paragraph 6.4 and Schedules 1, 3, 4 and 6 to the Code, a Client Agreement should contain at least provisions to the following effect:

….

(g) if services are to be provided to the client in relation to derivative products, including futures contracts or options, (1) a statement that the licensed or registered person shall provide to the client upon request product specifications and any prospectus or other offering document covering such products and (2) a full explanation of margin procedures and the circumstances under which a client's positions may be closed without the client's consent; ~~and~~

(h) the risk disclosure statements as specified in Schedule 1 to the Code; and

(i) the following clause: "If we [the intermediary] solicit the sale of or recommend any financial product to you [the client], the financial product must be reasonably suitable for you having regard to your financial situation, investment experience and investment objectives. No other provision of this agreement or any other document we may ask you to sign and no statement we may ask you to make derogates from this clause."

Note: "Financial product" means any securities, futures contracts or leveraged foreign exchange contracts as defined under the SFO. Regarding "leveraged foreign exchange contracts", it is only applicable to those traded by persons licensed for Type 3 regulated activity.

6.5 No inclusion of clauses which are inconsistent with the Code or which misdescribe the actual services provided to clients

A licensed or registered person should not incorporate any clause, provision or term in the Client Agreement or in any other document signed or statement made by the client at the request of the licensed or registered person which is inconsistent with its obligations under the Code.

Note: This paragraph precludes the incorporation in the client agreement (or in any other document signed or statement made by the client) of any clause, provision or term by which a client purports to acknowledge that no reliance is placed on any recommendation made or advice given by the licensed or registered person.

No clause, provision, term or statement should be included in any Client Agreement (or any other document signed or statement made by the client at the request of a licensed or registered person) which misdescribes the actual services to be provided to the client.

Appendix B

List of respondents

(in alphabetical order)

1. Baker & McKenzie
2. Boswell Capital Management Limited
3. Clifford Chance
4. Cordium Asia Limited
5. Hon Christopher Cheung Wah-fung, SBS, JP / Hong Kong Securities Professionals Association (香港證券學會) / Hong Kong Securities & Futures Professionals Association (香港證券及期貨專業總會) / The Institute of Securities Dealers Ltd. (證券商協會) / The Hong Kong Institute of Financial Analysts and Professional Commentators Limited (香港股票分析師協會) / Chinese Securities Association of Hong Kong (香港中資證券業協會) / The Hong Kong Association of Online Brokers Limited (香港網上經紀協會) / Hong Kong Securities Association (證券業協會) / Hong Kong Securities & Futures Employees Union (香港證券及期貨從業員工會) / Hong Kong Precious Metals Traders Association Limited (香港貴金屬同業協會)
6. Hong Kong Investment Funds Association
7. Institute of Financial Planners of Hong Kong
8. Linklaters responded on behalf of 24 financial institutions:
   (a) ABN AMRO Bank N.V.
   (b) ABN AMRO Clearing Hong Kong Limited
   (c) Bank of China International Limited
   (d) CCB International (Holdings) Limited
   (e) China International Capital Corporation Hong Kong Securities Limited
   (f) CIMB Securities Limited
   (g) Citigroup Global Markets Asia Limited
   (h) CLSA Limited
   (i) Coutts & Co Ltd
   (j) Credit Suisse (Hong Kong) Limited
   (k) Credit Suisse AG
   (l) DBS Bank (Hong Kong) Limited
   (m) Deutsche Bank AG
   (n) Goldman Sachs (Asia) L.L.C.
   (o) J.P. Morgan Securities Asia Pacific Limited

(p) Jefferies Hong Kong Limited

(q) Macquarie Bank Limited

(r) Merrill Lynch Asia Pacific Limited

(s) Morgan Stanley

(t) Nomura International (Hong Kong) Limited

(u) SG Securities (HK) Limited

(v) Société Générale Bank & Trust, Hong Kong Branch

(w) Standard Chartered Bank (Hong Kong) Limited

(x) UBS AG

9. Smyth & Co in association with RPC
10. The Hong Kong Association of Banks
11. The Law Society of Hong Kong
12. One respondent requested that its submissions be published without disclosing its name