

**Comments and suggestions on the Consultation paper on the regulation of electronic trading – made by Hong Kong Investment Funds Association (“HKIFA”)**  
**(September 2012)**

*Abbreviations:*

*FMCC - Fund Manager Code of Conduct*

*CCPLR - Code of Conduct for Persons Licensed by or Registered with the SFC*

In general, HKIFA supports the proposed principles and requirements for intermediaries to address the risks surrounding electronic trading. However, we believe the proposals do not sit well with how fund managers trade. And thus, it may not be appropriate to incorporate the proposals into the FMCC.

Please see below comments/suggestions raised by our members:

- Our members would like to clarify the scope of the proposals. They believe that the proposals are designed to regulate licensed persons which act in the capacity as brokers/dealers who conduct electronic trading of securities and futures contracts listed or traded on an exchange. And thus, they opine that fund managers who place orders via the electronic trading platforms, e.g. DMA, Algorithms, etc. provided by brokers (which are licensed with the SFC), should not fall within the scope of the proposals. However, it is unclear the way paragraph 9 of the consultation paper is drafted whether fund managers are excluded: “the requirements apply to licensed or registered persons which conduct electronic trading of securities and futures contracts that are listed or traded on an exchange.” It would be helpful if the SFC can clarify this and explicitly confirm that fund managers are excluded from this.
- The SFC proposes to add a new paragraph in the FMCC to require fund managers to comply with the following principles and requirements, *where applicable*, when conducting electronic trading on behalf of collective investment schemes managed by them:
  - (a) Paragraphs 18.3 to 18.7 and 18.9 to 18.11 of the CCPLR and
  - (b) Paragraphs 1.1 to 2.1 and 3.1 to 3.4 of Schedule 7 to the CCPLR.

The proposed changes in the FMCC require fund managers to decide which rule is applicable to them. This may result in ambiguities. For example, whilst managers understand the rationale for requiring fund managers to comply with CCPLR 18.3 (Responsibility for Orders), they think it does not sit well with 18.4 (Management and Supervision) because fund managers do not manage and supervise the design, development, deployment and operation of the electronic system.

Thus, there is a risk that fund managers and SFC may have different interpretations. It would be useful if the SFC can clarify which rule is applicable to fund managers to avoid any mis-understanding.

- 18.11 of the CCPLR requires a licensed or registered person should have effective controls to ensure “its algorithmic trading system and trading algorithms operate in the interest of the integrity of the market”. Our members believe the threshold implied by the underlined language is too high. A more appropriate approach is to rephrase it as “the systems/algorithms do not operate in a manner that can be reasonably expected to adversely affect the integrity of the market”.

(End)