



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

**Consultation conclusions on the proposals to
amend publication requirements relating to offer and
redemption prices or net asset value, and notices of
dealing suspension under the Code on Unit Trusts
and Mutual Funds**

December 2014



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Introduction

1. On 24 June 2014, the Securities and Futures Commission (**SFC**) issued a consultation paper (**Consultation Paper**) inviting public comments on proposals to amend the Code on Unit Trusts and Mutual Funds (**Code**) requirements in relation to the publication of offer and redemption prices (**Prices**) or net asset values (**NAVs**), and notices of dealing suspension of collective investment schemes authorized by the SFC under the Code (**Schemes**).
2. The consultation ended on 23 July 2014. The SFC received a total of five submissions from professional bodies, market participants and other interested parties. A list of respondents (other than the one who requested anonymity) is set out in **Appendix A**.
3. All respondents welcomed the proposed amendments to the Code. Comments received from the respondents were minor in nature and generally focused on seeking clarification on specific matters and implementation arrangements. In light of the above, the SFC will adopt all proposals as set out in the Consultation Paper in full.
4. This paper summarises the major comments received in the consultation process and the SFC's responses.
5. The Consultation Paper, the full text of the respondents' comments and this paper are available on the SFC's website at www.sfc.hk.

Comments from the respondents

Notices of dealing suspension

6. One respondent commented that notices of dealing suspension of a Scheme should be published through the same means as the Prices and NAVs of the Scheme are published.
7. As set out in paragraph 5 of the Consultation Paper, the SFC would allow Prices or NAVs to be made available in non-written form such as telephone hotlines. However, given that suspension of dealings may be provided for in exceptional circumstances only, the SFC is of the view that it is an important piece of information for investors and therefore must be published in written form via appropriate means such as newspapers or websites.
8. Another respondent sought clarification on the application of the SFC's circular dated 26 November 2001 regarding suspension of dealings of the Schemes in light of the proposed amendments to the Code. The SFC noted that some of the provisions in the circular were prepared on the basis that suspension notices are mandated to be published in newspapers. Given that the Schemes would have the flexibility in determining the appropriate publication means upon implementation of the proposals, the SFC will provide further guidance by issuing Frequently Asked Question(s) to the industry to update the relevant provisions in the circular.

Contingencies

9. A respondent suggested that all Schemes should have contingency plans in place to address the situations where the means adopted by the Schemes to make public their Prices or NAVs is not available for any reasons. The SFC wishes to point out that such requirement is already set out in General Principle 2 and 7.1 of the Overarching Principles Section ("OPS") of the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products ("SFC Handbook").



General Principle 2 of the OPS provides that where ongoing disclosure is required, the relevant information shall be disseminated in a timely and efficient manner. 7.1 of the OPS further provides that management companies of the Schemes shall ensure that effective measures are in place for timely dissemination of such information.

10. The SFC also issued a circular on 19 June 2014 to remind management companies of the Schemes that they should have up-to-date and effective business continuity plan (“BCP”) in place to protect the Schemes and their investors from any instances of business or market disruption. In addition, the management companies should review their BCP to ensure the continuous provision of material information and services to investors in the Schemes.

Transitional arrangements

11. A respondent recommended that the 6-month transitional period for Existing Schemes¹ as set out in paragraph 15 of the Consultation Paper be extended, unless the SFC is prepared to waive any approval requirements for amendments to the constitutive documents and offering documents of the Schemes and the notice to investors setting out the changes made as a result of the proposals. Another respondent also raised that the SFC should provide guidance on the procedures which the management companies shall follow in respect of any change in dissemination means.
12. The SFC considers that the public has been given the chance to comment on the Consultation Paper and thus should have been made aware of the potential changes in dissemination means to be adopted by the Schemes in advance. Accordingly no prior approval from the SFC will be required for any consequential changes to the constitutive documents and offering documents arising from implementation of the proposals. Any revised offering document should however be filed with the SFC pursuant to 11.1B of the Code together with a properly completed “Filing Form for Revised Offering Documents that Incorporate Changes Falling within 11.1B of the Code on Unit Trusts and Mutual Funds and Do Not Require SFC’s Prior Approval”.
13. In addition, the SFC will not require prior written notice to be given to investors regarding any change in dissemination means, unless the provisions in the offering documents or constitutive documents state otherwise. Any notice made should be filed with the SFC together with a properly completed “Filing Form for Notice of Scheme Change(s) falling within 11.1B of the Code on Unit Trusts and Mutual Funds and Do Not Require SFC’s Prior Approval”.
14. In view of the above, the SFC will maintain to adopt a 6-month transitional period for Existing Schemes as proposed in the Consultation Paper.

Conclusion and way forward

15. Taking into account the general support from all respondents, the SFC will adopt the amendments to the Code and the OPS of the SFC Handbook as proposed in the Consultation Paper in full. Subject to the transitional period for Existing Schemes, these amendments will be adopted and become effective once the revised Code and OPS are gazetted.

¹ Existing Schemes means collective investment schemes which have been authorized by the SFC prior to such date the amendments to the Code are published in the government gazette and remain authorized on that date.



16. The SFC would like to take this opportunity to thank all respondents for their valuable comments and suggestions in response to the Consultation Paper.



Appendix A

List of respondents

(in alphabetical order)

1. CompliancePlus Consulting Limited
2. Hong Kong Investment Funds Association
3. HSBC Institutional Trust Services (Asia) Limited
4. The Law Society of Hong Kong
5. Submission of 1 respondent is published on a “no-name” basis upon request