

Part II Intermediaries conduct

Key proposals in the Code of Conduct

17. What is your view on a pay-for-advice model for Hong Kong? Do you have any comments on our suggested approach to addressing the inherent conflicts of interest arising from receipt of commissions by intermediaries from other parties including product issuers?

The proposals set out by the SFC are too complex relative to the need to ensure that the financial advisor or intermediary is acting in the best interest of their client. We advocate that the mere existence of retrocession fees breeds a conflict of interests. Correspondingly, we think that the advisor should benefit only from payments made to them by clients, not by third parties, which is linked to the performance of the fund.

The idea of a knowledge gap seems to be a play by the mutual fund industry to avoid best practice and to modernize with that of other large financial centers.

The alleged notion that sales people do not understand how much they will receive in commission for a sale of a product is one the SFC should scrutinize.

“Insurance salesmen” are not directly licensed by the SFC yet are selling all kinds of mutual funds which are regulated. The questions needs to be how much they are receiving for selling these products and what are the real benefits to the end investor.

Often charges are included in an “insurance wrapper”. This insurance wrapper or vehicle is purely designed to get around the fee disclosure from SFC requirements. Responsibility should be placed with the intermediary to disclose their annual earnings from a client investment portfolio for all products. This means cooperation between the insurance regulator and the SFC.

18. Do you have any comments on the proposed disclosure requirement in relation to independence set out above?

We agree with this full disclosure. Additionally, we think that additional fees tied to certain insurance products that contain equity investments, should also be disclosed. These insurance fees should fall under the non-independent bracket.

19. Do you have any comments on the enhanced disclosure proposed with regard to monetary benefits received or receivable by intermediaries that are not quantifiable prior to or at the point of entering into a transaction (and in particular, in relation to specific types of investment products)?

As stated above, salesmen are given a clear formula for commission. An estimate should be given at the start of the investment and a compulsory statement at the end of each year that includes the amount of commission the intermediary has received for investment advice.

20. Do you have any comments on the suggested manner of disclosure of trailer fees (in the context of funds) set out in the sample disclosure above? Do you have any other suggestions to ensure the disclosure of non-quantifiable monetary benefits relating to other types of investment products will be clear, fair, meaningful and easily understood by investors?

Trailer fees should be band and the benefit should past to the client. There is no benefit to the client from these additional costs. If trail fees have to exist then there should be a disclosure of how much is earned at the end of the year. Additionally, there needs to be a disclosure of any type of insurance product that is embedded with fees in which the advisor earns additional income.

21. Do you think a 6-month transition period following gazettal of the final form of the amendments to the Code of Conduct is appropriate? If not, what do you think would be an appropriate transition period and please set out your reasons.

The quicker this is addressed the better. Hong Kong's problems are endemic. A big reason why investors do not wish to pay for advice is because intermediaries have traditionally sold the product with the highest fees, invariably compensating for lack of performance. Hong Kong is estimated to pay USD\$2.5 billion to intermediaries for advice through insurance structures and inducements, and has one of the highest turnover (shortest holding) periods, for mutual funds.