ST. JAMES'S PLACE
WEALTH MANAGEMENT

St. James's Place International (Hong Kong) Limited
Unit 201, 2/F Henley Building
5 Queens Road Central
Hong Kong

Securities and Futures Commission
35/F, Cheung Kong Center
2 Queen's Road Central
Hong Kong

22 February 2017

Dear Sir or Madam,

Re: Response to Consultation Paper on Proposals to Enhance Asset Management Regulation and Point-of-sale Transparency

We are writing to provide you with feedback from St. James's Place (Hong Kong) Limited ("SJPHKL") on the proposals made in this consultation paper.

By way of background, SJPHKL is authorised by the Securities and Futures Commission and is part of the St. James's Place Wealth Management Group, which is itself a subsidiary company of St. James's Place Plc, a FTSE 100 company managing and advising on circa £75bn of assets for in excess of 500,000 clients.

The proposals directly affect SJPHKL through our public offering of SFC authorised St. James's Place Unit Trust Group Limited Funds and Type 9 license. We can confirm that we are supportive of the SFC's proposals particularly as they are drawing on the same global standards (IOSCO, FSB) that other regulatory bodies (such as the UK Financial Conduct Authority "FCA") are also referencing in their developments and consultations.

We welcome developments that improve investors' understanding of the risks involved with their investments and how they are distributed. However, our experience in the UK market has demonstrated that transparency in the form of additional disclosures does not necessarily improve clarity for investors. Too much information (particularly of a very technical nature) could possibly result in more confusion rather than a better understanding of the risks to investors and that a suitable balance between the two needs to be achieved.

Please find below our responses to the questions raised in the consultation paper. We trust you will find our response useful and would be happy to discuss it further with you if required.

Consultation Responses:

Part 1 – Fund Manager Conduct

Question 1: Do you have any comments on the proposed clarification that the FMCC applies to the business activities carried out by fund managers which would include the management of discretionary accounts?

We agree with the proposals and are supportive of the extension of the FMCC to Discretionary Asset Managers and Private funds. It makes sense to have an appropriate level playing field in terms of expected levels of conduct in the market.

The differentiation between the FMCC proposals and detailed requirements in the UT Code in respect of private and public fund regulation is welcomed as it acts in the best interests of all investors in the HK market.

Question 2: Under the current proposal, some of the proposed enhancements are not applicable to all Fund Managers but only to those responsible for the overall operation of a fund or having de facto control of the oversight or operation of the fund. Do you agree with such an approach? If so, do you have any views on which of the proposed enhancements should only be applicable to those Fund Managers who are responsible for the overall operation of a fund or have de facto control of the oversight or operation of the fund? Please explain your views.

We agree with the proposals and that they should be set according to the particular arrangements in place.

For those Fund Managers covered, whilst we agree that they are responsible for the overall operation of the fund - the particular requirements should reflect the nature of the fund managed – eg liquidity management controls for Chapter 7 funds may need to be different to funds under Chapter 8 such as UPMF's where the redemption rules for investments in other Collective Investment Schemes would have a different influence on the liquidity of the fund than those with direct investment in equities, bonds and other asset classes.

Question 3: Do you have any comments on the above proposals which will be applicable to a Fund Manager which engages in securities lending, repo and similar OTC transactions on behalf of the funds it manages?

We agree that Fund Managers should have appropriate controls in place for these activities. We note that the proposals, drawing on global standards, are broadly in line with existing FCA rules and UCITS requirements.

Question 4: Do you have any views or comments on the proposal that Fund Managers should design their haircut methodologies which should reflect the standards set by the FSB in its recommendations?

We agree that Fund Managers should have appropriate controls in place for these activities. We note that the proposals, drawing on global standards, are broadly in line with existing FCA rules and UCITS requirements.

Question 5: Is the requirement to disclose details of non-cash collateral re-hypothecation sufficient to enable investors to understand the relevant risks and exposures to the fund? Please explain your views.

We agree with the need for transparency and disclosure where appropriate. However, we believe that this is best served by mandating disclosure of this such that it is accessible for those investors who are interested to obtain the information rather than mandating the information is sent to the investor. In our experience, the majority of investors would not understand such technical terms and therefore disclosure in statutory documentation (ie the prospectus rather than as supplementary information available on request) may not help investors in identifying the key risks they are exposed to.

We also note that existing FCA rules and UCITS requirements state that non-cash collateral received should not be re-invested or pledged so disclosure should be limited to funds able to utilise those powers.

Question 6: Do you have any comments on the proposed requirements on reporting to fund investors? In particular, do you have any comments on the minimum disclosure requirements proposed?

We note that the reporting proposals are broadly in line with existing FCA rules and UCITS requirements.

We fully support transparency and disclosure where appropriate, but our experience tells us that providing investors with large amounts of mandated information may distract investors from other key communications detailing matters materially impacting their investments, which require their immediate attention.

With that in mind we agree with the additional disclosure proposal as long as this can be made available reactively rather than being proactively sent to investors.

Question 7: Do you have any comments on the above proposals regarding custodian and safe custody of fund assets?

We recognise and agree with the importance of this area. However, the requirements can differ according to the structure of a fund – Trust or Corporate (eg the Trustee of an FCA regulated unit trust is responsible for the appointment of the custodian, not the fund manager – who would appoint the Trustee) and that local regulatory requirements (eg FCA sourcebook and other Country's regulatory requirements) take precedent over IOSCO guidance. The regulatory regimes will look to global standards when drafting their individual rules and are consequently already broadly in line with the SFC proposals.

It would be helpful for the SFC to clarify how the proposal will apply to DAM's who use a sub-custody account in respect of self-custody.

Question 8: Do you have any comments on the above proposals regarding liquidity risk management?

We agree with the proposals and the benefits of drawing on global standards as the basis for regulation and note that they are broadly in line with existing FCA rules (which have also recently referenced the same IOSCO best practice) and UCITS requirements.

Question 9: Do you have any suggestions on any particular liquidity management measures which a Fund Manager should put in place for effective liquidity management, for example, in terms of setting liquidity targets or stress testing?

We have no suggestions but understand that IOSCO are expected to issue a Consultation paper later this year to update their principals. We agree that responsibility should lie with the Fund Manager to have the correct tools for the nature of fund managed.

Question 10: Do you consider it appropriate for Fund Managers to disclose the maximum leverage of the fund it manages to fund investors?

We are supportive of the appropriate disclosure of leverage, in particular where derivatives are utilised extensively for investment purposes (where the disclosure of leverage is required for funds using Value at Risk approaches) and believe that this should be disclosed either specifically or by reference to other documents available on request in a fund's prospectus.

If this is extended to all funds, then consideration should be given to how this is implemented in terms of the process for updating the regulatory documentation.

We fully support disclosure, but our experience tells us that providing investors with too much prescribed information may lead to significant numbers of investors overlooking other, potentially more important factors relevant to their investment. Making the information available but not proactively sent to clients may help in this regard.

Question 11: Do you have any comments on how leverage should be calculated?

Whilst we acknowledge that there is no global standard for the calculation of leverage, CESR 10-788 provides what we consider to be a good framework of how leverage should be calculated and has been broadly adopted for UCITS funds.

http://www.fsc.gi/download/ucits/CESR-10-788.pdf

Question 12: Do you have any comments on the other amendments proposed to the FMCC?

We are broadly supportive of the various proposals.

In respect of the Reporting requirements it would be helpful for the SFC to clarify if you envisage a regular reporting cycle or just the provision of certain information on an ad-hoc basis. We also view that reporting requirements should be proportionate and reflective of the costs to implement vs the day to benefits to investors.

Question 13: Under the existing requirement, where a client's order has been aggregated with a house order, the client's order must take priority in any subsequent allocation of partially filled orders. Are there any circumstances where it is in the best interests of clients to aggregate their orders with house orders? What are those circumstances which justify that they are in the best interests of clients? Are there any circumstances in which an institutional professional investor should be able to request pro rata allocation of aggregated but partially filled orders, on the terms specified by such an investor? What are those circumstances? Does the investor who request pro rata allocation have concerns that the flexibility can be abused by the licensed manager?

We recognise and agree with the importance of this matter and note that home state regulators have rules in place to cover aggregation of deals:

For UK authorised funds the FCA Handbook (COBS 11.3) has clear rules and guidance with regards to aggregation and allocation of client orders.

https://www.handbook.fca.org.uk/handbook/COBS/11/3.html?date=2015-07-01

Within the UCITS rules (Article 28 (2), (3), (4) of the UCITS Implementing Directive), MiFID rules (article 19(1) and article 48(2), 49(1), (2) of the MiFID implementing Directive) there are also clear rules and guidance around when this is allowed or not.

Question 14: Do you have any comments on the suggested risk-management control techniques and procedures as set out in Appendix 2?

We agree with the proposals and the benefits of drawing on global standards as the basis for regulation and note that they are broadly in line with existing FCA rules and UCITS requirements which require similar risk-management control techniques and procedures covering the areas set out in Appendix 2 to be in place.

In respect of Issuer and Counterparty Credit risk we note that you state that the Fund Manager should establish and maintain a credit rating system – we would suggest that this definition could be refined further to state that the basis of this system should not necessarily solely rely mechanistically on credit ratings issued by third parties to avoid the risk of reliance on third party opinion as the sole basis of assessment.

Question 15: Do you have any comments on the requirements set out in Appendix 1?

We are supportive of the need to conduct initial and ongoing suitability reviews and to provide regular reporting but this should be appropriate for the client so as to avoid the potential for the DAM to incur increased operating costs which may lead to higher charges to clients.

We note that there is a proposed requirement of performance review of each discretionary account against agreed benchmark at least twice a year. We believe that there is merit in aligning these requirements with those detailed in the recent FAQs (Triggering of Suitability Obligations) issued on 23 Dec 2016 which requires licensed persons to review the mandate or predefined model investment portfolio on a regular basis (eg, on an annual basis rather than a twice a year requirement).

It may be helpful for the SFC to provide some guidance as to the minimum requirement of the review to be communicated to clients in the same way as for 2. (b).

Question 16: Do you think a 6-month transition period following gazettal of the final form of the amendments to the FMCC is appropriate? If not, what do you think would be an appropriate transition period and please set out your reasons.

We agree that a 6-month transition period is reasonable, providing that consultation on the full set of requirements and FAQ's is undertaken prior to gazettal to ensure that the proposed reporting requirements and calculations can be accomplished.

<u>Part II Intermediaries conduct</u>

Question 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?

We welcome any disclosure enhancements that will help consumers understand what they are paying and what their intermediary is receiving.

However, having seen the creation of an advice gap in the UK, and given the barriers to consumers paying for advice in HK, we agree that pay-for-advice model with a complete ban on receipt of commissions by intermediaries may not seem appropriate for Hong Kong.

We are mindful that transparency is not the same as clarity – what it most important to clients is the total cost they are paying for the total service they're receiving. We would suggest the SFC also considers how total cost (incorporating advice/commission, fund costs, product costs, etc.) are disclosed in a single comparable figure.

We would also welcome a focus on the value that clients are receiving for what they are paying, rather than a simple focus on cost.

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

We welcome this clarity but ask that the SFC confirm if it is a prospective or retrospective requirement.

Question 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)?

We welcome this clarity. However, in this proposal it is suggested that monetary benefits, which are not quantifiable prior to or at the point of entering into a transaction, should be disclosed in terms of a range on an annualised basis, and the dollar equivalent. Does it also apply to monetary benefits that are quantifiable prior to or at the point of entering into a transaction, under the existing Code of Conduct disclosure it can be either in a percentage ceiling or dollar equivalent?

Question 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?

We believe that the disclosure example is clear, but there should be flexibility to allow for other methods of payment, eg "We will receive 0.5% of the fund value per annum from the fund manage as ongoing commission" rather than "40% - 60% of Fund A's annual management fees".

If the clients has a portfolio consisting of a number of funds it would be helpful for the SFC to confirm if disclosure should be made at individual fund level or at a portfolio level. Similarly, it would be helpful for the SFC to clarify the expected disclosure requirements for clients:

- *subscribing a plan with regular contribution*
- *with discretionary accounts where the underlying assets may be invested in funds*

Question 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.

We agree that a 6-month transition period is reasonable, providing that consultation on the final amendments is provided prior to gazettal to ensure that the proposed requirements can be accomplished.