



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

By E-mail

Dear Sirs

Re: Consultation Paper on Proposals to Enhance Asset Management Regulation and Point of Sale Transparency

Enhanced Investment Products Limited ("EIP") welcomes the opportunity to respond to SFC's proposals discussed in the consultation paper and related matters dated 23 November 2016. This letter addresses certain questions raised in the consultation paper. The numberings used in your consultation paper are adopted unless otherwise specified.

Part I Fund Manager Conduct

Section 1

Key proposals in the FMCC

Securities lending and repurchase agreements (repos)

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?

EIP in general supports the proposed requirements in relation to securities lending, repo and similar OTC transactions. In addition, it is equally important to note that securities lending is traditionally carried out

by a bank or a credit rated entity. These financial intermediaries shall therefore bear similar level of fiduciary duties to the funds. There should be an acknowledgement from the bank intermediaries that they are responsible for the collection of collateral on behalf of the fund and will act as the principal in the transaction.

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

Most private funds are overseen by a board of directors of the fund as pointed out in paragraph 42. The role of the board of directors of the fund should not be construed as ineffective or influenced by the Manager. The board of directors of the fund is remunerated directly by the fund. This independent role is extremely important for the practical balance of maintaining best practice including ratification or choosing all vendors not just the custodian, but also the manager itself. Giving extended responsibility to the manager to have the ultimate decision on the choice of these vendors removes the much required responsibility of the INDEPENDENT board of directors of the fund. Managers who select their own custody for the management of their assets would have no recourse from the independent directors as the manager would make the case, that under the SFC suggestion, they as the manager are liable for the selection and not the independent directors, causing a potential conflict of interest. The directors of the fund need to retain the ultimate decisions for all vendors of the fund as they are the check and balance between the manager and the fund. A better solution would be to introduce a test of independence for members of the board and ensure the board has a majority of independent directors with sufficient qualifications.

Part II Intermediaries conduct

Section 1

Key proposals in the Code of Conduct

Inducements / commissions

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 would seem to be complex relative to the need to ensure the financial advisor or intermediary is acting in the best interest of their client. It is well known that firms such as Old Mutual, or previously Skandia along with MAN Group and others pay fees including a large bid/offer spread to enter and redeem investments.

EIP advocate that no fees should be paid for marketing funds that are not linked to a performance threshold and the advisor should only benefit from the clients payments not a third party. This retrocession fees breeds a conflict of interest.

The idea of a knowledge gap by not paying for advice seems a play by the mutual fund industry to avoid best practice and modernizing the mutual fund industry as per all large financial centres.

Often charges are included in an "insurance wrapper". This insurance wrapper or vehicle is purely designed to get around the fee disclosure from the 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.

"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 are they receiving for selling these products and what are the real benefits to the end investor.

Alluding to the fact that salesman do not understand how much they will receive in commission for a sale of a product is barmy as a concept and one the SFC should take to task. The monetary value amount relative to the investment amount is the only amount people need to understand.

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

EIP agree with full disclosure especially if you are including additional fees by being tied to certain insurance products that contain equity investments. This 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 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 should include 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 past to the client. There is no benefit to the client from this additional cost. If there has to be trailer fees then disclosure with an example of how much is earned at the end of the year. Additionally there needs to be recognition of any type of insurance product that is embedded with fees that 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.

Hong Kong has an endemic problem and part of the reason investors do not wish to pay for advice has been, intermediaries have traditionally sold the product with the highest fees, which invariably is compensating for lack of performance. Hong Kong is estimated to pay USD2.5 Billion to intermediaries for advice through insurance structures and inducements and has one of the highest turnover and shortest holding period of mutual funds. The quicker this is addressed the better.

Thank you again for the opportunity to respond to the consultation and EIP hope to continue to be able to contribute. If you would like to discuss anything in this letter, please contact EIP

Yours faithfully