



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

**Consultation paper 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**

June 2014



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Foreword

The Securities and Futures Commission (**SFC**) invites market participants and interested parties to submit written comments on the proposals discussed in, and draft provisions attached to, this consultation paper or to comment on related matters that might have a significant impact upon the proposals **no later than 23 July 2014**. Any person wishing to comment on the proposals should provide details of any organisation whose views they represent.

Please note that the names of the commentators and the contents of their submissions may be published, in whole or in part, on the SFC's website and in other documents to be published by the SFC. In this connection, please read the Personal Information Collection Statement attached to this consultation paper.

You may not wish your name and/or submission to be published by the SFC. If this is the case, please state that you wish your name and/or submission to be withheld from publication when you make your submission.

Written comments may be submitted as follows:

By mail to: The Securities and Futures Commission
35/F Cheung Kong Center
2 Queen's Road Central
Hong Kong

Re: Consultation paper 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

By fax to: (852) 2877 0318

By online submission at: <http://www.sfc.hk>

By e-mail to: navconsultation@sfc.hk

All submissions received before expiry of the consultation period will be taken into account before the proposals are finalised and a consultation conclusions paper will be published in due course.

Securities and Futures Commission
Hong Kong

24 June 2014



Personal Information Collection Statement

1. This Personal Information Collection Statement (**PICS**) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which your Personal Data¹ will be used following collection, what you are agreeing to with respect to the SFC's use of your Personal Data and your rights under the Personal Data (Privacy) Ordinance (Cap. 486) (**PDPO**).

Purpose of collection

2. The Personal Data provided in your submission to the SFC in response to this consultation paper may be used by the SFC for one or more of the following purposes:
 - (a) to administer the relevant provisions² and codes and guidelines published pursuant to the powers vested in the SFC;
 - (b) in performing the SFC's statutory functions under the relevant provisions;
 - (c) for research and statistical purposes; or
 - (d) for other purposes permitted by law.

Transfer of personal data

3. Personal Data may be disclosed by the SFC to members of the public in Hong Kong and elsewhere as part of the public consultation on this consultation paper. The names of persons who submit comments on this consultation paper, together with the whole or any part of their submissions, may be disclosed to members of the public. This will be done by publishing this information on the SFC website and in documents to be published by the SFC during the consultation period or at its conclusion.

Access to data

4. You have the right to request access to and correction of your Personal Data in accordance with the provisions of the PDPO. Your right of access includes the right to obtain a copy of your Personal Data provided in your submission on this consultation paper. The SFC has the right to charge a reasonable fee for processing any data access request.

Retention

5. Personal Data provided to the SFC in response to this consultation paper will be retained for such period as may be necessary for the proper discharge of the SFC's functions.

¹ Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance (Cap. 486).

² Defined in Schedule 1 of the Securities and Futures Ordinance (Cap. 571) (**SFO**) to mean provisions of the SFO and subsidiary legislation made under it; and provisions of Parts II and XII of the Companies Ordinance (Cap. 32) so far as those Parts relate directly or indirectly, to the performance of functions relating to prospectuses; the purchase by a corporation of its own shares; a corporation giving financial assistance for the acquisition of its own shares etc.



Enquiries

6. Any enquiries regarding the Personal Data provided in your submission on this consultation paper, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

The Data Privacy Officer
The Securities and Futures Commission
35/F Cheung Kong Center
2 Queen's Road Central
Hong Kong

7. A copy of the Privacy Policy Statement adopted by the SFC is available upon request.



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

Introduction

1. The SFC would like to invite comments on the 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**).

Background

2. The Code sets out various ongoing disclosure requirements for Schemes. One of these requirements is the periodic publication of a Scheme's Prices or NAV. 11.7 of the Code requires that a Scheme's latest available Prices or NAV must be published at least once a month in at least one leading Hong Kong English language and one Chinese language daily newspaper. In addition, 10.7 of the Code requires the fact that dealing is suspended must be published immediately following such decision and at least once a month during the period of suspension, in the newspaper(s) in which the Scheme's prices are normally published.

Proposal to amend the means of making public Prices or NAVs

3. With the development in information technology and the availability and use of multiple channels of dissemination of information, the SFC is reviewing and considering the appropriate means for dissemination of Schemes' Prices or NAVs going forward. Many Schemes have already been using the internet to provide information to and communicate with their holders and the public through dedicated websites. Most of these Schemes are regularly publishing Prices or NAVs on their websites.
4. The SFC notes that major overseas jurisdictions such as Australia, Singapore and the EU generally only require publicly-offered collective investment schemes to make public their Prices or NAVs in an appropriate manner. These jurisdictions allow the collective investment schemes the flexibility to decide on the exact publication methods although they have to clearly disclose to investors how such information can be obtained.
5. In view of the above, the SFC proposes to remove the requirement that mandates the use of newspapers to publish Prices or NAVs and allow Schemes to use any appropriate means to make public their Prices or NAVs. The SFC has considered, but decided against specifying any concrete disclosure methods in the Code as this would offer the Schemes a wider choice of dissemination channels such as newspapers, websites and telephone hotlines.
6. In determining the appropriate manner of making public Prices or NAVs, management companies of Schemes should ensure that (i) holders or prospective investors can have free access to such information; (ii) disclosure is consistent with the manner and frequency at which the units are dealt in; and (iii) dedicated channel of dissemination is specified in the offering document.



Proposal to amend the frequency of making public Prices or NAVs

7. The SFC is also considering whether it is appropriate to make public Prices or NAV more frequently so as to enhance transparency to investors. Prices and NAV are important information for evaluating a Scheme and making subscription or redemption decisions. This suggests that it would be useful to holders and potential investors if Schemes make public their Prices or NAVs on every dealing day.
8. In practice, many Schemes which offer daily dealing publish their Prices or NAVs on their websites on a daily basis. The SFC also notes that major overseas jurisdictions generally require publicly-offered collective investment schemes to make public their Prices or NAVs on every dealing day.
9. In view of the above, the SFC proposes requiring Schemes to make public their Prices or NAVs on every dealing day.
10. Many Schemes currently make public their Prices or NAVs on a daily basis. The SFC has considered, but decided against requiring the daily disclosure of Prices or NAVs. Some Schemes may not offer dealing on a daily basis. In such case, daily Prices and NAVs information may not be available.

Proposal to amend means of the publication of dealing suspension notices

11. In conjunction with the above proposals, the SFC also proposes to remove the requirement under 10.7 of the Code that mandates the use of newspapers to publish a dealing suspension notice and allow Schemes to use any appropriate means (for example websites) in doing this. The frequency of publication as currently set out in 10.7 of the Code will however remain unchanged.
12. The requirements set out above are consistent with the principles of liquidity risk management for collective investment schemes published by the Board of International Organization of Securities Commissions.

Proposed amendments to the Code

13. The above proposals require amendments to 10.7 and 11.7 of the Code. The SFC will make consequential changes to provisions in the Code which are affected by the amendments to 10.7 and 11.7 of the Code. Details of the proposed amendments to the Code are set out in Appendix A.

Proposed miscellaneous amendments to the Overarching Principles Section and the Code

14. To maintain consistency in wording adopted by other codes and guidelines issued by the SFC, a technical amendment is also proposed to be made to the Code and the Overarching Principles Section (**Overarching Principles Section**) of the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products by adding that the SFC may modify or relax the application of a requirement therein if the SFC considers that, in particular circumstances, strict application of the requirement would operate in an unduly burdensome or unnecessarily restrictive manner. The amendment is in line with our existing regulatory approach.



Proposed implementation timetable

15. Subject to the results of the consultation, the SFC proposes that:
- (a) the amendments to the Code in paragraph 13 will apply to New Schemes³ on and from the date such changes are published in the government gazette (**Effective Date**); and
 - (b) A 6-month transitional period will apply to Existing Schemes⁴. They will be required to comply with the amendments within six months from the Effective Date. This is to allow the industry a reasonable time to implement the appropriate measures to comply with the new requirements and to notify investors and amend their offering documents.

| | |
|-------------|--|
| Question 1: | Do you agree that Schemes should be allowed to make public their Prices or NAVs in any appropriate manner? |
| Question 2: | Do you agree that Schemes should be required to make public their Prices or NAVs on every dealing day? |
| Question 3: | Do you agree that Schemes should be allowed to publish notices of dealing suspension in any appropriate manner? |
| Question 4: | Do you agree that the proposed implementation timeline is acceptable and practicable, taking into account the needs and circumstances of various stakeholders? |

³ New Schemes means collective investment schemes which are authorized by the SFC on or after the Effective Date.

⁴ Existing Schemes means collective investment schemes which have been authorized by the SFC prior to the Effective Date and remain authorized on that date.



Appendix A

Proposed amendments to the Code

Chapter 10: Operational matters

- 10.7 The management company or the Representative must immediately notify the SFC if dealing in units/shares ceases or is suspended. The fact that dealing is suspended must be published immediately following such decision and at least once a month during the period of suspension ~~in an appropriate manner, in the newspaper(s) in which the scheme's prices are normally published.~~

Chapter 11: Documentation and reporting

- 11.7 The scheme's latest available offer and redemption prices or net asset value must be ~~published made public on every dealing day at least once a month in at least one leading Hong Kong English language and one Chinese language daily newspaper an appropriate manner. However, if a waiver has been given by the Commission under 6.2, publication need only be made in the language approved for that scheme.~~ If dealing is suspended, this must be published in accordance with 10.7.

Note: Means of dissemination may include newspapers, telephone hotlines and websites.

Proposed consequential amendments to the Code

Appendix C: Information to be disclosed in the offering document

- C8 ~~Names of the Hong Kong daily newspapers in which prices will be published~~ Dedicated channel(s) for dissemination of price information [see 11.7].

Appendix I: Guidelines for regulating index tracking exchange traded funds

14. The notification and approval requirements under 11.1A and ~~10.744.7~~ of this UT Code are modified or supplemented to the following extent:
- (b) ~~Publication of NAV in Local Newspapers Suspension of Dealing in 10.744.7: On the basis that information is available to investors in accordance with paragraphs 17 to 21 in these guidelines (where applicable), the obligation under 11.7 to publish NAV in local newspapers is dispensed with.~~ The management company must immediately notify the SFC as soon as practicable if dealing in units/shares on the SEHK ceases or is suspended.



Proposed miscellaneous amendments to the Overarching Principles Section

Chapter 1: Preliminary

1.15 The Commission may modify or relax the application of a requirement in this Overarching Principles Section if it considers that, in particular circumstances, strict application of the requirement would operate in an unduly burdensome or unnecessarily restrictive manner.

Proposed miscellaneous amendments to the Code

Explanatory Notes

(f) The Commission may modify or relax the application of a requirement in this UT Code if it considers that, in particular circumstances, strict application of the requirement would operate in an unduly burdensome or unnecessarily restrictive manner.