



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

Overarching Principles Section



Table of Contents

Chapter 1: Preliminary	1
Chapter 2: Administrative arrangements	5
Chapter 3: General principles	6
Chapter 4: Product Providers	7
General duties and obligations	7
Conflicts of interest	7
Chapter 5: General requirements	8
Name of product	8
Selection of distributors	8
Engagement of counterparties and appointment of service providers	8
Language	8
Chapter 6: Disclosure requirements	10
General obligations	10
Offering documents	10
Product Key Facts Statements	10
Advertisements	11
Use of disclaimers	11
Chapter 7: Ongoing monitoring of the product and information to investors	12
Ongoing disclosure	12
Issue of advertisements	12
Investor education	12
Enquiries and complaints handling	12



Section I: Overarching Principles Section

Chapter 1: Preliminary

Introduction to the Handbook

- 1.1 The Handbook is made under section 399 of the SFO and establishes codes or guidelines for the authorization of products covered by the Handbook and their offering documents and advertisements. These guidelines are not intended to be exhaustive.
- 1.2 Section I of the Handbook sets out the high-level principles and requirements that are intended to apply to all products. More detailed product-specific requirements applicable to specific types of products are contained in the applicable product code.
- 1.3 The Handbook provides general guidelines for authorization of products specifically stated in the applicable product codes. The Commission will have regard to both the spirit as well as the letter of the General Principles set out in Chapter 3 of this Overarching Principles Section in considering products authorization applications and whether products should remain authorized.
- 1.4 All products, their Product Providers and the Specified Entities are expected to comply with all applicable principles and requirements set out in Section I of the Handbook in addition to the detailed product-specific requirements applicable to specific types of products that are contained in the applicable product code.
- 1.5 The Handbook does not have the force of law and shall not be interpreted in a way that will override the provision of any law.

Effect of breach of the Handbook

- 1.6 Failure by any person to comply with any applicable provision of the Handbook:
 - (a) shall not by itself render the person liable to any judicial or other proceedings, but in any proceedings under the SFO before any court, the Handbook may be admissible in evidence, and if any provision set out in the Handbook appears to the court to be relevant to any question arising in the proceedings, it may be taken into account in determining the question;
 - (b) may cause the Commission to consider whether such failure adversely reflects on the person's fitness and properness (in so far as the relevant person is licensed or registered under the SFO and its obligations are stated in the Handbook);
 - (c) may cause the Commission to consider whether such failure adversely reflects on whether the product, the offering document and/or the advertisements should remain authorized;
 - (d) may cause the Commission to consider whether such failure adversely reflects on whether further products issued, managed and/or originated by such person, and/or offering documents and advertisements in relation to such products, should be granted authorization in the interest of the investing public (i.e. where there is a serious breach, the Commission may refuse to authorize new products issued, managed and/or originated by the person in breach and/or offering



documents and advertisements in relation to such products for a stated period);
and

- (e) may cause the Commission to impose additional authorization condition(s) which may include restricting the further offering of the product to the public.

Interpretation

1.7 Unless otherwise stated, the following words and expressions shall have the following meaning throughout Section I of the Handbook:

- (a) “applicable product code” means the UT Code in the case of unit trusts/mutual funds, the ILAS Code in the case of ILAS or the SIP Code in the case of structured investment products;
- (b) “Commission” or “SFC” means the Securities and Futures Commission referred to in section 3(1) of the SFO;
- (c) “counterparties” means, where applicable, the other parties in the structure of a product including guarantors, other protection writers, swap counterparties, prime brokers and includes those bearing similar meaning within each of the applicable product codes;
- (d) “Handbook” means the entire SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products including this Overarching Principles Section, the UT Code, the ILAS Code and the SIP Code;
- (e) “ILAS” means investment-linked assurance schemes that are subject to the ILAS Code;
- (f) “ILAS Code” means the Code on Investment-Linked Assurance Schemes administered by the Commission as set out in Section III of the Handbook;
- (g) “investor(s)” shall include, for the purpose of reference only, investors in the case of unit trusts/mutual funds and structured investment products and scheme participants/prospective scheme participants in the case of ILAS;
- (h) “offering document” means, as the case may be, the offering document as defined in the applicable product code in respect of the relevant products;
- (i) “products” means any unit trusts/mutual funds, ILAS or structured investment products being offered to the Hong Kong public;
- (j) “Product Provider(s)” means in their respective contexts, the issuer of a structured investment product; the management company of a unit trust/mutual fund and the unit trust/mutual fund itself and (where unit trust/mutual fund is in the nature of a mutual fund corporation) its board of directors; and the insurance company issuing an ILAS;
- (k) “service providers” means persons which provide services in respect of the product including credit rating agencies, trustees/custodians, valuation agents, administrators, index sponsors and calculating agents;



- (l) “SFO” means the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong);
- (m) “SIP Code” means the Code on Unlisted Structured Investment Products administered by the Commission as set out in Section IV of the Handbook;
- (n) “Specified Entity” means a counterparty or service provider whose role and responsibilities with respect to a product have been specified in the applicable product code;
- (o) “structured investment products” has the meaning ascribed to it in the SIP Code;
- (p) “unit trust(s)/mutual fund(s)” means collective investment scheme(s) commonly regarded as unit trusts or mutual funds that are subject to the UT Code; and
- (q) “UT Code” means the Code on Unit Trusts and Mutual Funds administered by the Commission as set out in Section II of the Handbook.

SFC’s authorization

- 1.8 Nothing in the Handbook shall be interpreted in a manner that alters or imposes any restriction upon the exercise by the Commission of any power or discretion conferred upon it under the SFO.
- 1.9 The Commission may at any time pursuant to the SFO review its authorization and may modify, add to or withdraw any of the conditions of such authorization, or withdraw the authorization, as it considers appropriate.
- 1.10 Where a product is described as having been authorized by the Commission, it shall be stated that authorization does not imply official recommendation by adding a prominent note in the following terms to the offering document and advertisement and other invitations to invest in the product:

Note: SFC authorization is not a recommendation or endorsement of a product nor does it guarantee the commercial merits of a product or its performance. It does not mean the product is suitable for all investors nor is it an endorsement of its suitability for any particular investor or class of investors.
- 1.11 The SFC takes no responsibility for the contents of any offering documents or advertisements authorized by it. Product Providers are reminded that in granting authorization, the SFC relies on the representations made and information provided by the Product Provider and/or its representatives or agents in support of the authorization application. The making of any false or misleading representation and/or the provision of any false or misleading information by such person may amount to an offence under the SFO.
- 1.12 Product Providers are also reminded that SFC authorization does not imply that the SFO, or any other legal or regulatory requirements, have been complied with. Nothing in respect of an authorization may be taken as preventing the SFC from taking any action against any parties for breach of the SFO, or any other legal or regulatory requirements.
- 1.13 It is the SFC’s policy intent that products offered to the public in Hong Kong are subject to the prior authorization of the SFC unless an exemption applies to their offering



documents or advertisements. Given an unauthorized product is not required to comply with the requirements set out in the Handbook, the SFC would not generally consider it appropriate to authorize any advertisement, invitation or document in respect of such unauthorized product under section 105 of the SFO.

- 1.14 Authorization of a product under the SFO would normally be granted together with the authorization of its offering document(s) under section 105 of the SFO. It is the general policy of the Commission not to consider authorizing a product under the SFO alone without a concurrent authorization of its offering document(s).

Note: For the avoidance of doubt, references to “authorization of products” or terms to the same effect in the Handbook are applicable to products which may be authorized by the SFC under Part IV of the SFO. Upon the legislative amendments pursuant to the consultation on the “Possible Reforms to the Prospectus Regime in the Companies Ordinance and the Offers of Investments Regime in the Securities and Futures Ordinance” issued by the SFC in October 2009 becoming effective, such products shall include structured investment products.

- 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.



Chapter 2: Administrative arrangements

Products Advisory Committee

- 2.1 According to section 8 of the SFO, the Commission is empowered to set up committees whether for advisory or other purposes. The Commission will establish a Products Advisory Committee for the purpose of consultation and advice on matters that may relate to the Handbook. The remit of the Products Advisory Committee and its membership shall be laid down in its terms of reference.
- 2.2 For the avoidance of doubt, the function of the Products Advisory Committee will be purely advisory in nature. It will not be vested with any of the powers exercisable by the SFC under the applicable sections of the SFO for authorization of products and their offering documents and advertisements.

Data privacy

- 2.3 The information requested under the Handbook may result in the applicant providing the Commission with personal data as defined in the Personal Data (Privacy) Ordinance. The data supplied will only be used by the Commission to perform its functions, in the course of which it may match, compare, transfer or exchange personal data with data held or obtained by the Commission, government bodies, other regulatory authorities, corporations, organisations or individuals in Hong Kong or overseas for the purpose of verifying those data. Subject to the limits in sections 378 of the SFO, the Commission may disclose personal data to other regulatory bodies. Persons who have supplied data to the Commission under the Handbook may be entitled under the Personal Data (Privacy) Ordinance to request access to or to request the correction of any data supplied to the Commission, in the manner and subject to the limitations prescribed. All enquiries shall be directed to the Data Privacy Officer at the SFC.



Chapter 3: General principles

3.1 In formulating the principles in Section I of the Handbook, the Commission has taken into account principles developed by the International Organisation of Securities Commissions and other principles that the Commission believes to be fundamental for the regulation of products generally offered to the public covered under the Handbook.

3.2 Product Providers shall comply with the spirit of these principles in administering, managing or dealing with any matters relating to the issue, advertising and operation of products.

GP1. Acting fairly

3.3 Product Providers shall act honestly, fairly and professionally.

GP2. Disclosure

3.4 Disclosure shall be complete, accurate and fair, and be written and presented in a clear, concise and effective manner and in such manner as to be readily understood by the investing public. Information provided shall not be false or misleading nor be presented in a deceptive or unfair manner. Where ongoing disclosure is required, the relevant information shall be disseminated in a timely and efficient manner.

GP3. Proper protection of assets

3.5 Where assets are specifically required by the applicable product code to be held for the benefit of investors, all such assets shall be properly protected.

GP4. Avoidance of conflicts of interest

3.6 Product Providers, counterparties and service providers shall avoid being placed in a conflicts of interest position that may undermine the interests of the investors of the relevant product.

GP5. Regulatory compliance

3.7 Product Providers shall ensure that all applicable legal and regulatory requirements are complied with and shall respond to requests and enquiries from the regulators in an open and co-operative manner.

GP6. Diligence

3.8 Product Providers shall discharge their functions with due skill, care and diligence.

GP7. Marketing

3.9 Advertisements for a product shall be clear, fair and present a balanced picture with adequate and prominent risk disclosures in compliance with all applicable regulations. Advertisements shall not be false, biased, misleading or deceptive.



Chapter 4: Product Providers

General duties and obligations

- 4.1 The Product Provider shall:
- (a) comply with the applicable provisions of the Handbook;
 - (b) respond to any enquiries made by the Commission in relation to the relevant product and the associated matters promptly and in an open and co-operative manner;
 - (c) inform the Commission promptly should there be any material breach of the Handbook; and
 - (d) use its best endeavours to take appropriate remedial action to rectify any breach of the Handbook promptly.

Note: The main purpose of such remedial action is to ensure that investors are not being put in a disadvantageous position as a result of the breach and to maintain market integrity.

Conflicts of interest

- 4.2 The Product Provider shall avoid situations where conflicts of interest may arise including any actual or potential conflicts that may arise between different parties in respect of a product. Where such a conflict cannot be avoided, and provided that investors' interests can be sufficiently protected, the conflict shall be managed and minimized by appropriate safeguards, measures and product structure and these measures and safeguards shall be properly disclosed to investors.



Chapter 5: General requirements

Name of product

5.1 A product's name shall not be undesirable or misleading.

Notes: Issuers should consider the following factors before selecting the name for a product:

- (i) whether it is inconsistent with the nature of the product or the investment objectives or policy of the product;*
- (ii) whether the name of the product would give investors a sense of assurance or security not justified by the underlying features of the product;*
- (iii) whether it might lead investors into thinking or create the impression that persons other than the Product Provider are responsible for the product; and*
- (iv) whether it might lead investors into thinking or create the impression that the Product Provider is not responsible for the product.*

5.2 Where the name of a product includes the word “guaranteed”, “principal protected”, “capital protected” or words with similar meanings, it shall accurately reflect the nature and extent of the guarantee or the capital/principal protection taking into account the impression that such description might give to the investing public.

Selection of distributors

5.3 The Product Provider shall exercise reasonable care and diligence in the selection and appointment of distributors for a product, in particular, having regard to whether such distributor is suitably qualified and competent to discharge its obligations properly.

Engagement of counterparties and appointment of service providers

5.4 The Product Provider shall exercise reasonable care and diligence in the selection of counterparties and service providers.

5.5 The Product Provider shall satisfy itself, having made due enquiries, that each of the key counterparties and service providers engaged or appointed in respect of the product is competent and has resources to:

- (a) duly discharge its obligations under its terms of engagement or appointment; and
- (b) comply with all relevant requirements set out in applicable product code specifically applicable to such counterparties/service providers.

Language

5.6 Without prejudice to any requirement under applicable laws, all offering documents shall be written in both the Chinese and English languages, unless this requirement is otherwise waived by the Commission.



Note: In the case of advertisements, issuer of advertisements may choose to issue advertisement in just one language, having in mind the target audience groups.



Chapter 6: Disclosure requirements

General obligations

- 6.1 Disclosure shall be clear and effective and readily understood by the investing public.
- 6.2 Where comparative information is presented, the comparison shall be meaningful and presented in a fair and balanced way. The source of information used for comparison shall be specified, and the key facts and assumptions used to make the comparison shall be included.
- 6.3 Disclosure shall be legible.

Offering documents

- 6.4 The offering documents shall contain the information necessary for investors to be able to make an informed judgement of the investment and, in particular, shall meet the disclosure requirements required under the applicable product code.

Notes: (1) All key features and risks of the product shall be highlighted for investors prominently in a succinct manner.

- (2) Where a product is being offered on a continuous basis, its offering documents shall be updated in accordance with the requirements set out in the applicable product code.*

Product Key Facts Statements

- 6.5 Product summaries in the form of a Product Key Facts Statement shall be prepared for all products. Save as otherwise provided in the applicable product codes, the Product Key Facts Statement shall be a part of the offering document of the product. Product Key Facts Statements shall be clear, concise and shall be capable of being easily understood by investors.
- 6.6 Product Key Facts Statements shall be prepared in accordance with the principles set out in this chapter.
- 6.7 A Product Key Facts Statement shall highlight key information in respect of the product to investors in a clear, concise and effective manner. A Product Key Facts Statement shall be fairly presented and shall not contain any false or misleading information.

Notes: (1) A Product Key Facts Statement should contain information that enables investors to comprehend the key features and risks of the product.

- (2) Product Key Facts Statements shall be concise and kept at a minimal length. As a matter of best practice, it is expected that Product Key Facts Statements should not be more than 4 pages.*

- (3) Product Key Facts Statements shall be prepared in plain, concise and easily-understood language. Legal or financial jargon should be avoided.*



- (4) *Use of simple examples, charts, tables, diagrams and graphics for illustration purposes in a Product Key Facts Statement is encouraged. Use of bold headings and white space should also be considered as this may make the document easier to read and navigate. Information should not be densely packed.*
- (5) *Information in a Product Key Facts Statement shall be presented in a font that is easy to read and highly legible. The font size adopted shall also be reasonably legible taking into account the language used.*
- (6) *Product Key Facts Statements shall be prepared in a format that facilitates comparison with other products.*

6.8 All Product Key Facts Statements shall carry a prominent upfront warning statement on their first page to warn investors that the Product Key Facts Statement is a part of the offering document (where applicable) and they should not invest in the product based on the Product Key Facts Statement alone.

Advertisements

6.9 All advertisements for a product shall comply with the applicable advertising guidelines.

6.10 Advertisements for a product shall:

- (a) not be false, biased, misleading or deceptive;
- (b) be clear, fair and present a balanced picture of the product with adequate and prominent risk disclosures; and
- (c) contain information that is timely and consistent with its offering document.

Notes: (1) Whilst advertisements are by nature promotional materials to arouse investors' interests in a product, it is essential that advertisements present a balanced picture and are not false or misleading.

(2) If visual images are used, they should not divert or mislead investors' focus from the proper consideration of the product.

(3) Where the benefits/rewards of a product are stressed, there shall be a balance so that the possible downside is also explained.

6.11 Advertisements shall not carry any slogan that is exaggerated or unwarranted or slogan that is inconsistent with or unrelated to the nature and risk and return profile of the product.

Use of disclaimers

6.12 Disclaimers may be only used where it is permitted under the applicable product code and any disclaimer used shall be reasonable. Use of disclaimers to exclude or limit the relevant party's obligations towards investors which are otherwise imposed on it at law and/or under other applicable rules, codes or guidelines shall be avoided.



Chapter 7: Ongoing monitoring of the product and information to investors

Ongoing disclosure

- 7.1 Where the applicable product code imposes an ongoing obligation on the Product Provider to keep investors informed of matters affecting investors or to disseminate product-related information on a regular basis, then the Product Provider shall ensure that:
- (a) effective measures are in place for timely dissemination of such information; and
 - (b) it monitors closely those matters required for notification.

Issue of advertisements

- 7.2 Issuers of advertisements shall ensure that prior to its issue, each advertisement in relation to a product shall be subject to a due review process conducted by a competent delegate designated by the senior management of the issuer of the advertisement to ensure that the advertisement complies with the applicable product code. Such delegate shall be duly authorized to issue the advertisement on behalf of the issuer of the advertisement.

Investor education

- 7.3 As a matter of best practice, the Product Provider is encouraged to provide investor education, especially where they are launching products that are new or novel in the Hong Kong market.

Enquiries and complaints handling

- 7.4 Product Providers should provide in their offering documents information regarding how investors' enquiries and complaints will be handled.