



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

Consultation Conclusions on the Draft Guidelines on Good Disclosure of Securities Services Related Fees and Charges

與證券服務有關的收費及費用的
良好披露指引草擬本諮詢總結

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Introduction

1. On 30 October 2003, the Securities and Futures Commission (“SFC”) released a Consultation Paper (“Consultation Paper”) on the Draft Guidelines on Good Disclosure of Securities Services Related Fees and Charges (“Draft Guidelines”).
2. The consultation period ended on 30 November 2003 while follow-up discussions continued.
3. Having carefully considered the submissions received, the SFC revised the Draft Guidelines in consultation with the industry and other interested parties. The Guidelines, as revised and renamed “The Guidelines on Disclosure of Fees and Charges Relating to Securities Services” (the “Guidelines”), is attached at **Annex 1**.
4. The SFC would like to thank the parties who have provided their comments and suggestions in revising the Draft Guidelines.
5. This paper sets out the major comments raised in the consultation process, the SFC’s response as well as the revised proposals in relation to disclosure of securities-related fees and charges by intermediaries. It should be read in conjunction with the Consultation Paper.

Background

6. On 15 January 2003, the Secretary for Financial Services and the Treasury announced the establishment of the Working Group on the Business Environment of the Stock-brokering Industry (the “WGBE”) to examine with the local stock-brokering industry ways to enhance the competitiveness of the small and medium sized brokerage firms. Composition of the WGBE includes representatives from the Financial Services and the Treasury Bureau, the SFC and the Hong Kong Exchanges and Clearing Limited.
7. In the report submitted to the Secretary for Financial Services and the Treasury on 15 April 2003, the WGBE recommended, among other things, that the SFC and the Hong Kong Monetary Authority (the “HKMA”) should continue monitoring rigorously the disclosure by brokers and banks of their fees and charges imposed on securities trading services.
8. As mentioned in the Consultation Paper, a survey report published by the Consumer Council revealed that there are more than 70 types of fees and charges relating to securities services, and these may cause confusion to the investing public. In this connection, the WGBE recommended that the SFC and the HKMA work with the industry to standardize the broad categories of those fees and charges.
9. Against this backdrop, the SFC formed the Working Group on Categorization of Fees and Charges Relating to Securities Services (the “Working Group”) in

May 2003 with representatives from four stock-broking industry associations and one trade union. The Working Group's major objective is to classify fees and charges relating to securities services into broad and standardized categories, which are now adopted in the Guidelines with a view to promoting a consistent and comparable disclosure framework among intermediaries for the benefit of the investing public.

Consultation process

10. In addition to the public announcement inviting comments, the Consultation Paper was distributed to Hong Kong Securities Professionals Association, The HK Association of Online Brokers, Hong Kong Stockbrokers Association Ltd, Hong Kong Securities & Futures Industry Staff Union, The Institute of Securities Dealers Ltd, Hong Kong Association of Banks, The Deposit-Taking Companies Association and the Consumer Council. The Consultation Paper was also published on the SFC website.
11. To ensure consistent application and supervision, the SFC has also consulted the HKMA in formulating the Guidelines.
12. The SFC received a total of nine sets of submissions on the Draft Guidelines. A list of the commentators is attached at [Annex 2](#). Contents of the submissions are published on the SFC website.

Summary of comments and the SFC's response

13. In general, commentators were receptive to the policy initiative of classifying fees and charges relating to securities services under specified categories. They also acknowledged that the Guidelines would help promote fair competition and enhance price transparency and comparability in the market.
14. However, many commentators, particularly market practitioners, expressed concerns that the other provisions of the Draft Guidelines might be too onerous especially with respect to the requirements on claim of compliance/non-compliance, format of the Standard Fees and Charges Disclosure Sheet and Illustrative Example, 30-day advance notice for changes in fees, etc. They were concerned that compliance with the proposed requirements would considerably add to their administrative costs. Some also envisaged that in view of the risk of non-compliance and possible consequential penalties, most intermediaries might opt not to adopt the recommended mode of disclosure promulgated in the Draft Guidelines.
15. After careful consideration of the submissions and further discussions with the industry, the SFC proposes to revise the Draft Guidelines by removing prescriptive requirements and allowing greater flexibility for market practitioners to adopt their own disclosure models and fee structures. However, it is proposed that the Guidelines set out recommended disclosure of

securities-related fees and charges under standardized categories most commonly used in the industry to enhance transparency and comparability.

16. The Guidelines are intended to supplement the Code of Conduct for Persons Licensed by or Registered with the SFC (the “Code of Conduct”), in respect of disclosure of fees and charges relating to securities services to clients. The licensed or registered persons concerned (see paragraph 22 below) are required to take reasonable care to disclose fees and charges as recommended by the Guidelines. While disclosure of fees and charges will not be mandatory as such, the SFC believes that once the Guidelines, which seek to establish best practice, and an effective investor education program, which informs investors as to their rights and duties to make proper inquiries and assessments, are in place, market forces will drive intermediaries towards adoption of the Guidelines.

Consultation conclusions

17. Consequently, the SFC would like to put forward the following revised proposals, which are reflected in the Guidelines attached.

Classification of securities-related fees and charges into six standardized categories

18. To achieve better transparency and comparability of fees and charges among intermediaries and ease of understanding by clients, it is recommended that securities-related fees and charges should be disclosed under the following six standardized categories:
 - (a) Trade-related services;
 - (b) Scrip handling and settlement-related services;
 - (c) Information services;
 - (d) Account maintenance;
 - (e) Nominee services and corporate actions; and
 - (f) Financing and other services.
19. These categories represent the industry consensus on preferred nomenclatures of major headings of related fees and charges. Explanation and some common examples of fee items for each category are provided in the Guidelines.
20. The requirements initially proposed under the Draft Guidelines pertaining to the claim of compliance/non-compliance, the format of Standard Fees and Charges Disclosure Sheet and Illustrative Example, the 30-day advance notice for changes in fees, etc. were removed to enhance flexibility. The SFC believes that such operational details are best left to the discretion of intermediaries in response to market demand.

Application of the Guidelines

21. The Guidelines will be issued under section 399 of the Securities and Futures Ordinance (the “SFO”).

22. For the avoidance of doubt, the SFC sets out that application of the Guidelines will be confined to persons licensed or registered for Type 1 regulated activity (dealing in securities) and persons licensed for Type 8 regulated activity (securities margin financing) where appropriate. In making this proposal, the SFC is mindful that these regulated activities, pertaining to stock-brokering, have a relatively significant impact on the investing public at large and these activities are the main areas that require guidance to be provided.
23. Separately, in view that specific disclosure requirements may not be applicable to all scenarios, especially for those relating to the trading of overseas securities, the SFC now proposes that the Guidelines only apply to the disclosure of fees and charges on services concerning securities traded on the Stock Exchange of Hong Kong Limited (“SEHK”). As for disclosure of fees and charges relating to securities not traded on the SEHK, this will be governed under the general principles set out under the Code of Conduct.
24. Furthermore, as initially proposed in the Draft Guidelines, services rendered to Professional Investors as defined under Schedule 1 to the SFO will be excluded from the application of the Guidelines since Professional Investors are generally considered to be in a better position to gather related fee information from the intermediaries they are dealing with. Favourable comments were received on this proposal, and it is retained in the Guidelines.

Effective date

25. The Guidelines, as revised, will become effective on 1 January 2005.

Review of the Guidelines

26. The SFC will continuously monitor the extent to which the intermediaries follow the Guidelines in their disclosure of securities-related fees and charges. While the Guidelines are for the moment not mandatory, the SFC reserves the right to review the situation and introduce other measures should the need arise.

**GUIDELINES ON DISCLOSURE OF FEES AND CHARGES
RELATING TO SECURITIES SERVICES**

(THE “GUIDELINES”)

General

1. The Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (the “Code of Conduct”) sets out the standard of conduct expected of a licensed or registered person in its dealings with clients.
2. The purpose of the Guidelines is to supplement the Code of Conduct in respect of disclosure of fees and charges for securities services to clients. The Guidelines set out recommended disclosure of securities-related fees and charges under standardized categories most commonly used in the industry to enhance transparency and comparability of fees and charges between intermediaries and ease of understanding by clients.
3. The Guidelines are issued under section 399 of the Securities and Futures Ordinance (the “SFO”) (Cap. 571).
4. The Guidelines do not have the force of law and as such, will not affect any requirements under the SFO and any rules, codes and guidelines made thereunder.
5. Unless otherwise specified or the context otherwise requires, words and phrases in the Guidelines shall be interpreted by reference to any definition of such word or phrase in Part 1 of Schedule 1 to the SFO and the Code of Conduct.

Application of the Guidelines

6. The Guidelines apply to persons licensed or registered for Type 1 regulated activity (dealing in securities) and persons licensed for Type 8 regulated activity (securities margin financing), in respect of disclosure of fees and charges on services related to securities traded on the Stock Exchange of Hong Kong Limited (the “SEHK”) where appropriate.

7. Professional Investors are excluded from the application of the Guidelines.

Effective date

8. The Guidelines will become effective on 1 January 2005.

Interpretation

9. In these Guidelines, unless the context otherwise requires -

“Securities services” refers to services provided by licensed or registered persons in relation to securities traded on the SEHK.

“Category” or “Categories” refers respectively to one or more of the six headings of fees and charges relating to securities services.

“Fees and charges relating to securities services” refers to those fees and charges commonly charged on one or more of the following services:

- (a) Trade-related services;
- (b) Scrip handling and settlement-related services;
- (c) Information services;
- (d) Account maintenance;
- (e) Nominee services and corporate actions; and
- (f) Financing and other services.

“Trade-related services” refers to services in relation to execution of trades.

“Scrip handling and settlement-related services” refers to handling of physical scrip and services in relation to settlement of securities.

“Information services” refers to provision of market (including securities-related) information.

“Account maintenance” refers to maintenance of a client’s securities-related account.

“Nominee services and corporate actions” refers to services of a nominee in exercising a shareholder’s rights or collection of benefit entitlements on behalf of a client.

“Financing and other services” refers to provision of financing and other miscellaneous services.

Categorization of fees and charges

10. Where appropriate, a licensed or registered person should disclose fees and charges on securities services to clients under the following six Categories:
 - (a) Trade-related services;
 - (b) Scrip handling and settlement-related services;
 - (c) Information services;
 - (d) Account maintenance;
 - (e) Nominee services and corporate actions; and
 - (f) Financing and other services.
11. Certain common examples of fees and charges under each Category are set out at Appendix. Such examples are by no means exhaustive. Depending on its business model and existing practice, a licensed or registered person may have different composition and description of fees and charges under each Category.

Communication of fees and charges to clients

12. A licensed or registered person is expected to establish and implement procedures for effective communication of fees and charges to clients.
13. Although it is entirely the choice of a licensed or registered person to adopt the most appropriate method to disclose fees and charges promptly and effectively to clients, it is not acceptable for a licensed or registered person to merely state to its clients that all fees and charges are subject to negotiation. At the minimum, it should set out all applicable fees and charges to be charged to clients including prospective ones.
14. Where there are fees and charges which cut across different Categories, a licensed or registered person should try its best to split them under different Categories. Furthermore, if there are no fees and charges for a particular Category, a licensed or registered person should state so.
15. A licensed or registered person should disclose the basis of how fees and charges are levied. Any maximum or minimum amount charged should be clearly disclosed. Where a percentage-based fee is charged, it should state what the percentage is charged against. Furthermore, if a fee amount is computed with reference to an interest rate, the corresponding annualized percentage rate should be stated.

Appendix

Examples of common items of fees and charges under each of the six Categories defined under the Guidelines

The examples shown below are for illustration only. They are not meant to be exhaustive, complete or prescriptive.

(A) Trade-related services

1. Brokerage commission
2. Transaction levy
3. Investor compensation levy
4. Trading fee
5. Trading tariff
6. Stamp duty

(B) Scrip handling and settlement-related services

1. CCASS¹ stock settlement fee
2. Money settlement fee
3. Physical scrip deposit fee
4. Physical scrip withdrawal fee
5. Deposit transaction charge
6. Settlement instruction fee
7. Investor settlement instruction fee
8. Compulsory share buy-back fee

(C) Information services

1. Real-time price quote fee
2. Short message services fee

¹ CCASS means the Central Clearing and Settlement System established and operated by the Hong Kong Securities Clearing Company Limited.

(D) Account maintenance

1. Custody fee
2. Stock balance or account confirmation fee
3. Dormant account fee
4. Stock segregated account (with CCASS statement) service fee

(E) Nominee services and corporate actions

1. Scrip fee
2. Collection fee of cash/scrip dividend
3. Collection fee of bonus issue
4. Rights issue entitlement charge
5. Fee for rights exercise
6. Fee for excess rights application
7. Fee for tendering shares under a takeover bid
8. Fee for change of registration at share registrar
9. Fee for handling share consolidation/split

(F) Financing and other services

1. Margin account financing charge²
2. Securities subscription handling charge
3. Cash account overdue interest²
4. Financing charge for subscription of securities²
5. Banking service charges
6. Fee for claiming unclaimed benefit entitlements

² Annualized percentage rates should be used.

Annex 2

LIST OF COMMENTATORS

<i>Commentator</i>	<i>Date of submission</i>
1. Consumer Council	3 December 2003
2. The HK Association of Online Brokers	28 November 2003
3. Hong Kong Association of Banks	28 November 2003
4. Hong Kong Stockbrokers Association Ltd.	29 November 2003
5. HSBC Broking Securities (Asia) Limited	28 November 2003
6. The Institute of Securities Dealers Ltd.	27 November 2003
7. Linklaters on behalf of: <ul style="list-style-type: none">• Citigroup Global Markets Asia Limited• Credit Suisse First Boston (Hong Kong) Securities Limited• Deutsche Securities Asia Limited• Goldman Sachs (Asia) L.L.C.• ING Securities Limited• J.P. Morgan Securities (Far East) Limited• Merrill Lynch (Asia Pacific) Limited• Morgan Stanley Dean Witter Asia Limited• Nomura Securities (Hong Kong) Limited• UBS AG	29 November 2003
8. Lloyds TSB Pacific Limited	28 November 2003
9. Anonymous commentator	28 November 2003