

12 May 2015

Circular concerning Know Your Client and Account Opening Procedures

Intermediaries are required to take all reasonable steps to establish the true and full identity of each of their clients, and of each client's financial situation, investment experience, and investment objectives as provided in paragraph 5.1 of the Code of Conduct¹. Despite these requirements, some deficiencies in know-your-client ("KYC") and account opening procedures of licensed corporations were noted as a result of our recent supervisory reviews of their account opening procedures for investors in and outside Hong Kong. These included:

- reliance on images/videos transmitted remotely by mobile phone or internet to carry out certification of the signing of the client agreement and sighting of related identity documents ("**the Certification Process**") without sufficient measures enabling effective authentication of a client's identity and execution of account opening documents; and
- insufficient identification and follow up on potential KYC issues arising where multiple clients provide the same postal addresses, email addresses or telephone numbers where there are no apparent family or other circumstances to explain the connections.

Furthermore, an unsatisfactory practice was also noted where the account opening documents were not executed in the presence of an employee of the licensed corporation concerned and the Certification Process was performed by the licensed corporation's affiliate which was not a regulated financial institution.

In light of the issues discussed above, intermediaries should note the following control/compliance matters in implementing the KYC requirements under the Code of Conduct.

Key controls relating to the Certification Process

Intermediaries are reminded that where the Certification Process is not performed by their employees physically, it should be performed physically by any other licensed or registered person, an affiliate of a licensed or registered person, a JP (Justice of the Peace), or a professional person such as a branch manager of a bank, certified public accountant, lawyer or notary public as specified in paragraph 5.1(a) of the Code of Conduct (as supplemented by the relevant FAQ²) (collectively "**Certifying Persons**"), unless any of the alternatives stipulated in paragraph 5.1 of the Code of Conduct applies. In particular, intermediaries should pay attention to the following matters:

- Intermediaries are responsible for conducting proper KYC and account opening procedures, whether the Certification Process is performed by their employees or Certifying Persons. In either case, intermediaries must ensure proper policies and procedures are maintained and implemented to supervise the KYC and account opening procedures.

¹ Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission ("Code of Conduct")

² Please refer to Q24 to Q28 of the FAQ (Code of Conduct) dated 16 July 2001 regarding know-your-client requirements



- Where Certifying Persons are appointed to perform the Certification Process, intermediaries should have effective policies and procedures in place to ensure the Certification Process is properly implemented.
- If an affiliate of an intermediary is appointed to conduct the Certification Process, it is the responsibility of the intermediary to ensure that the affiliate has maintained and implemented the equivalent policies and procedures that are applicable to intermediaries in performing the Certification Process³. Intermediaries are reminded that while affiliates which are regulated financial institutions (such as banks and brokers) may already be subject to similar KYC requirements and have a good understanding of the function of, and the responsibility associated with, the Certification Process carried out for intermediaries, an affiliate which is not a regulated financial institution may not possess the necessary knowledge and experience for properly carrying out the Certification Process. Accordingly, intermediaries are strongly discouraged from appointing any affiliate which is not a regulated financial institution to conduct the Certification Process⁴.
- Where any employee or affiliate of an intermediary conducts account opening procedures with prospective clients outside Hong Kong, the intermediary should ensure the employee or affiliate will not breach any local regulatory requirements applicable to the employee or affiliate by doing so⁵.
- If an account is opened otherwise than on a personal, face-to-face basis by employees of an intermediary, the intermediary is encouraged to contact the client directly to ensure the necessary risk disclosures and reminders under Schedule 1 to the Code of Conduct are drawn to the client's attention⁶. The intermediary should retain proper records to demonstrate that the intermediary has provided the risk disclosure statement in a language of the client's choice (English or Chinese) and invited the client to read the risk disclosure statement, ask questions and take independent advice if the client wishes.

Accuracy of client information

Intermediaries are reminded to ensure that the identity and other personal information about their clients (including correspondence address and phone number) are accurate and up-to-date to ensure their clients are contactable⁷.

Moreover, where an intermediary becomes aware that two or more unrelated clients (e.g. without any family relationship) have authorised the same third party to place orders for their accounts, the intermediary should actively enquire and critically evaluate the reasons why individual unrelated clients authorise the same third party to place orders and ascertain the relationship between them as part of the KYC procedures, and properly monitor these client accounts for irregularities.

³ Please refer to Q26 of the FAQ

⁴ Please note that Q27 of the FAQ is updated

⁵ Please refer to Q26 and Q28 of the FAQ

⁶ Please note that Q57 of the FAQ is updated

⁷ Please refer to Q28 of the FAQ



Should you have any questions regarding the contents of this circular, please contact Ms Denise Chan at 2231 1188.

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SFO/IS/018/2015