

Latest SFC market reminders



By **Mun Yeow and Brian Chen**

We are facing the worst ever global financial crisis and investor confidence is at its lowest. In this context, the Securities and Futures Commission (SFC) recently issued circulars, reminding regulated persons and issuers of investment products of their existing obligations to investors.

Suitability of recommendation

Regulated persons are obliged under the SFC code of conduct to ensure the suitability of their recommendations to investors. On 8 May 2007, the SFC published in a circular a list of questions and answers on the duties of regulated persons in providing investment advice. Regulated persons are to:

- know their clients' financial situation, investment knowledge and objectives, their risk tolerance, and their capacity to make regular contributions and meet extra collateral requirements;
- understand the investment products they are recommending by conducting proper due diligence
- provide suitable recommendations, by matching the risk return profile of each investment product with the personal circumstances of their clients;
- exercise extra care in advising elderly or unsophisticated clients on complex investment products, particularly those with long maturity periods and hefty penalty charges for early redemption;
- provide all relevant material information (including a prospectus and other documents relevant to the investments) to clients and help them make informed investment decisions;
- give clients enough time to digest and evaluate the information and recommendations provided and sufficient opportunity to raise queries;
- not use high-pressure techniques to force or entice any client to make hasty investment decisions;
- employ competent staff and provide appropriate training; and

- document and retain the reasons for each product recommendation made.

Investors' concerns and complaints

The SFC states that regulated persons, when distributing retail structured and credit-linked notes, should play a more proactive role in addressing investors' concerns. They should handle complaints in a timely and appropriate manner, take steps to investigate and respond promptly to complaints and, when a complaint is not remedied promptly, give the client advice on further steps that can be taken.

Credit crisis and early redemption

Where regulated persons hold investment products on behalf of investors, in the event of a credit crisis or default resulting in early redemption, they should inform the investors of the date and amount of the early redemption.

Risk disclosure duty

The circular of 3 October 2008 states that issuers must ensure that the marketing materials are 'clear, fair and present a balanced picture' and are also reminded to include in their marketing materials 'upfront, prominent and adequate warnings' of all risks, including 'new risks' emerging from prevailing market conditions. Issuers seeking authorisation to market retail investment products are advised to 'revise their documents in light of the recent market events'.

Conclusion

The SFC has reiterated the importance of adherence by regulated persons and issuers to the standard practice of selling investment products. To regain investor confidence, the onus is on regulated persons and issuers to make sure that investors are well informed and properly advised on their investment decisions.

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