

SECURITIES AND FUTURES ORDINANCE (Chapter 571)

Pursuant to section 169 of the Securities and Futures Ordinance, the Securities and Futures Commission publishes the following amendments to the Code of Conduct for Persons Licensed by or Registered with the Securities Futures Commission (Code of Conduct). These amendments shall become effective on 25 November 2018.

1. Add the following paragraph after paragraph 7.1 of the Code of Conduct:—

‘7.2 Disclosure of benefits

- (a) Specific disclosure—monetary benefits under explicit remuneration arrangement and trading profit made from a transaction
 - (i) Where a licensed or registered person and/or any of its associates explicitly receives monetary benefits (whether quantifiable or not prior to or at the point of sale) from a product issuer (directly or indirectly) for effecting a transaction in an investment product for a client, the licensed or registered person should disclose the maximum percentage of the monetary benefits receivable by it and/or any of its associates by the type of investment product.
For monetary benefits that are not quantifiable, the licensed or registered person should also disclose the existence and nature of such benefits.
 - (ii) Where a licensed or registered person takes no market risk and makes a trading profit for effecting (A) a purchase of an investment product from a third party for a client; or (B) a sale of an investment product to a third party for a client, the licensed or registered person should disclose the maximum percentage of the trading profit to be made by the type of investment product.
- (b) Generic disclosure—monetary benefits under non-explicit remuneration arrangement and non-monetary benefits
 - (i) Where a licensed or registered person effects a transaction in an investment product which is issued by it or any of its associates and it will not explicitly receive monetary benefits when effecting such transaction for a client, the licensed or registered person should disclose that it or any of its associates will benefit from effecting such transaction.
 - (ii) Where a licensed or registered person and/or any of its associates receives from a product issuer non-monetary benefits for effecting a transaction for a client, the licensed or registered person should disclose the existence and nature of such non-monetary benefits.

The licensed or registered person should make the above disclosure to clients at the account opening stage or prior to entering into a discretionary client agreement with a client for discretionary management services. The disclosure must be in writing, communicated to clients through electronic or other means. The information disclosed in written form should be in Chinese or English according to the language preference of the client.

The licensed or registered person should ensure that the disclosure in writing is prominent, is presented in a clear and concise manner and is easy for average clients to understand.

In respect of the disclosure to be made under this paragraph, a one-off disclosure is acceptable. Where there are changes, an update must be provided to the client as soon as reasonably practicable.

Notes

Examples of changes to the one-off disclosure include additional investment product types and an increase in the maximum percentage of the monetary benefits receivable.’

2. Repeal paragraph 15.4(d) of the Code of Conduct.
3. Add the following paragraph as the new paragraph 15.4(d) of the Code of Conduct:—
 - (d) Discretionary accounts
 - (i) the need for a licensed or registered person to obtain from the client an authority in a written form prior to effecting transactions for the client without his specific authority (paragraph 7.1(a)(ii) of the Code);
 - (ii) the need to explain the authority described under paragraph 7.1(a)(ii) of the Code and the need to confirm it on an annual basis (paragraph 7.1(b) of the Code); and
 - (iii) the need for a licensed or registered person to disclose benefits receivable for effecting transactions for a client under a discretionary account (paragraph 7.2 of the Code).

(For the avoidance of doubt, a licensed or registered person should still obtain an authorization from a client in order to effect transactions on the client's behalf, however where Professional Investors are concerned the procedures for obtaining such authorizations as described in (i) and (ii) above are relaxed.)

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