HONG KONG MONETARY AUTHORITY
香港金融管理局

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18 April 2011

The Chief Executive
All Authorized Institutions

Dear Sir/ Madam,

Important Facts Statement (IFS) for Currency-Linked Instruments and Interest Rate-Linked Instruments Issued by Authorized Institutions (AIs) ("ILCL instruments")[1]

I am writing to introduce a new investor protection measure that requires AIs to produce an IFS for ILCL instruments, to enhance product disclosure to retail customers[2] purchasing such instruments.

ILCL instruments are popular investment products with retail customers. These products are exempted from the authorization requirements under the Securities and Futures Ordinance (SFO), and the Code on Unlisted Structured Investment Products (SIP Code) issued by the Securities and Futures Commission (SFC) is not applicable as ILCL instruments are not regarded as "structured investment products" for the purposes of the SIP Code. Nevertheless, as stipulated in the HKMA's circular of 13 July 2009 "Selling of Investment Products", for marketing materials of non-SFO regulated investment products including ILCL instruments, AIs should follow standards similar to those issued by the SFC on marketing materials.

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1 For the purpose of this circular, ILCL instruments refer to currency-linked and interest rate-linked structured investment products whose return is linked to the exchange rates of currency(ies) and interest rate movements, respectively. These products may take different forms, e.g. structured deposits, structured notes, etc.

2 Following the Hong Kong Monetary Authority (HKMA) circular of 20 May 2010, "retail customers" exclude corporate customers, sole proprietors, partnerships and private banking customers. An AI should classify an individual as a "private banking customer" only if he/she maintains a personalized relationship with the AI, receives personalized banking services or a portfolio management services from the AI, and has assets under the AI's management (AUM) of at least US$ 1 million. The HKMA expects private banks to observe the AUM threshold requirement on a reasonable basis. A holistic and pragmatic approach should be adopted. In essence, one should look at the real substance of the banking relationship and service. As long as there is no material deviation, it is considered reasonable to allow exemption from the IFS requirement for clients with AUM that is occasionally below the US$1 million threshold due to market movements or other practical justifications.

In addition, the SFC's new Product Key Facts Statement (KFS) measure requires issuers of publicly offered unlisted structured investment products to provide concise product summaries written in plain language to help investors understand the key features and risks of the products. The HKMA considers that for better protection of retail investors, AIs should apply these same principles and produce IFS to enhance product disclosure for ILCL instruments for retail distribution.

After consultation with the banking industry, the HKMA has developed IFS templates for ILCL instruments to facilitate more standardised disclosure across AIs. The templates have adopted the SFC's principles for KFS and, to the extent applicable and appropriate, made reference to the SFC's illustrative template for KFS in respect of unlisted structured investment products. The IFS templates for currency-linked instruments and interest rate-linked instruments are enclosed as **Annex 1** and **Annex 2**, respectively. The details of the IFS requirements are set out below.

IFS is required for ILCL instruments distributed to retail customers. The IFS may form part of the product brochure or marketing materials for distribution to retail customers and need not be a standalone document. Where an ILCL instrument is issued without an IFS, the AI should not sell the ILCL instrument to retail customers, and should ensure that its distributing agents will not sell such instrument to retail customers. Similarly, where an AI acts as a distributing agent for an ILCL instrument issued without an IFS, the distributing AI should not distribute such an instrument to retail customers.

AIs should offer to provide IFS to a retail customer in relation to every relevant transaction, unless the customer declines the IFS in which case a proper audit trail of this should be maintained. This requirement is applicable to transactions conducted through branches and non-branch channels. For transactions through non-branch channels, AIs should provide IFS via fax, email, post, Internet or other proper means.

Preparation of IFS

AIs should adopt the templates set out in the Annexes when preparing the IFS. When preparing the actual IFS for specific ILCL instruments, **AIs are reminded to follow the guidance notes stated in the templates as well as the principles below**:

- the IFS must be specific enough to bring out the key features, risks and investment objective of the product in a clear and concise manner;

- the IFS should be accurate and not contain any false or misleading information;

- the IFS should contain information that enables investors to comprehend the key features and risks of the product; and

- the IFS should be produced in both Chinese and English languages, and AIs should provide the IFS in accordance with the language preference of each relevant retail customer.

The IFS templates cover the key facts and risks (including the health warning statement) that should be disclosed pursuant to the HKMA's circular of 13 July 2009. Therefore, where an IFS is provided to the customer, it is not necessary for the AI to attach a separate health warning statement to the product document.

Implementation date

AIs should put in place control procedures and measures to ensure that the requirements in this circular are properly implemented. Taking into account the preparatory work to be carried out by AIs, the HKMA expects that the IFS arrangements should be implemented by all AIs **not later than 4 June 2011**. AIs are required to comply with the IFS requirement for all ILCL instruments which will be offered to retail customers on or after 4 June 2011, regardless of the date of issue or product launch.

If you have any questions on this letter, please contact Ms Alice Lee at 2878-1603 or Ms Florence To at 2878-1582.

Yours faithfully,

Meena Datwani
Executive Director (Banking Conduct)

Encl. Annex 1 - standardized template for currency-linked instruments
Annex 2 - standardized template for interest rate-linked instruments

c.c. Securities and Futures Commission (Attn: Mr Stephen Po, Senior Director of Intermediaries Supervision and Ms Alice Law, Senior Director of Policy, China & Investment Products)