

**Subcommittee on Securities and Futures (Professional Investor)  
(Amendment) Rules 2011**

**List of follow-up actions arising from the discussion  
at the meeting on 11 November 2011**

1. The Administration/Securities and Futures Commission (SFC) is requested to: --
  - (a) consider making it an explicit requirement in the Securities and Futures (Professional Investor)(Amendment) Rules 2011 (the Amendment Rules) or relevant legislation requiring intermediaries to comply with the relevant requirements under the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) in dealing with/serving professional investors;
  - (b) consider making it an explicit requirement in the Amendment Rules or relevant legislation requiring the intermediaries to assess an investor's knowledge, expertise and investment experience prior to treating an investor as a Professional Investor;
  - (c) including in the Amendment Rules or relevant legislation the assessment/qualifying criteria similar to the "elective professional clients" adopted in the United Kingdom; and
  - (d) introducing, in the long run, a licence regime for professional investors in respect of different financial products and markets by way of the issue of a licence or certificate to accord an investor with the status of a professional investor.
2. The Administration/SFC is requested to explain the reasons and practical difficulties, if any, for not considering the suggestions in item 1 above; and advise whether any comparable jurisdictions have adopted the practice suggested in 1(d) above.
3. The Administration/SFC is requested to provide information on the different sanctions, criminal and/or civil liabilities for:-
  - (a) non-compliance with/breach of the legal requirements under the Securities and Futures (Professional Investor) Rules (PI Rules) or relevant legislation, including an intermediary treating an investor who has not met the minimum portfolio requirement under the PI Rules as a Professional Investor; and

- (b) non-compliance with/breach of the requirements set out in the Code of Conduct for dealing with/serving professional investors.
4. The Administration/SFC is requested to explain why qualifying criteria such as the assessment on the investor's knowledge, expertise and investment experience and the written consent requirement as set out under the Code of Practice are not included in the definition of "Professional Investor" under the PI Rules.
5. In relation to A2(d) in CB(1)313/11-12(01), the Administration's response to the list of follow-up actions arising from the meeting on 1 November 2011, advise:-
- (a) the disciplinary actions to be taken by the Hong Kong Monetary Authority (HKMA) where major breaches and non-compliances with regulatory requirements are identified;
  - (b) under what circumstances would HKMA take disciplinary action against persons registered for conducting regulated activities; and
  - (c) under what circumstances and on what grounds would HKMA refer cases of major breaches or non-compliance to SFC for enforcement action.

Council Business Division 1  
Legislative Council Secretariat  
15 November 2011