

## **FAQs re the HKIFA Recommended Practices (“RP”) on the presentation of the Risk Disclosure Box (“RDB”) for authorized retail funds**

This set of FAQ is prepared in response to the questions raised by issuers of marketing materials in regard to the RP issued by the HKIFA in April 2009. The answers can only provide general guidance as HKIFA is not in a position to advise individual issuers what disclosures should be required for their own marketing materials (“MMs”) and the judgment call is vested with the issuers. Issuers should bear in mind that the ultimate objective of any risk disclosure initiative is to enable investors to understand the principal risks involved in an authorized retail fund before making any investment decisions.

### Section (1) Objective:

#### **1.1 Is this set of RP written in response to the Letter (dated Dec 5, 2008) issued by the SFC?**

*Ans: This set of RP is written to provide guidance on how the SFC Dec 5 Letter should be transposed in practice. It aims to help the industry adopt a consistent approach in effectively communicating the principal risks involved in authorized products to investors before they make any investment decisions. The RP should only be construed as a general reference for the industry.*

### Section (2) Application:

#### **2.1 To whom will the RP apply? (Fund managers, distributors?) When?**

*Ans: The RP applies to all issuers of marketing materials (“MM”) of retail authorized unit trusts and mutual funds, with immediate effect.*

#### **2.2 Does the RP only cover retail funds (i.e. not include MPF – cfunds, apifs and ILAS)?**

*Ans: Yes, it only covers retail authorized funds.*

#### **2.3 When will the RP be reviewed?**

*Ans: The HKIFA Working Group, in consultation with its members and relevant authorities, will review the RP at least annually to factor in any changes in the market.*

### Section (3) Key principles:

#### **3.1 How often should the RDB be updated?**

*Ans: Issuers should update the RDB as soon as practicable upon any material changes in the market circumstances that warrant a change in the wording, in order to provide investors with the most appropriate context to understand the risk factors of the product. Issuers are encouraged to develop complementary measures to help investors make informed investment decisions at all times.*

Section (4) Specific applications of the RDB and a three-tiered approach:

**4.1 Are the “standard warning statements” mentioned in section 4.1 of the RP referring to those set out in the SFC Advertising Guidelines?**

*Ans: The "standard warning statements" refer to item 23 (a) and (b) of the SFC Advertising Guidelines (July 2008). The standard wording should only be used in applicable situations under Section 4.1 of the RP.*

**4.2 Section 4.1 of the RP includes the regular fact sheets, and the suggested content of the RDB does not include the statement of suitability obligation as required by SFC (i.e. point 2(d) of the SFC Dec 5 letter). Is HKIFA suggesting that this category does not need to include the suitability statement?**

*Ans: The fact sheets mentioned in section 4.1 of the RP primarily refer to those that provide a listing of funds, and at most, include a few pieces of additional factual information for each fund. For example, fact sheets that fall within this category are those produced by distributors – typically in such a fact sheet, the distributor will list out the funds it carries, plus a few pieces of factual information on each of the funds, such as performance, portfolio holdings and fees. In such cases, it is at the discretion of the issuers to decide whether they want to include the suitability statement (the abridged version can be used) in the fact sheet.*

**4.3 Standard warning statements and the note on FDIs were usually put at the bottom of the MM (without a box) before the Lehman minibond saga but the RP highlights that MMs fall under 4.1 and 4.2 should use a box which is placed in an upfront and prominent position to include these warning statements (P.3 and 4 of the RP). Do these risk disclosure statements need to be presented as a box? Does the RDB really need to be put at the top of the MMs?**

*Ans: The general principle is that the RDB should be upfront and prominent. To allow sufficient flexibility for issuers, we believe that insofar as the guiding principle is adhered to, the exact location of the RDB should be at the discretion of the MM issuer. The most important test on risk disclosure is the test of prominence and the context in which it is placed; and the box can be in the middle, or at the bottom of the MM if the reader's attention is drawn to it readily.*

**4.4 For section 4.3 of the RP:**

- **Is a full RDB needed for presentations (e.g. ppt slides) that are for display purpose only (i.e. not to be distributed)?**

*Ans: If the issuer can be reasonably sure that the presentation materials will not be distributed, then the short form may be used. Overall, the issuer should use their best endeavor to ensure a balanced presentation is achieved.*

- **Is a full RDB needed for editorials that do not include any fund information?**

*Ans: No*

- **For website, the RP said “the RDB should be shown on the landing page of the fund, which should be readily accessible or downloadable”. What is meant by “downloadable”?**

*Ans: For information provided on a website, the principle should be the same as for other medium – i.e. when fund specific information is available, the full RDB should appear upfront and in a prominent manner. If the document is printable, the RDB should be part of that physical printout. The word “downloadable” refers to any form of materials that can be off-loaded from the website (physical or soft copy).*

#### Section (5) Other complementary initiatives:

- 5.1 The RP suggests that the issuers should maintain a written internal policy on interviews, including but not limited to the appointment of designated spokespersons... (P.5 of the RP). Why is it necessary to appoint designated spokespersons?**

*Ans: The principle underlying "Designated spokespersons" is that the issuer should ensure the person speaking on behalf of the firm is qualified to do so. How a firm decides who is in the position to speak and on what topic is the management decision of the firm. The RP merely highlights the need for a policy.*

- 5.2 The RP encourages issuers to provide training and investor education to complement the RDB (section 5.2 of the RP). Is it practical for individual fund manager to provide training to distributors and provide investor education to the public?**

*Ans: The objective of this provision is just to highlight the importance to provide comprehensive education on one's products - including the risks as well as the benefits. Each firm is responsible for educating the distributors and clients about all the pertinent facts on their own product range.*

#### Others:

- 6.1 For the full version of the suitability statement, the HKMA uses “...unless the intermediary who sells it to you has explained you that...” instead of “...unless the intermediary who sells it to you has advised you that...” being adopted by the SFC. It is not sure whether the banks should follow the SFC’s or the HKMA’s version.**

*Ans: In general, bank issuers who are regulated solely by the HKMA should follow the HKMA's guidelines. Issuers who are regulated by the SFC may have the flexibility to select between the HKMA and SFC versions, provided they must adopt the "full version" of the selected version and avoid*

*"cherry-picking" between the two.*

**6.2 The HKMA has required the banks to audio-record the sales process (including risk disclosure). Is it sufficient for the bank's staff to read out the RDB and ask the client whether he/she understands the risks? Or the bank's staff has to read out the detailed risk disclosures as specified in the prospectus? If it is the latter, it would take a long time and will virtually put off clients.**

*Ans: What the bank does is a function of their own internal standards/procedures as well as the requirement of HKMA. The RP does not apply to the activities of third party distributors.*

(End)