

Investor Protection Measures in respect of Investment, Insurance and Mandatory Provident Fund Products

Refinements to investor protection measures

November 2019

Investor protection remains a top focus for financial regulators in Hong Kong, with mis-selling of investment products a key consideration. The Hong Kong Monetary Authority (HKMA) has introduced a number of investor protection measures to facilitate the provision of suitable investment, insurance and mandatory provident fund (MPF) products by Authorized Institutions (AIs).

In response to changing sales models, including the use of technology, the HKMA conducted a holistic review of the current investor protection measures with an objective to refine some of the key measures, considering prevailing industry practices, applicability to different business models (e.g. online and offline sales channels) and the customer experience.

On 25 September 2019, HKMA issued **“Investor Protection Measures in respect of Investment, Insurance and Mandatory Provident Fund Products”** (the Circular) to AIs in Hong Kong to introduce the refined investor protection measures. Upon implementation of the measures, the Circular will supersede the relevant circulars previously issued by the HKMA as listed in Annex 2 of the Circular. AIs should comply with the Circular as soon as practicable and not later than 25 September 2020, except for sections (A)(III.2) and (B)(VIII), which should be implemented not later than 25 March 2021.

Key refinements at a glance

Selling process

Risk disclosure

- Common market feedback is that transactional risk disclosures reduce the customer experience for customers trading repeat products. In view of this, AIs are now allowed to streamline risk disclosure for subsequent transactions of comparable investment products (i.e. disclosing only the difference in associated risks between similar products).

Audio-recording of face-to-face sale process*

- Audio-recording is now required for face-to-face sales of complex products irrespective of whether recommendations are involved. AIs should prepare their sales staff to communicate the complex features and associated risks to customers during the sale process.
- Opt-out is now available for non-vulnerable customers having previously traded a comparable product.
- Sales of MPF should follow the existing guidelines related to audio-recording.

Assessment of concentration risk

- It is clarified that the calculation of a customer's financial assets can be based on the customer's declaration given controls are in place to address any inconsistencies between declared figures and the AIs' available information.

Transactions with mismatch or exception

- It is clarified that AIs are required to alert the customer, document the justification of suitability and obtain customer acknowledgement when conducting transactions with a mismatch or exception. Such transactions should also be subject to proper management review and approval.
- Sale of MPF should follow the existing guidelines related to mismatch transactions handling.

Pre-investment cooling-off period (PICOP)*

- No longer applicable to investment transactions conducted in an online environment when solicitation or recommendation are not involved.

Safeguards for vulnerable customers (VCs)*

- Companion requirements for VCs are not applicable to transactions in an online environment.
- For sale of long-term insurance products to elderly customers, AIs need to alert them to the tenor and premium contribution period.

Know your customer

Holistic assessment for VCs

- Merely assessing a single attribute of a customer may not be sufficient to determine his/her VC status.
- A holistic assessment for VCs considering age, education, wealth, disabilities and product experience is now required.
- AIs should explain to customers the purpose of the assessment, the consequence of being classified as VC or non-VC and seek the customer's acknowledgement.

Customer risk profiling*

- Customer risk profiling should be performed by non-sales staff to avoid undue influence
- In situations where only sales staff can be used to perform customer risk profiling, AIs are required to conduct independent reviews of those profiles and follow the review criteria stipulated in the Circular.

Physical segregation between deposit taking and investment activities*

- AIs are not allowed to use a customer's deposit-related information for purposes of investment sales activities unless customer consent is obtained. It is clarified that such consent is required for online banking and general phone banking.
- Annuity insurance and certain general and traditional insurance products are exempt from the physical segregation requirements.

* Requirement applicable to retail banking customers only

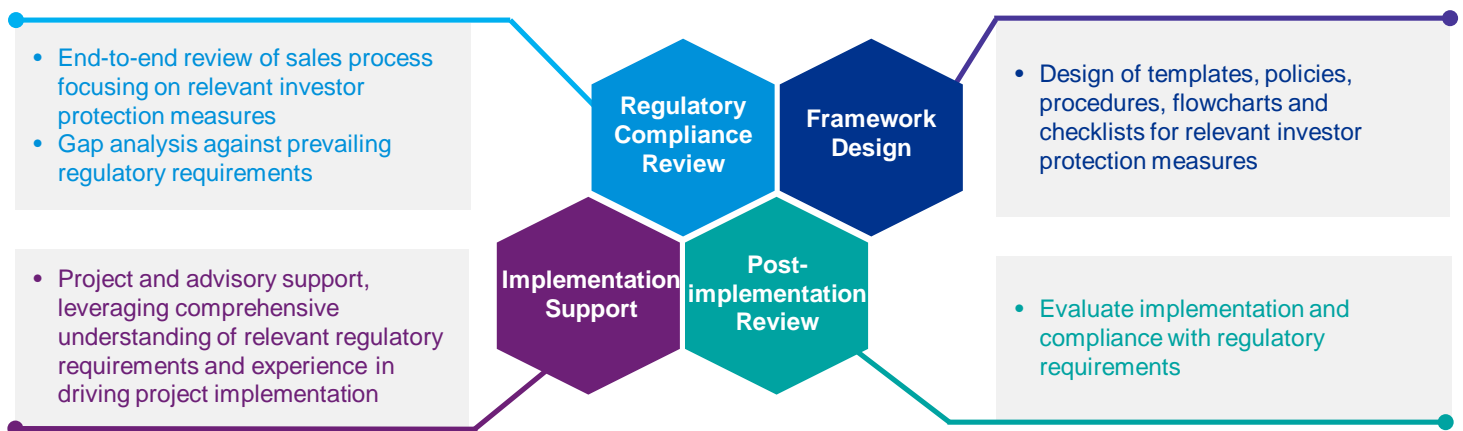
What does the Circular mean to your current operations?

With a focus on sales suitability, the Circular introduced a number of refinements to allow AIs to streamline existing processes to improve the customer experience. New measures are introduced to enhance the protection of less sophisticated customers and to ensure AIs sufficiently consider customer circumstances when making product recommendations. AIs are encouraged to take this opportunity to holistically review their compliance status with relevant regulatory requirements.

In addition, the Circular also offered clarifications on good practices and requirements of certain key processes along the sales journey and restated some of the key principles on which the investor protection measures are based.

How can KPMG support you?

KPMG has helped numerous local and international banks review and enhance their end-to-end sales processes with a recent focus on applying such measures to online platforms. Being a preferred advisor to market participants helps us benchmark leading industry practices and translates into pragmatic solutions from both a regulatory and business perspective.



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