# Hong Kong's regulators introduce a new category of professional investors and a streamlined approach to suitability assessments

## Background context

Hong Kong's regulators have been refining the Professional Investor ('PI') regime since 2003. Most recently, the Securities and Futures Commission ('SFC') and the Hong Kong Monetary Authority ('HKMA') jointly published a circular on 28 July 2023 introducing a risk-based 'Streamlined Approach' for compliance with suitability obligations when dealing with a new category of individual PIs – Sophisticated Professional Investors ('SPIs').

SPIs are individual PIs who meet the following qualifying criteria.

**Financial situation**

- a portfolio of at least HKD 40 million or its equivalent in any other currency; or
- net assets excluding primary residence of at least HKD 80 million or its equivalent.

**Investment objective**

- conservative client should not be an SPI.

**Knowledge or experience**

- holding a degree or post-graduate diploma in related discipline;
- attained a professional qualification in finance;
- at least one-year relevant work experience in the financial sector; or
- at least five transactions within three years in the same categories of investment products.

Registered Institutions and Licensed Corporations (collectively 'Intermediaries') can apply a streamlined approach to individuals who qualify as the SPIs and the transactions executed fall within the product categories and the streamlining threshold specified by the SPI ('Eligible Investment Transactions').

For **product categories**, Intermediaries must:

- categorise investment products based on the terms and features, characteristics, nature and extent of risks;
- document the choice of the SPI and provide the SPI a Product Category Information Statement ('PCIS'); and
- explain to the SPI upon request to facilitate the SPI's understanding of the PCIS.

For **streamlining threshold**, Intermediaries must:

- specify the maximum threshold of investment, as an absolute amount or a percentage relative to the SPI's assets under management ('AUM');
- maintain proper records of setting streamlining threshold, including SPI's rationale for such setting;
- establish and maintain systems and controls to ensure compliance with the streamlining threshold;
- detect outsize or material transactions and issue warning statements to the SPI; and
- review compliance with the streamlining threshold at least on an annual basis and alert the SPIs of the gross exposure.

The streamlined approach provides flexibility to Intermediaries. Refer to below for suitability assessments that can be exempted when dealing with an SPI.

## Suitability assessments that can be exempted when dealing with an SPI

| Suitability assessment procedures | Solicited/ recommended transactions | Complex product transactions without recommendation/ solicitation |
|---|---|---|
| • Assessment of the SPI's risk tolerance level, investment objectives and investment horizon against the product risk rating, objectives and tenor | ✓ Exempted | ✓ Exempted |
| • Assessment of the SPI's knowledge and experience, and concentration risk | ✓ Exempted | ✓ Exempted |
| • Product explanation to be provided[1] | ✓ Exempted | ✓ Exempted |
| • Maintenance of records documenting the rationale underlying investment recommendations made | ✓ Exempted | Not Exempted |
| • Product due diligence to be performed | Not Exempted | ✓ Exempted[2] |
| • Warning statements to be provided in relation to the distribution of a complex product | Not Exempted | Annual basis instead of transactional basis |

[1] Upon request and/ or any material queries, Intermediaries should provide the SPI with up-to-date product offering documents via electronic means (e.g. email).

[2] Exemption applies subject to the provision of offering documents to the SPI. Where offering documents are not provided to the SPI, Intermediaries should prepare and provide a summary of the key terms and features of the investment product.

## How can the Streamlined Approach be applied?

### SPI assessment

- Intermediaries are required to record the basis of SPI assessment on the qualifying criteria; and maintain records on the choice of product categories and the streamlining threshold indicated by the SPI

### Client acknowledgment

- Obtain client acknowledgement and their consent to be treated as SPI (including the streamlined approach applied, the product categories and the streamlining thresholds to be applied)
- Explain to the client the consequences of being treated as an SPI and the SPI's right of withdrawal

### Annual review

- Perform annual review to ensure that the SPI continues to fulfil the qualifying criteria and that the product category and streamlining threshold as specified by the SPI continue to be valid
- Provide the client a reminder that sets out the following:
  - consequences of clients being treated as an SPI;
  - product categories and relevant information;
  - streamlining threshold and an alert to the SPI where there was any breach; and
  - right to withdraw from being treated as an SPI, to add or remove a product category and/ or to amend the streamlining threshold at any time.

## How PwC can help

We have broad experience in supporting financial institutions including banks, asset management firms and securities brokerage firms in reviewing their sales practice, both as a management driven initiative and at the direction of the regulators. These include:

- current control framework assessments;
- implementation of new / amended regulations into existing control frameworks; and
- independent reviews.

In addition, we have assisted management in performing gap analysis and health checks on whether they are meeting regulatory expectations.

We would welcome the opportunity to discuss how we can draw on this experience to support you in designing the operational procedures for assessing SPIs and enhancing your sales practices framework for SPIs in line with the relevant regulatory expectations.

## Contact us


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