

25 November 2021

The Securities and Futures Commission

Supervision of Markets
54/F, One Island East
18 Westlands Road
Quarry Bay, Hong Kong

Attention: George Tam, Director (gtam@sfc.hk)
Eunice Cheng, Associate Director (ekwcheng1@sfc.hk)
Maggie YY Tam, Senior Manager (myytam@sfc.hk)

Dear Sir/Madam,

AAMG's submission on the Hong Kong Investor Identification Regime

On behalf of the Asset Management Group (“**AAMG**”) of Asia Securities Industry & Financial Markets Association (“**ASIFMA**”)¹, we would like to submit belatedly our asset manager members’ comments and issues with the Commission’s requirements under the Hong Kong Investor Identification Regime (“**HKIDR**”) as set out in the Consultation Conclusions on proposals to (1) implement an investor identification regime at trading level for the securities market in Hong Kong and (2) introduce an over-the-counter securities transactions reporting regime for shares listed on the Stock Exchange of Hong Kong (“**Consultation Conclusions**”) issued by the Securities and Futures Commission (“**SFC**” or the “**Commission**”) on 10 August 2021.

As I explained to Ms. Eunice Cheng on 15 November, my members had been under the impression that the SFC’s requirements to (a) assign “Broker-to-Client Assigned Number” (“**BCAN**”), (b) collect client information data, (c) ensure that the relevant client’s BCAN has been included for each trade order, and (d) adopt relevant data privacy and security measures to safeguard the data collected under the HKIDR do not apply to them because they are not brokers nor do they consider themselves to be

¹ [ASIFMA](#) is an independent, regional trade association with over 155 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, professional and consulting firms, and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative and competitive Asian capital markets that are necessary to support the region’s economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the [GFMA](#) alliance with [SIFMA](#) in the United States and [AFME](#) in Europe, ASIFMA also provides insights on global best practice and standards to benefit the region.

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providing brokerage services. Moreover, when asset managers submit trade orders on behalf of themselves and/or their overseas affiliates, they do not view or treat their overseas affiliates as clients. And unlike brokers, asset managers do not charge a commission for such trades, nor do they hold client assets. This is the reason why AAMG did not contribute to the ASIFMA response submitted on 12 March 2021 to the Consultation.

However, we were alerted to paragraph 46 of the Consultation Conclusions which states that whether a licensed corporation (“LC”) has to tag a BCAN to an order placed by it depends on the capacity in which it acts. Paragraph 46 goes on to say that when the LC is (i) acting in a “securities broker role for the client”, it has to tag the client’s BCAN to the order. But if the LC (ii) “only plays the role of a discretionary account manager with full discretion for that client and places orders with an executing broker for execution”, it does not have to tag the client’s BCAN to that order and only the executing broker should tag the LC’s BCAN to that order. Given that some of our asset manager members operate a central dealing desk in Hong Kong through their LC here, the question arises as to whether they fall under (i) or (ii) above.

We would like to seek clarification from the SFC and submit that asset managers which operate a central dealing desk in Hong Kong do not have to comply with the proposed requirements under the HKIDR based on the following reasons.

Submitting orders for affiliates

As asset managers are not Exchange Participants, they submit trade orders to brokers for execution and therefore do not consider themselves to be acting as a securities broker. When they submit trade orders to brokers, they may do so using either (a) their own BCAN (assigned to them by their brokers) or (b) the BCAN assigned by their brokers to their affiliate. Most of our members which operate a central dealing desk follow (a) above.

Using BCAN of affiliates or their funds/portfolios

We assume that there is no need for an asset manager LC to comply with the requirements under the HKIDR if it is using the BCAN assigned by the broker to its affiliate (i.e. (b) above) as the LC is merely forwarding or placing the order for its affiliate. We appreciate if the SFC can confirm that this assumption is correct.

Using Asset Manager LC’s own BCAN

For most asset managers which are using their own BCAN (assigned by their brokers) when submitting orders for themselves and/or their affiliates, they are doing so for the following reasons which distinguish them from brokers:

- (a) Client – Asset manager LCs generally do not view their affiliates as clients, nor will they charge such affiliates a trade commission for placing or submitting trade orders. When asset manager LCs

place orders for themselves and/or their affiliates, they are generally doing so from a portfolio perspective and not from an affiliate entity perspective.

- (b) Account – As a result, asset manager LCs generally do not open accounts internally in the name of their affiliates. Instead, asset manager LCs will generally have an account with their broker while the funds/portfolios for which they trade will have a trading/settlement accounts opened (most likely by their custodians) at the Central Clearing and Settlement System ("CCASS") operated by Hong Kong Securities Clearing Company Limited. After a trade order has been executed, asset manager LCs typically will instruct their brokers to credit or debit securities/cash to or from the CCASS accounts of such funds/portfolios. Our members believe that from an SFC market surveillance and enforcement perspective, orders tagged with the BCAN of an asset manager LC would be much easier to monitor than hundreds of BCANs required to be set up for different funds, portfolios and/or overseas affiliates of an asset manager LC.
- (c) Trading discretion – While asset manager LCs may not exercise investment discretion over the funds and/or portfolios being managed by their affiliates, those operating a central dealing desk generally exercise trading discretion, such as how many shares of a security to buy or sell, when to do so, at what price to buy or sell and to which funds and/or portfolios such shares will be allocated (in accordance with group policies on fair allocation). Therefore, if a LC decides to use their own BCAN (which is assigned by their brokers) for placing orders for their affiliates, it is assuming and taking responsibility for the execution of such trades. The SFC can request at any time and have prompt access to allocation details from the asset manager LC whose BCAN is used to place the orders.
- (d) Aggregation – Asset manager LCs operate a central dealing desk primarily for the purpose of aggregating orders or doing a block trade for the funds and/or portfolios managed by them and/or their affiliates. The primary reason that asset managers aggregate orders or do block trades over placing separate orders is to ensure that they are able to fulfill their fiduciary obligation to treat all clients fairly and to avoid orders of the same group from competing with each other. When their order to brokers has been completed, asset manager LCs generally will instruct their brokers to allocate the securities to the different accounts of their affiliates' funds and/or portfolios. Such information is easily accessible from the asset manager LCs as well as from their brokers.
- (e) Individual BCANs – Requiring asset manager LCs which operate a central dealing desk in Hong Kong to assign BCANs to each of the funds and/or portfolios for which it places aggregate orders or block trades would be extremely onerous and almost impossible for them to handle operationally as hundreds of funds and/or portfolios may be involved. More important, it would defeat the purpose of them having a central dealing desk in Hong Kong. In addition, there will be occasions where a fund or portfolio may be co-managed by more than one affiliate so it may mean using two BCANs if BCANs are required to be assigned to each affiliate. We understand that brokers also do not want to assign BCANs to the affiliates of an asset manager LC as they are dealing only with the asset manager LC, nor do they want to assign BCANs to every fund or portfolio managed by the asset manager LC or its affiliates.

- (f) Other markets – Our members are not aware of any major market which requires asset managers to assign investor IDs to their affiliates and/or the funds or portfolios of affiliates for which they place or submit trade orders.

Even in Mainland China which has an investor ID regime, asset managers which registered as a Qualified Foreign Investor (“**QFI**”) for example and make investments on behalf of its overseas affiliates and/or their funds/portfolios are not required themselves to assign investor IDs to these affiliates and/or funds/portfolios. After a trade is completed, the QFI just instructs their custodian to which accounts of its affiliates and/or its or its affiliates’ funds/portfolios that should be credited or debited with the securities or cash from that trade.

Similarly, under the Markets in Financial Instruments Directive II (“**MiFID II**”), it would be the legal entity identifier (“**LEI**”) of the entity which has regulatory responsibility for placing a trade order that would be used for the order. For example, if an Australia asset manager is placing orders on behalf of its or its affiliates’ funds and/or portfolios in Europe, it only needs to use its own LEI and is under no obligation to tag a client ID to its affiliates and/or its affiliates’ funds and/or portfolios. We assume the same holds true for asset managers outside Hong Kong placing trade orders in Hong Kong, i.e. they only need to use their own BCAN (assigned by their brokers in Hong Kong) and are not required to assign BCANs to their affiliates for whom they are placing such orders.

Our members which operate a central dealing desk in Singapore also confirmed that only brokers are required to assign BCANs there. They place orders using their own BCAN (assigned by their broker) and are not required to assign BCANs to their affiliates and/or funds/portfolios managed by such affiliates.

For all of the reasons cited above, we respectfully submit that asset manager LCs which operate a central dealing desk in Hong Kong should not be covered by the HKIDR and request that the SFC clarify in the relevant FAQs given some of the statements in the Consultation Conclusions.

We welcome an opportunity to speak with you to discuss any questions you may have and look forward to hearing from you.

Yours sincerely,



Eugenie Shen
Managing Director, Head of Asset Management Group
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