



**SECURITIES AND
FUTURES COMMISSION**
證券及期貨事務監察委員會

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

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Executive summary

1. On 4 December 2020, the Securities and Futures Commission (**SFC**) launched a consultation¹ on proposals to (1) implement an investor identification regime at trading level for the securities market² in Hong Kong (**HKIDR**) and (2) introduce an over-the-counter securities transactions reporting regime for shares³ listed on the Stock Exchange of Hong Kong (**OTCR**).
2. The consultation period ended on 4 March 2021. We received 20 submissions in response to the consultation. Respondents included individuals, industry associations, securities brokers, banks and other entities. A list of the respondents (other than those who requested anonymity) is set out in **Appendix A**.
3. This paper sets out the SFC's conclusions and responses to the comments received, and should be read in conjunction with the consultation paper. The key comments and our corresponding changes to and clarifications of the regimes are set out below.

HKIDR – key comments and corresponding changes/ clarifications

4. The consultation paper proposed that licensed corporations (**LCs**) and registered institutions (**RIs**) (collectively referred to as “Regulated Intermediaries”) would need to:
 - (a) ensure that a unique identification code, namely the “Broker-to-Client Assigned Number” (**BCAN**), be assigned to “Relevant Clients” who have placed or propose to place (i) an on-exchange order or (ii) an off-exchange order reportable to the Stock Exchange of Hong Kong (**SEHK**) under its rules, in securities listed or traded on SEHK's trading system (except for odd lots traded on SEHK's odd lot / special lot market);
 - (b) ensure that up-to-date client identification data (**CID**) has been collected from each Relevant Client and is submitted along with the client's BCAN (by way of putting the BCAN and CID into a “BCAN-CID Mapping File”) to a data repository to be maintained by SEHK by a prescribed time;
 - (c) ensure that the Relevant Client's BCAN has been included in the order information for each on-exchange order as well as each off-exchange order and included in all reporting of off-exchange trades to SEHK, and obtain SEHK's prior approval where a BCAN needs to be revised in exceptional circumstances; and
 - (d) adopt relevant data privacy and security measures to safeguard the data collected, transmitted and stored, including obtaining express consent from clients for the collection and handling of their personal data in compliance with data privacy laws.
5. The proposed scope of “Relevant Client” is a direct client of a Regulated Intermediary, save that in the case of (i) a proprietary trade, the Regulated

¹ Referred to as the “consultation paper” in this paper.

² This refers to securities listed or traded on the trading system used by the SEHK, in line with the consultation paper.

³ Defined to include real estate investment trusts according to the consultation paper.

Intermediary should assign a BCAN to itself; (ii) where an order is routed through a chain of Regulated Intermediaries, the BCAN should be assigned to the first person which is not a Regulated Intermediary in the chain; and (iii) where an affiliate of an Exchange Participant (**EP**) places an order with that EP who executes the order, the Relevant Client shall be the first non-affiliate in the subsequent chain. It was also noted in the consultation paper that for discretionary accounts, a Relevant Client is proposed to be the legal entity which opens a trading account with a Regulated Intermediary. As for investment funds (collective investment schemes), a Relevant Client is proposed to be an asset management company or individual fund, as appropriate, which has opened a securities trading account with a Regulated Intermediary.

6. Most respondents broadly agreed with the implementation of the HKIDR. A number of them welcomed the proposal noting that the HKIDR would enhance market surveillance and is in line with international trends.
7. The main comments received focused on the scope of Relevant Clients and Regulated Intermediaries. A number of respondents objected to the inclusion of clients of EPs' overseas affiliates in the scope of Relevant Clients. They were concerned that this would result in an uneven playing field between overseas brokers which are EPs' affiliates and those which are not (ie, only direct clients of the former will be required to provide their identity information), and give an unfair advantage to the latter type of brokers. This could in turn be detrimental to attracting overseas financial institutions to set up a presence in Hong Kong and the development of Hong Kong as an international financial centre. Respondents also noted practical operational and legal difficulties to transfer information of clients of EPs' overseas affiliates to EPs in Hong Kong. Separately, some respondents sought clarification of whether fund managers which only act in a fund management capacity and custodians which only act in a custodial capacity, but which are LCs or RIs, fall within the scope of Relevant Intermediaries.
8. Feedback was also received suggesting that for discretionary accounts, the BCAN of an asset manager be allowed to be tagged to securities orders placed in these accounts. This would be in line with the approach proposed for investment funds. In both cases, the asset manager has full discretion to invest on behalf of the discretionary accounts holders or funds. Separately, some respondents asked whether voluntary reporting of BCAN is permitted for orders for odd lots of securities, and whether prior approval from SEHK to make changes to BCANs already recorded in SEHK system may be dispensed with where there is genuine need to change a BCAN.
9. Having considered the consultation feedback, the SFC will make the following adjustments to, and clarification in respect of, the HKIDR:
 - (a) we will revise the scope of Relevant Client (referred to as "client" in the proposed paragraph 5.6(m) of the Code of Conduct⁴ as set out in Appendix C) to the effect that it will not include an investor who is a client of an EP's overseas affiliate. In other words, "Relevant Client" will have the meaning as set out in paragraph 5 above except that limb (iii) will no longer apply. We have set out in **Appendix B** various BCAN assignment scenarios to provide greater operational clarity to the industry;

⁴ The Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.

- (b) we use the term “Relevant Regulated Intermediaries”⁵ instead of “Regulated Intermediaries” in this paper to refer to those LCs and RIs subject to the obligations under the HKIDR. This provides greater clarity that not all LCs and RIs are subject to these obligations. A Relevant Regulated Intermediary refers to an LC or RI which (i) carries out proprietary trading; or (ii) provides securities brokerage services for another person in respect of orders placed through an account opened and maintained for that person. Correspondingly, paragraph 5.6 of the Code of Conduct will also be revised to refer to “relevant licensed or registered persons” in place of “licensed or registered persons”;
 - (c) considering that the purpose of the HKIDR is to enhance market surveillance by identifying the legal person who has control and responsibility over the issuance of the relevant order, in respect of discretionary accounts where the account manager has full discretion over investment decisions, we will accord the same approach regarding BCAN-tagging as that for investment funds. In other words, a BCAN tagged to an order should be the BCAN of the person whose securities trading account is used for placing the order. If the securities trading account⁶ used for placing the order is opened in the name of the discretionary account manager, that manager’s BCAN should be tagged to the order;
 - (d) voluntary tagging of BCANs for odd lots in on-exchange orders and off-exchange trade reporting⁷ (**OE Trade Reporting**) will be allowed under the HKIDR. For the avoidance of doubt, where an order comprising a board lot and odd lot is matched, a BCAN must be tagged to the whole order; and
 - (e) prior approval from SEHK for a change of a BCAN will not be required. However, if a change to a BCAN is made after an order is placed but before it is executed, the order will need to be cancelled and re-inputted with the correct BCAN, in which case the order has to line up again. Where a BCAN needs to be changed after an order is executed, the Relevant Regulated Intermediary should file a notification to SEHK in accordance with its prescribed forms and processes as soon as possible.
10. Please refer to Part A of this paper which sets out our detailed responses to comments received on the HKIDR. SEHK will issue an Information Paper later to provide more information about the operational logistics of the regime (**HKEX Information Paper**). We will also issue implementation circular to Relevant Regulated Intermediaries.

⁵ Respondents used the term “Regulated Intermediaries” when they provided consultation feedback. To avoid confusion, we use the term “Relevant Regulated Intermediaries” when we set out “public comments” below when referring to the LCs or RIs subject to the HKIDR.

⁶ This refers to accounts whose holders have entered into a mandate with the LC or RI (which carries out a role as an asset manager) to manage the accounts with full discretion in a manner similar to managing a collective investment scheme.

⁷ This refers to an off-exchange trade reported to SEHK according to its rules for securities listed or traded on SEHK.

OTCR – key comments and corresponding changes and clarifications

11. The consultation paper proposed that Regulated Intermediaries would be required to report to the SFC certain dealings in ordinary shares and real estate investment trusts (**REITs**) (collectively referred to as “shares” for the purpose of the OTCR) listed on SEHK:
- (a) when a Regulated Intermediary, whether as principal or agent, makes a transfer of shares which is effected by a transaction not recorded by SEHK as an on-exchange order or required to be reported to SEHK as an off-exchange trade (**OTC Securities Transaction**) in respect of which stamp duty is chargeable in Hong Kong; or
 - (b) when there is a deposit to or withdrawal from the Regulated Intermediary, whether as principal or agent, of physical certificates of shares; and
 - (c) both the delivering and receiving Regulated Intermediaries need to report, by one Hong Kong trading day after the transfer/deposit/withdrawal day (Hong Kong time).
12. Most respondents broadly agreed with the implementation of the OTCR. The main comments requested more time to report and sought clarification of whether reporting is required (i) where a transaction is subject to stamp duty relief; (ii) where a transfer of shares is made pursuant to the terms of a structured product or derivative; and (iii) where a transfer of shares is made for the conversion of a depository receipt into shares or vice versa.
13. Having considered the feedback received, the SFC has made the following adjustments to the OTCR:
- (a) the time to report is extended to within three Hong Kong trading days after the day of transfer/deposit/withdrawal;
 - (b) a transfer of shares in connection with an OTC Securities Transaction in respect of which stamp duty is chargeable in Hong Kong will not be reportable if (i) the transaction is granted stamp duty relief (whether in full or in part) from the Inland Revenue Department (**IRD**), or (ii) the transfer of shares is made in accordance with the terms of a structured product or a derivative, or for the conversion of a depository receipt into shares or vice versa.
14. We also received an inquiry as to whether custodians would be required to comply with the OTCR. To clarify, the position of custodians is similar to that under the HKIDR, in that not all LCs and RIs would be subject to the obligations under the OTCR. The intention is that only Relevant Regulated Intermediaries will be subject to the OTCR.
15. The SFC will also issue an information paper (**Technical Document**) to provide technical details including file specifications, reporting templates and submission channels for the OTCR submission portal by the end of 2021.

Comments common to both regimes – implementation costs and client consent

16. Less than a handful of respondents expressed strong reservations about the regimes. They were mainly concerned about (i) an increase in intermediaries’ operating costs

in a challenging economic environment, and (ii) a potential detrimental effect on an intermediary's relationship with its individual clients when clients are unable to purchase securities because they do not wish to provide consent for the transfer of personal data to SEHK and the SFC. Some respondents were also concerned that obtaining client consent may be time consuming.

17. We have been working with Hong Kong Exchanges and Clearing Limited (**HKEX**) to mitigate the cost impact on Relevant Regulated Intermediaries. The system development required for the HKIDR will not take place on a standalone basis but instead be part-and-parcel of a general trading system upgrade the industry needs to do to sync with HKEX's upcoming Cash Market Gateway initiative. Reporting to the SFC under the OTCR will be done directly via the SFC's portal. The SFC and SEHK will be mindful of the industry's costs when considering the design and operational mechanics of the reporting process.
18. Some respondents expressed doubts as to whether a potential reduction in the SFC's enquiries may result in cost savings for the industry under the regimes. While there would inevitably be cost implications for the industry on implementation and it would be difficult to estimate the net costs or savings with precision, the value of the regimes should be viewed from a broader perspective. In the long run, promoting market integrity and investor confidence in our markets will bring far-reaching benefits for the financial industry as a whole.
19. We will work with the Investor and Financial Education Council and HKEX to promote investors' understanding of the need for clients to provide consent under the regimes. To facilitate the process and taking into account the consultation feedback, we will not prescribe a standard form of client consent to be used by Relevant Regulated Intermediaries. However, Relevant Regulated Intermediaries will still be required to obtain express consent from their individual Relevant Clients in terms which expressly cover the purposes of use of personal data specified by the SFC.
20. The specified purposes of use of personal data are substantially similar to those outlined in paragraph 60 of the consultation paper. They will be set out in a circular published on the SFC's website (**Consent Circular**), which will also cover how consent may be obtained⁸ and the requirements to be observed⁹. The Consent Circular will be released by September 2021.
21. This approach would provide a degree of flexibility in that Relevant Regulated Intermediaries would not have to obtain new consent from clients for the purpose of the HKIDR and OTCR if both of the following are met: (i) client consent on the use of personal data has already been obtained from these clients; and (ii) the consent expressly includes the purposes specified by the SFC in the Consent Circular. Furthermore, client consent needs not include the purposes of use as specified by the SFC in a verbatim manner, provided that all of the purposes are covered. That said, if the aforementioned requirements are not complied with, new express client consent will be needed in the form as set out in the Consent Circular.

⁸ Consent may be obtained by various means including in writing, electronically or by phone.

⁹ These include requirements for client identity authentication, proper recording of consent and maintenance of records of consent.

Implementation timeline

22. The consultation paper proposed to implement the HKIDR by the first quarter of 2022 and the OTCR by the third quarter of 2022 at the earliest. A number of respondents proposed more preparation time, with most suggestions ranging from 12 to 18 months after the release of the HKIDR and OTCR requirements. A few respondents suggested delaying implementation until after 2024.
23. Having considered the consultation feedback, we now plan to implement the HKIDR in the second half of 2022 and the OTCR in the first half of 2023. This is subject to the completion of system testing and market rehearsals. We will also work with SEHK to conduct training sessions for the industry prior to implementation. We will also issue an implementation circular by September 2021 to provide guidance to the industry on the preparations required and the timeline for the various matters that underpin the implementation of the regimes.
24. The revised amendments to the Code of Conduct, set out in **Appendix C**, will be gazetted and become effective on a date to be determined in line with the above implementation timeline.

Way forward

25. In light of the majority support for the introduction of the regimes and having regard to the comments received, the SFC will implement the HKIDR and OTCR with appropriate modifications to better reflect our regulatory intent. We consider that the implementation of the regimes will significantly enhance Hong Kong's surveillance against market misconduct and support the development of Hong Kong as an international financial centre.
26. Some comments were outside the scope of this consultation. The SFC will keep these comments in view and consider their applicability to other policy matters.
27. We would like to thank all the respondents for their time and effort in reviewing our proposals and submitting comments. The feedback has been helpful in finalising our proposals.

Part A – Implementation of an investor identification regime at trading level for the securities market in Hong Kong

Comments received and the SFC's responses

Q1	Do you have any comments on the coverage of the proposed regime? Apart from the odd lot and special lot markets, are there any other types of trades that should be excluded? Please explain your view.
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(i) Odd lot/ special lot market

Public comments

28. Respondents have no objection to excluding orders or trades of odd lots conducted on the odd lot/ special lot market¹⁰ from mandatory reporting under the HKIDR. Two respondents proposed allowing voluntary reporting of BCANs for odd lots as it may be challenging from a practical perspective for Relevant Regulated Intermediaries to prescribe a setting in their systems to carve out orders and trades of odd lots securities from BCAN-tagging. One respondent enquired whether trades for odd lots reported as manual crosses on SEHK would be excluded from the regime. Clarifications were also sought of whether a BCAN is mandatory only for the board lot portion where an order is matched through a basket of board lots and odd lots and whether odd lots in an underlying order of an aggregated order are excluded from BCAN-tagging.

The SFC's response

29. The SFC will allow voluntary tagging of BCANs for on-exchange and off-exchange orders, and OE Trade Reporting (including manual crosses on SEHK) when the order or trade only relates to odd lots. Where an order is matched with an order comprising a board lot and an odd lot, a BCAN must be tagged to the whole order. In terms of reporting the underlying orders in an aggregated order, a BCAN for each underlying order (ie, allocated trade), regardless of board lot or odd lot, must be reported in accordance with the form specified by SEHK (see paragraphs 84 to 89 for details).

(ii) Derivatives and unlisted structured products

Public comments

30. Under the proposal, securities listed or traded on the trading system of SEHK would be covered by the HKIDR. At the initial stage, this would include derivatives traded on the trading system of SEHK but not derivatives traded on the trading system of the Hong Kong Futures Exchange (HKFE). A respondent sought clarification of whether all types of stock options and futures (regardless of whether they are traded on SEHK or HKFE) will be subject to the HKIDR at a later stage. It was concerned that intermediaries will need to devote substantial resources to implement if the HKIDR

¹⁰ For the avoidance of doubt, the exclusion from mandatory BCAN tagging only applies to odd lots traded on the odd lot/ special lot market. Mandatory BCAN tagging applies to special lots traded on SEHK's trading platform.

initially applies to all types of stock options and futures. The respondent proposed excluding SEHK-traded options from the HKIDR as it would be cumbersome for intermediaries to isolate SEHK-traded options from other derivatives. As an investor may trade a wide array of derivatives using a single set of documentation, the proposal may inadvertently move forward the application of the regime to HKFE-traded derivatives. Another respondent generally proposed removing derivatives from the regime, citing operational challenges to trading with third parties and foreign entities if Relevant Clients were to cover clients of EPs' overseas affiliates.

31. There was a question about whether unlisted structured products (such as equity-linked instruments) and the delivery of the underlying SEHK-listed securities pursuant to these products would be covered by the HKIDR.

The SFC's response

32. Stock options and futures are traded on Hong Kong Futures Automated Trading System (otherwise known as HKATS), and not on SEHK's trading system. Therefore, stock options and futures will not be covered initially when the HKIDR is implemented.
33. We maintain that the HKIDR should be applied consistently to all securities traded on SEHK's trading system, including derivative products¹¹. This would facilitate the industry's system enhancements. Furthermore, the definition of "client" to whom the HKIDR will apply will be revised in the Code of Conduct amendments such that its scope will no longer include a client of an EP's overseas affiliate. Most respondents have no objection to the proposal and we will proceed with it.
34. Unlisted structured products and the delivery of SEHK-listed securities pursuant to these products, are not covered by the HKIDR. Please refer to paragraphs 185 and 186 of Part B.

(iii) Initial public offerings, private placements and corporate event distributions

Public comments

35. A respondent proposed to exclude initial public offerings from the HKIDR on the basis that no orders will be executed for primary issuance and transparency is already provided via the placee list. Another respondent inquired if bonds listed under Chapter 37 of the Listing Rules of SEHK are included in the HKIDR.
36. A respondent sought clarification of whether the regime covers private placements and corporate event distributions.

The SFC's response

37. The HKIDR will not apply to initial public offerings as these only involve subscriptions of shares but not trading. Securities, including bonds which constitute "securities" under the Securities and Futures Ordinance (**SFO**), listed or traded on SEHK's trading system are included in the HKIDR.

¹¹ These include callable bull/bear contracts (commonly known as CBBs), derivative warrants and inline warrants, but not stock options and futures traded on HKATS.

38. Share placements and corporate event distributions which only involve the issuance of new shares are not subject to the HKIDR. However, share placings for existing shares which are reportable as off-exchange trades pursuant to SEHK rules should be tagged with BCANs under the HKIDR.

(iv) Intermediaries in scope of the HKIDR

Public comments

39. Two respondents asked whether a custodian registered or licensed for dealing in securities (Type 1 regulated activity) is subject to the obligations under the HKIDR. These custodians may be licensed or registered to support other business lines such as stock borrowing and lending as well as third-party clearing. They may also act for a depository issuer in carrying out corporate actions for a pool of depository receipt holders. Clarification was sought of whether a custodian's executing broker (rather than the custodian) should be responsible for assigning BCANs and submitting BCAN-CID Mapping Files for depository receipt holders as the custodian may not have information about all the holders. A respondent also asked whether for trades involving custodians, the handling of error trades or securities transfers would be excluded from the regime.
40. Another respondent enquired whether a fund manager registered or licensed for a regulated activity is responsible for assigning BCANs to investment funds under its management, or whether an LC which serves as an executing broker to an investment fund should be responsible. A respondent strongly proposed that the executing broker should be responsible as the fund manager only acts in the role of a client in these trades.

The SFC's response

41. To provide greater clarity that not all LCs and RIs are subject to the HKIDR's obligations, we will use the term "Relevant Regulated Intermediaries" to replace the term "Regulated Intermediaries" used in the consultation paper. A Relevant Regulated Intermediary refers to an LC or RI which (i) carries out proprietary trading, or (ii) provides securities brokerage services for another person in respect of orders placed through an account opened and maintained for that person.
42. We will replace references to "licensed or registered person" in the proposed paragraph 5.6 of the Code of Conduct with "relevant licensed or registered person".
43. Whether a custodian which is an LC or RI is subject to obligations under the HKIDR does not depend on how many business lines it operates or whether it assists depository receipt issuers or holders. It will depend on the capacity in which it handles a securities order. The same applies to a fund manager which is an LC or RI.
44. A custodian which is an LC or RI will be subject to the obligations under the HKIDR where it submits (or arranges to submit) for execution an on-exchange order or carries out an off-exchange order for a listed security, or conducts OE Trade Reporting in the capacity of a Relevant Regulated Intermediary (for example, where a custodian opens and maintains a securities trading account for an investor at its own entity and provides securities brokerage services to this investor). Where a custodian acts in the capacity of a Relevant Regulated Intermediary and has erroneously entered a trade or tagged an erroneous BCAN to a trade, it is required to make an

error notification to SEHK as in the case of any other Relevant Regulated Intermediary.

45. Similarly, whether or not a fund manager which is an LC or RI is subject to the reporting obligations under the HKIDR depends on whether it is acting in the capacity of a Relevant Regulated Intermediary when it handles a securities order.
46. An LC or RI may be licensed or registered for multiple regulated activities. For example, an LC may be licensed or registered for both Type 1 and Type 9 regulated activities and provide two different types of services to a client: (i) brokerage services; and (ii) discretionary account management services. Whether that LC has to tag a BCAN to an order depends on the capacity in which it acts. In the case of (i), the LC is acting in a securities broker role for the client, and therefore it is a Relevant Regulated Intermediary and has to tag the client's BCAN to the securities order. In the case of (ii), if the LC only plays the role of a discretionary account manager with full discretion for that client and places orders with an executing broker for execution, the LC does not have to tag the client's BCAN to that order. The executing broker should tag the LC's BCAN to the order.

(v) Shareholding status

Public comments

47. A respondent proposed that the regime cover shareholding status in addition to trading activities, noting concerns that investors may buy a large volume of securities on-market and then transfer them to multiple brokerage accounts under their own names or those of other parties, facilitating a disposal or short-sale of these shares through anonymous transactions.

The SFC's response

48. An investor who buys or disposes of shares on-market should have been assigned a BCAN and should thus be identifiable under the HKIDR. Where selling activities take place off-market, the share transfers, deposits or withdrawals of physical share certificates conducted through Relevant Regulated Intermediaries would fall under the OTCR in Section B of this paper.
49. The initial focus on trading-level activities in the HKIDR is based on our past surveillance experience that market misconduct appears to take place more often at the trading level. We maintain that this approach is appropriate and note that most respondents broadly agreed with the proposal. We will keep in view the appropriate scope of the HKIDR having regard to the effectiveness of the regime after implementation.
50. Furthermore, the SFC has the power to issue notices under section 181 (**s.181 notices**) of the SFO to make enquiries with LCs and RIs to identify investors involved in a trade and the details of trading activities (including short-selling activities) where the SFC suspects market misconduct.

Q2	Do you have any comments or suggestions on the proposed operational arrangements for the assignment and submission of the BCAN? Do you have any comments on whether the same or a different BCAN should be assigned to the same client under the NB Investor ID Regime and the proposed HK Investor ID Regime? Please explain your view.
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(i) Scope of “Relevant Client” and clients of EPs’ overseas affiliates

Public comments

51. Under the proposal, there are several factors for determining the Relevant Client to whom BCAN assignment and CID collection apply. These include:
- (a) the Relevant Client is generally the direct client of the Relevant Regulated Intermediary; and
 - (b) where an EP’s affiliate (or series of affiliates) places an order for execution with that EP, the Relevant Client shall be the first non-affiliate subsequently in the chain.
52. A number of respondents questioned the proposed application of BCAN to clients of EPs’ overseas affiliates¹². They were concerned that this would result in an uneven playing field between overseas brokers which are EPs’ affiliates and those which are not (ie, only direct clients of the former will be required to provide their identity information). Some respondents noted that the proposal would, as between two overseas brokers in the same overseas jurisdiction, give an unfair advantage to the broker without an EP affiliate in Hong Kong. This could in turn be detrimental to attracting overseas financial institutions to set up a presence in Hong Kong and the development of Hong Kong as an international financial centre.
53. Also, due to differences in overseas and local data privacy laws and the absence of a relationship between the overseas client of an overseas broker with the EP in Hong Kong which processes its securities orders, there may be difficulties in passing client information held by an overseas affiliated broker to the EP.
54. A respondent noted that as a consequence investors may use OTC derivatives to indirectly trade SEHK-listed securities to circumvent the regime. Another respondent viewed that the requirement is unduly burdensome and that Relevant Regulated Intermediaries would need to expend resources to educate overseas brokers to ensure that they properly assign BCANs.
55. On the other hand, a respondent argued that if a BCAN does not have to be assigned to clients of overseas affiliated brokers, investors could open accounts with overseas brokers to circumvent the regime. This would be unfair to Hong Kong brokers.

¹² A local affiliate of an EP which handles client securities orders is likely to be an LC or RI as the handling of a securities order is likely to constitute the regulated activity of “dealing in securities” under the SFO for which a licence or registration with the SFC is required. Accordingly, such entity should generally fall under the HKIDR directly regardless of whether it is an EP-affiliate.

The SFC's response

56. Taking into account the consultation feedback, the definition of “client” will be revised in the Code of Conduct amendments such that it will no longer include a client of an EP’s overseas affiliate. The term “Relevant Client” would generally refer to a party which has placed or proposes to place a securities order through a securities trading account with a Relevant Regulated Intermediary. Where the order is a proprietary trade, a Relevant Client would refer to a Relevant Regulated Intermediary placing the order for itself. Where an order is routed through an intermediating chain of brokers, a “Relevant Client” would be the first person in the chain who is not a Relevant Regulated Intermediary.
57. In adopting the above position, we have taken into account the approaches in major overseas jurisdictions including the US, European Union, Australia and Singapore, all of which do not mandate the reporting of information about the clients of an overseas affiliate of a local executing broker.
58. We will review the regime after implementation and keep in view whether enhancements are required to ensure its effectiveness. It also remains within the SFC’s power to use s.181 notices to request information about trades, including those involving overseas brokers where suspicious trading activities arise. The coverage of local Relevant Regulated Intermediaries’ clients is in line with the positions in the major jurisdictions mentioned above.
- (ii) BCAN-tagging where a Relevant Regulated Intermediary books an order with an overseas broker

Public comments

59. A respondent inquired whether an overseas broker has to assign a BCAN where a Relevant Regulated Intermediary books an order of SEHK-listed or traded securities with an overseas broker which in turn routes the order back to an EP.
60. Another respondent suggested that “masking relief” be provided for investors who currently reside in jurisdictions where there may be reporting barriers and referred to jurisdictions on the designated list under section 26 of the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules (**OTCD Reporting Rules**).

The SFC's response

61. Under the HKIDR, a Relevant Regulated Intermediary should assign a BCAN to its Relevant Client and collect CID for submission to SEHK. Where it then routes these securities order abroad to an overseas broker, it should include the client’s BCAN in the securities order to that broker and put in place arrangements with that overseas broker so that the securities order can be transmitted together with the BCAN to the executing EP. The client’s CID should be submitted directly by the Relevant Regulated Intermediary to SEHK by way of inclusion in a BCAN-CID Mapping File¹³.

¹³ There is no prohibition on that Relevant Regulated Intermediary arranging for its BCAN-CID Mapping File to be submitted by another Relevant Regulated Intermediary on its behalf. However, in the scenario discussed in this paragraph, the receiving party of the securities order (for example, an overseas broker) is not itself a Relevant Regulated Intermediary.

62. We recognise that some Relevant Regulated Intermediaries prefer not to be required to pass their clients' BCANs to overseas brokers when these overseas brokers place their orders with an EP. They consider that it would be less cumbersome to just require the EP to assign BCANs to the overseas brokers. However, this would result in Relevant Regulated Intermediaries being de facto exempt from the HKIDR (ie they will not have to tag orders with their clients' BCANs) whenever they choose to book a securities order with an overseas broker before routing the order back to an EP. This would compromise the effectiveness of the regime and call into question the consistency of the regulatory approach to Relevant Regulated Intermediaries which directly route orders to EPs vis-à-vis those which have an overseas "middleman" in the order chain. In addition, Relevant Regulated Intermediaries which consider the process of passing clients' BCANs to overseas brokers to be too cumbersome could always opt to directly pass their orders to EPs directly instead.
63. While we expect a Relevant Regulated Intermediary to provide its client's BCAN in a securities order to the overseas broker for onward transmission to the EP, we recognise that there may be instances where the EP nonetheless receives an order from an overseas broker which is not tagged with a BCAN (even though the order originated from a client of a Relevant Regulated Intermediary). The EP has no responsibility to verify if the order should carry a BCAN. The EP should in that case assign a BCAN to that overseas broker, tag it to the order, and submit a BCAN-CID Mapping File in respect of that overseas broker to the data repository maintained by SEHK.
64. Failure by a Relevant Regulated Intermediary to provide a BCAN in a securities order to its overseas broker for onward transmission to an EP or to establish arrangements with its overseas broker for onward transmission of the BCAN may constitute a breach of the Code of Conduct subject to regulatory action by the SFC.
65. According to our consultation paper issued in April 2019 (**April 2019 Consultation**), the masking relief under the OTCD Reporting Rules was meant to be a temporary measure pending the effort of the Financial Stability Board (**FSB**) to promote the removal of barriers to full transaction reporting, in which significant progress has already been made¹⁴. In addition, we clarified in the April 2019 Consultation that under the existing requirements, reporting entities will not be allowed to mask new OTC derivative transactions which are not subject to reporting barriers even if the counterparty's jurisdiction is on a designated list. Hence we do not consider it appropriate for the masking relief under the OTC derivative regime to serve as the basis for proposing similar relief under the HKIDR.
- (iii) BCAN assignment in the case of investment funds (collective investment schemes) managed by a fund manager

Public comments

66. A respondent enquired whether a fund manager or the investment funds it manages should be given precedence when assigning a BCAN. Respondents proposed allowing flexibility for assigning a BCAN to an investment fund instead of the fund manager even where a securities trading account is opened in the fund manager's

¹⁴ [Trade Report Legal Barrier – Follow-up of 2015 Peer Review Recommendations](#) issued by the FSB dated 19 November 2018.

name. This would promote operational efficiency as fund managers may wish to specify the investment funds to which a securities order relates and securities may subsequently be allocated between investment funds due to errors or other necessary adjustments.

The SFC's response

67. Whether a fund manager or an investment fund should be assigned with a BCAN depends on which entity is the account holder of the securities trading account through which an order is placed. If a fund manager's securities trading account maintained at a Relevant Regulated Intermediary is used for placing an order, the fund manager should be assigned with a BCAN and such BCAN should be tagged to the order. Conversely, if an order is placed from an investment fund's securities trading account maintained with a Relevant Regulated Intermediary, the investment fund should be assigned with a BCAN which should be tagged to the order. We believe that the regime should be kept straightforward, in that the BCAN tagged to an order should be that of the person whose securities trading account is used for placing the order.
68. The respondent's concern about the potential impact on operational efficiency may stem from a misconception that BCANs for investment funds to which the securities are to be allocated are required to be reported notwithstanding that the BCAN of the fund manager has already been tagged to an order. To clarify, where a securities order placed by a fund manager is tagged with the fund manager's BCAN, it is not required to report the BCANs of the investment funds to which the securities are subsequently allocated by the fund manager.
- (iv) BCAN assignment in the case of discretionary account management

Public comments

69. It was set out in the consultation paper that in the case of discretionary accounts, a Relevant Client is proposed to be the legal entity which opens the trading account with the Relevant Regulated Intermediary. A number of respondents sought clarification as to what the legal entity refers to, and specifically whether the BCAN is to be tagged to the individual discretionary account holder or the discretionary account manager.
70. A respondent expressed that a Relevant Client in the case of discretionary accounts should be treated in the same manner as investment funds (collective investment schemes) so that the asset manager rather than the legal entity holder of the discretionary accounts should be treated as the Relevant Client. As in the case of investment funds, under a discretionary account arrangement, asset managers have full discretion to invest on behalf of the discretionary accounts. If the regime's intent is to identify the decision-making party for an order, it would be more appropriate for the BCAN to be assigned to the asset manager which is the decision maker for the discretionary account. By referring to a "discretionary account", respondents explained that they are referring to an account whereby an asset manager acts under a broad mandate in making trading decisions for that account, including the selection of securities and the timing and quantity of trades.
71. A respondent proposed allowing flexibility for assigning BCAN to a discretionary account instead of an asset manager.

The SFC's response

72. In the consultation paper, we explained that the HKIDR is expected to enhance market surveillance by identifying the “legal person who has control and responsibility over the issuance of the relevant order”¹⁵. Taking into account the consultation feedback, we consider that under the HKIDR the approach to tagging BCANs to orders for discretionary accounts and investment funds (collective investment schemes) should be consistent.
73. In other words, the BCAN tagged to an order should be the BCAN of the person whose securities trading account is used for placing the order. If a discretionary account manager’s securities trading account is used for placing the order, that manager’s BCAN should be tagged to the order¹⁶. Conversely, if an order is placed directly from a discretionary account which is opened in the name of the discretionary account client, the BCAN of the discretionary account client should be tagged to that order, even where the discretionary account is managed by the discretionary account manager. “Discretionary account” refers to an account which is managed under a general mandate by the investment account manager who has full discretion to decide on the securities to be purchased or disposed, and the timing, quantity and price of the purchase or disposal.
- (v) BCAN assignment where an investor holds different types of accounts in a Relevant Regulated Intermediary

Public comments

74. Clarification was sought by some respondents as to (i) whether an investment company or its beneficial holders have to be assigned a BCAN under the regime, and (ii) BCAN assignment where a person holds both an individual account and a joint account.
75. A few respondents proposed that a Relevant Regulated Intermediary be given the flexibility to assign multiple BCANs to the same client which has opened multiple accounts with it to reflect the client’s account structures or order flows in the intermediary’s operational systems. A respondent inquired whether a BCAN can be re-used, for example, after a client has passed away.

The SFC's response

76. A company which opens a securities trading account should be the party to whom a BCAN is assigned by a Relevant Regulated Intermediary. There is no requirement to assign BCANs to the beneficial owners or shareholders of that company. Where a person holds an individual account and a joint account at a Relevant Regulated Intermediary, a BCAN should be assigned to that individual, and a separate BCAN should be assigned to that joint account.

¹⁵ Please refer to paragraph 3 and footnote 9 in the consultation paper.

¹⁶ Similar to the case for investment funds, reporting of trades subsequently allocated to the discretionary accounts by the discretionary account manager will not be required if a discretionary account manager’s BCAN is tagged to the securities order.

77. The HKIDR does not prohibit a Relevant Regulated Intermediary from assigning different BCANs to the same client for different accounts held by that client with that intermediary. For example a client of an RI may hold an individual securities trading account and a joint securities trading account with the retail banking arm of that RI, as well as an individual securities trading account with the private banking arm of that RI. Each of these securities trading accounts may be assigned with a distinctive BCAN. However, the same CID should be submitted for that client (in respect of each of his or her securities trading accounts) in compliance with the waterfall of accepted identity documents to ensure that the client can be identified even if the client trades through different accounts maintained with that Relevant Regulated Intermediary.
78. A Relevant Client with a single securities trading account should not be assigned with two BCANs at the same time. In other words, if a new BCAN is used for a client with a single trading account, the old BCAN should no longer be used to tag the orders for that client's trading account.
79. BCANs should not be reused for a client, except for a client which has closed and re-opened a securities trading account with a Relevant Regulated Intermediary. Where a client has passed away, the BCAN should remain assigned to that client and not be reassigned to another person. This is to safeguard the integrity of data kept by SEHK and the SFC for surveillance purposes and to avoid confusion.
- (vi) Reporting of BCANs in aggregated orders

Public comments

80. Clarification was sought as to whether the proposed requirements concerning aggregated orders do not apply to orders placed by the same client throughout a trading day. A respondent proposed that in the case of a fund manager, orders it places for the same security for different investment funds under its management should not be captured by the definition of "aggregated order" as the client is the fund manager where the securities trading account is opened in the fund manager's own name.
81. A respondent expressed concerns that the requirement for a specific code designation for aggregated orders may limit the flexibility of the order aggregation process and hamper managers' ability to ensure fair treatment of all accounts and timely execution.
82. Some respondents sought clarification as to the prescribed time when Relevant Regulated Intermediaries are required to submit the BCANs of underlying orders to SEHK. The feedback included suggestions for reporting within the day of the trade to within two days of the trade. Proponents of a T+2 timeframe referred to time zone differences and the large number of aggregated orders on index rebalancing days. A respondent additionally suggested that delayed reporting be permitted by the SFC where, for example, the market experiences significant turnover.
83. Clarification was further sought as to (i) whether monthly stock plans are covered by HKIDR, and whether they are to be reported as individual trades or aggregated orders; and (ii) the arrangements for reporting sell-down and top-up trades whereby a placing agent executes a market cross on behalf of the seller and buyer in one aggregated transaction.

The SFC's response

84. The term “aggregated order” is defined in the proposed paragraph 5.6 of the Code of Conduct to refer to an order which comprises two or more orders for the same listed security placed by different clients of a Relevant Regulated Intermediary. As such, orders placed by a single client will not constitute an “aggregated order” for the purposes of the HKIDR. Orders placed for the same security for different investment funds under its management should not be captured by the definition of “aggregated order” as the Relevant Client is the fund manager where a securities trading account is opened in the fund manager’s own name.
85. For a fund manager conducting fund management, which BCAN should be tagged to an order depends on which entity has opened the securities trading account through which the order is placed. Orders placed by a fund manager for investment funds (collective investment schemes) under its management should be tagged with a BCAN assigned to either the investment fund manager or the funds in accordance with paragraph 67 above. If a securities trading account with a Relevant Regulated Intermediary is opened in the name of the fund manager and the BCAN of the fund manager has been tagged in an order, it is not necessary to assign BCANs to the funds managed by the fund manager. An order placed by the fund manager for the funds it manages which is tagged with the fund manager’s own BCAN is not regarded as an “aggregated order”.
86. We understand from discussions with the industry that concerns about the potential impact of reporting the orders underlying an aggregated order on the order aggregation process and timely execution stem from a misunderstanding that the submission of information for the underlying orders has to take place before trading. This concern would be mitigated if the submission can be attended to post-trade and sufficient time is given for submission. Taking into account the consultation feedback, we will allow Relevant Regulated Intermediaries up to three days after the trade date (T+3) to report the orders underlying an executed aggregated order.
87. The HKEX Information Paper will set out the details of the required information which is to be submitted in respect of the underlying orders (ie, trade allocations) for an aggregated trade. As noted in the consultation paper, the reporting of underlying orders is a means to enable the tracing of investors’ identities within an aggregated order. Upon the implementation of the HKIDR, the reporting of underlying trade allocations would only be required for an aggregated trade and not for an aggregated order which is cancelled, unmatched or revised¹⁷ prior to execution. However, we will review the aggregated order reporting arrangement following implementation to see if enhancements may be required.
88. With regards to a monthly stock plan conducted on an aggregated order basis by a Relevant Regulated Intermediary, the aggregated order should first be tagged with a specific code prescribed by SEHK and the BCANs of the underlying clients subscribing to the plan should be submitted to SEHK after order execution in accordance with the requirements of SEHK.

¹⁷ This means that if an aggregated order is revised, the original aggregated order’s underlying orders will not have to be reported. Only the revised aggregated order which has been executed will need to be reported to SEHK.

89. Where a sell-down is reportable to SEHK as a manual trade (which is required under SEHK's rules), the BCAN should be tagged to that sell-down. Top-up subscriptions of securities, which do not involve the trading of shares, are not reportable per SEHK's rules, and are not covered by the HKIDR.

(vii) Amending BCANs

Public comments

90. The consultation paper proposed that BCANs cannot be revised without SEHK's prior approval. Two respondents suggested that BCAN amendment be allowed in post-trade processes without SEHK's approval in certain circumstances. Examples of scenarios where a BCAN amendment may be required include error input, trade give-up and intermediaries' system updates to cater for change in client account structures. Respondents also proposed that the inclusion of an invalid BCAN should not result in a rejection of the securities order.
91. Some respondents also proposed giving intermediaries up to two trading days after the trade to make BCAN amendments, which would allow for time to confirm the correct BCANs for the trades before filing an amendment, cater for possible time zone differences, and take into account significant trading volumes on index rebalancing days. A respondent further suggested giving SEHK the discretion to receive an amendment request that goes beyond T+2.
92. A question was received about whether the same BCAN needs to be assigned where an investor closes a securities trading account with a Relevant Regulated Intermediary and subsequently reopens one. A respondent proposed that a new BCAN be allowed to be assigned to the client who is on-boarded again after account closure since a Relevant Regulated Intermediary may not have kept the client's personal data if the client's account has been closed for a long time.

The SFC's response

93. We understand that there may be a legitimate need to revise a BCAN. To facilitate operational efficiency in processing BCAN amendments, no prior approval for a BCAN change will be required. However, the following process would have to be observed for a change of BCAN to mitigate abuse.
94. The process for amending a BCAN will differ depending on the stage at which it is to be amended:
- (a) For on-exchange (ie, automated) trades:
- i. Before an order is matched and executed: a change to BCAN tagged to the order should be made by cancelling the order and re-inputting the order with a correct BCAN, in which case the order has to line up afresh¹⁸. This is consistent with the current practice under the

¹⁸ Liquidity providers may use the "quote update" function to update the BCAN in their quotes as is currently the case for updating other trade details. The liquidity providers which have updated the BCAN should file a notification form in accordance with the requirements set out in the HKEX Information Paper.

- northbound investor identification regime¹⁹ (**NB Investor ID Regime**) and serves as a deterrent to the casual entry of BCANs; and
- ii. After an order is matched and executed: an erroneous BCAN should be reported as soon as possible to SEHK by submitting an error notification.
- (b) For manual trades: EPs should report any erroneous BCAN input to SEHK as soon as possible by submitting an error notification.
95. Executed orders will not be cancelled or become invalid due to an amendment of the BCAN. That said, to ensure data integrity and facilitate market surveillance, BCAN errors should be rectified and reported as soon as possible regardless of whether they relate to the BCAN assigned to a Relevant Regulated Intermediary for its proprietary trades or the BCAN of a client.
96. SEHK will make forms available for filing an error correction of BCAN post-trade²⁰ and updating a client's BCAN. It will also set out further guidance in the HKEX Information Paper.
97. While we are amenable to having a notification instead of pre-approval system for BCAN corrections or changes, SEHK and the SFC will review the filings of the BCAN and BCAN-CID Mapping Files submitted by Relevant Regulated Intermediaries to consider if they may indicate any internal control issues.
98. In rare cases, an EP may apply to SEHK to "repair" a trade by requesting SEHK to input transaction information through SEHK's specific trade amendment system (eg, where an EP has entered a wrong price in a manual trade which can only be corrected by SEHK's staff input via the trade amendment system). No BCAN will be required to be tagged for these exceptional entries.
99. When an investor is on-boarded again after account closure, the Relevant Regulated Intermediary can either assign a new BCAN to that investor or use the previously assigned BCAN. Regardless of whether a new or the former BCAN is assigned to the client, the Relevant Regulated Intermediary must submit an updated BCAN-CID Mapping File to SEHK's data repository. This is because account closure should have been reflected in the BCAN-CID Mapping File submitted by the Relevant Regulated Intermediary to SEHK's data repository at the time of account closure in accordance with the requirements prescribed by SEHK. SEHK's systems would flag that BCAN as inactive and if subsequent securities orders are tagged with inactive BCANs, this will be reflected on the system maintained by SEHK and follow-ups may be made with the Relevant Regulated Intermediaries for potential issues of non-compliance.
100. Where a Relevant Regulated Intermediary ceases business, it has to submit a blank BCAN-CID Mapping File to SEHK's data repository. SEHK's system will indicate that the BCANs previously submitted by that Relevant Regulated Intermediary are no longer active.

¹⁹ This refers to the investor identification regime launched on 26 September 2018 for northbound trading under Stock Connect, a mutual market access programme between Hong Kong and the Mainland.

²⁰ As mentioned in paragraph 94(a) above, a change to the BCAN before the trade is executed should generally be conducted by re-inputting the order with the correct BCAN. There is no filing form applicable to such a change.

(viii) Reporting BCANs for OE Trades

Public comments

101. A respondent objected to both sellers and buyers reporting manual trades, citing substantial resources and costs involved in updating procedures and systems. The respondent suggested that if the requirement for dual-side reporting is to proceed, buy-side clients' EPs be permitted to report on the day following the day of trade (T+1) to allow sufficient time for both sides to verify the information and resolve discrepancies.

The SFC's response

102. We maintain that reporting should be done by both the selling and the buying EPs to allow better data checks and identify inaccuracies. However, we recognise that it is important for the process to operate smoothly and will therefore apply the following automated reporting procedure:
- (a) *For manual non-direct business transactions:* The sell-side EP will enter the trade into SEHK's manual trade reporting system with the BCAN of the sell-side client. Failure to enter the BCAN will result in the system's rejection of the input. The sell-side EP should input the information within the first 15 minutes after the trade is executed, following which the buy-side EP would receive a system alert and should check the information inputted by the sell-side and input the buy-side client's BCAN within 30 minutes from the time of the trade's conclusion²¹. The buy-side EP will not be able to view the sell-side client's BCAN and vice versa for the sell-side EP. A failure to enter the buy-side BCAN by the buy-side EP will result in a system notification to SEHK and a follow-up with the buy-side EP for a potential breach of the applicable Rules of the Exchange, which will be amended to incorporate requirements regarding BCAN entries.
- (b) *For manual direct business transactions:* The EP should enter the BCANs of both its buy-side and sell-side clients when inputting a manual trade into the system. The reporting timeline for the EP will be the same as that currently, ie, within 15 minutes for normal direct business transactions and one minute for ATS transactions. The difference between the trade reporting time under this approach and that for non-direct business transactions takes into account that a single EP is responsible for inputting both sides of the trade in direct business transactions. Where an EP fails to input the BCANs of the buy-side or sell-side when submitting a manual trade, the input will be rejected.

(ix) Same BCAN under the HKIDR and NB Investor ID Regime, BCAN format and confidentiality

Public comments

103. Feedback was received proposing that the same BCAN be used for an investor which comes under both the HKIDR and NB Investor ID Regime.

²¹ If the buy-side EP fails to input the BCAN before market close, it will have to submit a report to SEHK to list all its off-exchange trades without BCANs tagged and provide the BCANs for each of the off-exchange trades in that report.

104. Clarifications were also sought by some respondents as to the BCAN format requirements, including whether a BCAN can be linked to an intermediary's internal client number or account number so as to promote operational efficiency. A respondent proposed that an investor should be entitled to know his BCAN, and sought clarification of the rationale for keeping BCANs confidential.

The SFC's response

105. The BCAN consists of up to 10 digits to be assigned by a Relevant Regulated Intermediary. A client's BCAN can be the same under the HKIDR and the NB Investor ID Regime, provided that the BCAN for the HKIDR remains compliant with the requirements set out in the HKEX Information Paper. To distinguish between BCANs assigned by different Relevant Regulated Intermediaries, a Relevant Regulated Intermediary will also be required to insert its CE number²² as a prefix before the BCAN on the trading system and in the BCAN-CID Mapping File²³.
106. A BCAN may include reference to a Relevant Regulated Intermediary's internal client number or account number provided that the BCAN remains compliant with the requirements as set out in the HKEX Information Paper. There is no prohibition of the Relevant Regulated Intermediaries' disclosure to their own clients of their BCAN, although there is no obligation for them to do so under the HKIDR. It should be reminded, however, that the BCAN, when read with the CID, would disclose a person's identity and constitute personal information. Relevant Regulated Intermediaries should consider their compliance with applicable data privacy laws and regulations and their corresponding confidentiality measures accordingly.
- (x) BCAN assignment where a Relevant Regulated Intermediary passes orders to other Relevant Regulated Intermediaries

Public comments

107. A respondent sought clarification of whether Relevant Regulated Intermediaries with whom the same client has opened a securities trading account have to coordinate between one another to confirm with the client to use the same BCAN. Clarification was also sought of whether it will be a burden for clients to set up a BCAN for each broker it trades through.
108. Another respondent enquired whether when a Relevant Regulated Intermediary passes a client's securities orders to different securities brokers for execution, the same client BCAN is to be provided to each broker and whether CID information is to be submitted to each broker so that securities orders can flow to any of those brokers for execution. A respondent also suggested that, to address data privacy concerns where client's information is passed to multiple brokers, a client should be able to register directly with SEHK and use the same identifier across all brokers.

²² Central entity number, being a number assigned by the SFC to LCs and RIs.

²³ The field should be in the form of the following: "ABC123.[BCAN]", with ABC123 being the CE number of the Relevant Regulated Intermediary.

The SFC's response

109. Relevant Regulated Intermediaries do not have to check with one another to determine if a single BCAN has been applied to a client. Each Relevant Regulated Intermediary is responsible for assigning a unique set of BCANs to its own clients. No BCAN assigned by two Relevant Regulated Intermediaries will be confused as each BCAN will have a prefix consisting of a Relevant Regulated Intermediary's CE number. A Relevant Regulated Intermediary, as the client's broker, is the party to assign a BCAN to the client.
110. Where a Relevant Regulated Intermediary passes securities orders to different securities brokers for execution, the same client BCAN should be used by it for all the orders from the same client account regardless of how many executing brokers the Relevant Regulated Intermediary routes the orders to for execution. There should not be an issue of passing the CID from a Relevant Regulated Intermediary to multiple brokers in order for them to execute a securities order. A Relevant Regulated Intermediary can directly submit the BCAN-CID Mapping File for its clients to SEHK's data repository via the designated portal. This would help preserve the confidentiality of its client's data.
111. Where a Relevant Regulated Intermediary chooses to submit its client's BCAN-CID Mapping File to the data repository via another Relevant Regulated Intermediary, it should encrypt the data in accordance with SEHK's requirements. Furthermore, it is only necessary for it to pass the file to a single Relevant Regulated Intermediary for submission on its behalf. It is not necessary to send the BCAN-CID Mapping File to multiple brokers (where it has execution arrangements with more than one broker) for uploading to the data repository. As long as the BCAN-CID Mapping File is submitted once by a Relevant Regulated Intermediary, the record will be shown in the data repository.

(xi) Passage of orders tagged with BCANs by RIs to EPs

Public comments

112. One respondent was concerned about an RI passing clients' BCANs via an EP because RIs are bound by banking secrecy requirements. Another respondent enquired whether, if an RI places an order on behalf of its client through another Relevant Regulated Intermediary, the BCAN would be assigned to the underlying client or the RI.

The SFC's response

113. There is no issue of breach of banking secrecy requirements by an RI's passing a BCAN via the EP. The BCAN only constitutes a group of numerical characters (according to the required format set out in the HKEX Information Paper) devoid of meaning when read on a standalone basis without the CID. Thus the EP would not be able to identify the RI's client from the BCAN tagged to a securities order.
114. In the case of an RI placing a securities order for its client, it is generally envisaged that it maintains a securities trading account for such client and provides securities brokerage services in respect of orders placed through the account. Accordingly, it should assign a BCAN to its client in the capacity of a Relevant Regulated

Intermediary before passing that BCAN to the next level Relevant Regulated Intermediary for execution.

(xii) Authorised representatives of an account holder

Public comments

115. A respondent sought clarification of the assignment of a BCAN where a securities trading account is held in the name of a private investment company where authorised trading representatives may place orders for the account. Another respondent enquired about reporting under the HKIDR for an order placed by means of a power of attorney for an account owner.

The SFC's response

116. An account held in the name of a corporation should have a BCAN assigned to that corporation. While it is recognised that the operation of that account may be conducted by its authorised representatives such as its directors, the BCAN should remain assigned to the corporation in recognition of a corporation's status in law as a legal person.

117. Where an account is held in the name of an individual who has executed a power of attorney in favour of another person to give instructions to the Relevant Regulated Intermediary for his or her account, the BCAN should remain assigned to the account holder. The general principle is that the BCAN should be assigned to the holder of the account from which the securities orders are placed.

Q3	Do you have any comments on the proposed data collection and submission of CID and the proposed requirement to keep the central data repository updated? Please explain your view.
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(i) Responsibility of Relevant Regulated Intermediaries to ensure CIDs are accurate and kept up-to-date

Public comments

118. A respondent sought clarification of the requirement for an intermediary to ensure that CID is accurate and kept up-to-date. It enquired if there is an obligation for intermediaries to verify the CID they receive and if so whether it can be discharged by obtaining clients' representations and warranties.

119. A respondent suggested that the requirement to keep the CID up-to-date should be considered satisfied where an intermediary has obtained an undertaking from the client to provide updated information and conducts periodic reviews in line with the know-your-client renewal cycles under the SFC's Guidelines on Anti-Money Laundering and Counter-Financing of Terrorism (the **AML/CFT Guidelines**)²⁴. The

²⁴ Under the AML/CFT Guidelines, financial institutions have to undertake reviews of customer due diligence records on a regular basis and upon trigger events to ensure the information is up-to-date and at minimum conduct an annual review of customers which present high money laundering or terrorist financing risks to ensure their customer due diligence records are up-to-date.

respondent further suggested that intermediaries be allowed to submit updated CID as and when the client's next trade is executed.

120. Another respondent sought clarification of the responsibility of a Relevant Regulated Intermediary where it submits a BCAN-CID Mapping File to SEHK but it did not compile the information in the file.
121. A respondent suggested that investors should not be penalized where a Relevant Regulated Intermediary fails to submit the BCAN-CID Mapping File by a prescribed time as per the requirements.

The SFC's response

122. We refer to the obligations on LCs and RIs under paragraph 5.1 of the Code of Conduct with regards to the "know your client" requirements, pursuant to which an LC or RI should take all reasonable steps to establish the identity of each of its clients. We consider that a similar approach should be taken by Relevant Regulated Intermediaries under the new paragraph 5.6(k)²⁵ of the Code of Conduct, whereby they should take all reasonable steps to ensure that the client information (including the data constituting the CID) they collect and submit to SEHK's data repository is accurate and kept up-to-date.
123. Relevant Regulated Intermediaries should determine reasonable measures to be taken to satisfy their obligations under paragraph 5.6(k) of the Code of Conduct. These may include obtaining representations and warranties from their clients as they consider appropriate to assist their verification and maintenance of CID. A Relevant Regulated Intermediary should put in place measures to require its clients to notify it of any updates to the CID. Relevant Regulated Intermediaries are also free to conduct a refresher of the CID exercise in the timeframe prescribed by the AML/CFT Guidelines. That said, it should be noted that as and when a Relevant Regulated Intermediary has actual notice of a change in a client's CID, it should submit the updated BCAN-CID Mapping File to SEHK's data repository as soon as practicable, rather than only when the client's next trade is executed. This is to ensure the integrity of the data in the repository for effective market surveillance.
124. The Relevant Regulated Intermediary which prepared the BCAN-CID Mapping File is the party responsible for ensuring the BCAN-CID Mapping File's accuracy under paragraph 5.6(k). A Relevant Regulated Intermediary (which is not the one which prepared the BCAN-CID Mapping File) which is submitting a BCAN-CID Mapping File on behalf of another Relevant Regulated Intermediary should not alter the file before or upon submitting the file to the data repository.
125. The responsibility for submitting the BCAN-CID Mapping File rests with Relevant Regulated Intermediaries, not investors. Investors will not be penalised if a Relevant Regulated Intermediary fails to submit the BCAN-CID Mapping File by a prescribed time as per the requirements.

²⁵ Previously paragraph 5.6(j) of the Code of Conduct in the consultation paper.

(ii) Submission of BCAN-CID Mapping File for newly on-boarded clients and dormant clients

Public comments

126. A respondent sought clarification of whether the submission of the BCAN-CID Mapping File for new clients' accounts is to be made on the day the new client is on-boarded.
127. Another respondent proposed that where new clients are assigned BCANs on the trade day, Relevant Regulated Intermediaries be allowed a grace period for submission of the BCAN-CID Mapping File on a retrospective basis post-trade within a reasonable timeframe.

The SFC's response

128. Where there is an update to the BCAN-CID Mapping File, be it due to on-boarding of new clients, the closure of a client account or a change in CID information for existing clients, a complete file with the CID of all Relevant Clients should be uploaded to the data repository on the day an update has been made (even where the update is in relation to only one or some of the Relevant Clients). The BCAN-CID Mapping File would be a file containing the CID of all the Relevant Clients of a Relevant Regulated Intermediary. If there has been no update to the CID, the Relevant Regulated Intermediary does not have to submit the BCAN-CID Mapping File again.
129. For a new client assigned a BCAN on the trade day, the BCAN-CID Mapping File containing the new client's CID can be submitted to SEHK's data repository either before or after the order is submitted, but in any event before a cut-off time on the trading day²⁶ prescribed by SEHK and set out in the HKEX Information Paper. This also applies to dormant²⁷ clients.
130. Newly on-boarded clients can trade on the day of account opening and dormant clients can trade on the day when their accounts become re-activated (ie, the day of entering into a trade). A BCAN can be assigned²⁸ by a Relevant Regulated Intermediary upon account opening (for a newly on-boarded client) or in preparation for the implementation of the regime (for all existing clients, regardless if they are dormant clients). When a Relevant Regulated Intermediary inputs a securities order for newly on-boarded or dormant clients, the order must be tagged with BCANs accordingly.

²⁶ This refers to the day a newly on-boarded client places his or her first trade or a dormant client places his or her first trade after dormancy.

²⁷ Dormant accounts refer to those which have been inactive for 24 months since last trade (irrespective of account balance or movement).

²⁸ There is no pre-validation requirement under the HKIDR for the BCAN assigned by a Relevant Regulated Intermediary nor for the BCAN-CID Mapping File submitted by the Relevant Regulated Intermediary. In other words, a Relevant Regulated Intermediary does not need to wait for confirmation that the BCAN or BCAN-CID Mapping File is valid before it tags the BCAN to an order. However, there will be a mechanism on the system to check order inputs to ensure a BCAN is tagged and in the right format (in numerical form and consisting of the right number of digits). Those orders without BCANs or without BCANs in the correct format will be rejected by the system.

(iii) Acceptability of identity documents and contents of BCAN-CID Mapping File

Public comments

131. A respondent questioned why the Hong Kong identity card (**HKID**) was the preferred identity document and proposed to remove the waterfall. Feedback was received suggesting that for Hong Kong residents, intermediaries be allowed the flexibility to rely on the individual clients' HKID card information or passport details in their records. The respondent further noted that the AML/CFT Guidelines allow the use of passport information for "know your client" purposes.
132. A respondent enquired whether a Relevant Regulated Intermediary will need to ask foreigners to provide the national identity document from their home countries. The respondent also enquired if a Relevant Regulated Intermediary can input only either the English or Chinese name, with a preference to record the English name as its system currently records data mainly in English.
133. A respondent proposed the Legal Entity Identifier (**LEI**) be used as the first identity document type in the CID waterfall and this be made mandatory. The respondent further proposed allowing market participants to use their clients' LEI in lieu of BCAN in the HKIDR and to exclude the provision of CID for those clients. The respondent suggested that mandating the use of LEI may enhance real-time surveillance and allow interoperability of the regime if the SFC chooses to license another recognised stock market.

The SFC's response

134. All Hong Kong residents should have an HKID card. From a market surveillance perspective, the mandatory use of HKID card information for Hong Kong residents under the HKIDR will be beneficial to the SFC in identifying persons who engage in trading activities and help prevent investors from using different passports and HKID card information to mask their trading activities. Regarding the respondent's comment about the requirements under the AML/CFT Guidelines, those guidelines fall outside the ambit of the current consultation exercise and will not be covered in this paper but will be noted for consideration at an appropriate juncture when those guidelines are reviewed.
135. Relevant Regulated Intermediaries should issue a notification to their existing securities trading account holders (regardless of nationality) to inform them of the waterfall of identity documents under the HKIDR and request an identity document required under the waterfall (if not already obtained) or updated identity document information, as appropriate, to comply with the HKIDR.
136. The language in which the name of a client should be inputted in a BCAN-CID Mapping File depends on the information available on the identity document. If the document contains an English and a Chinese name, both names need to be inputted. Where the document contains only an English name, only the English name needs to be inputted.
137. The LEI certificate is already one of the accepted identity documents for CID purposes and is accorded priority in the waterfall of acceptability in the case of corporate entities. We do not consider it appropriate for the LEI to be used in place of the BCAN. We note that some of the consultation feedback concerns the preservation

of client privacy in the intermediating chain. The mandatory use of LEI as the BCAN may compromise confidentiality. Importantly, the system design for HKIDR does not only cater to corporate entities which have LEI. The HKIDR system is built with a broader range of clients in mind and thus a BCAN format which is applicable regardless of the nature and type of client is more suitable and facilitates system operations. Correspondingly, we also do not consider it appropriate to exclude the requirement for CID submission when a client has a LEI. As to the OTC derivatives reporting regime, it covers different reporting parties and is a substantially different framework.

(iv) BCAN-CID Mapping File validation

Public comments

138. Feedback was received suggesting that if Relevant Regulated Intermediaries submit BCAN-CID Mapping Files on behalf of EPs (which are themselves also Relevant Regulated Intermediaries) to SEHK's data repository through the designated portal, SEHK should send a list of validated BCANs back to the EPs for whom the information has been submitted so they can perform pre-trade BCAN validation.
139. A respondent proposed that SEHK consider providing a feedback and reconciliation mechanism after intermediaries upload the BCAN-CID Mapping File to SEHK so that intermediaries can ensure that the BCANs are accurate and would not be rejected on the trading day.

The SFC's response

140. We do not envisage that EPs will arrange for other Relevant Regulated Intermediaries to submit BCAN-CID Mapping Files on their behalf. The EPs can submit their own BCAN-CID Mapping Files directly to SEHK's data repository. A Relevant Regulated Intermediary does not have to receive a pre-trade validation from SEHK for its BCAN-CID Mapping File before it assigns a BCAN to a Relevant Client and tags the BCAN to a securities order for that client²⁹.
141. There will be a pre-trade order checking mechanism. Orders without BCANs or with BCANs in an incorrect format will be rejected.

(v) Party from whom CID is to be collected

Public comments

142. Another respondent enquired as to the party from whom the CID is to be collected where an overseas broker places an order to an EP whether for overseas or Hong Kong-based clients.

²⁹ After a Relevant Regulated Intermediary submits a BCAN-CID Mapping File, SEHK will send a response file to the Relevant Regulated Intermediary. The response file will inform the intermediary if any input in the BCAN-CID Mapping File is in an incorrect format in which case the intermediary should resubmit. SEHK will also provide a full list of the BCANs which are registered on SEHK's data repository for the intermediary's information. However, the Relevant Regulated Intermediary's assignment of a BCAN and tagging of a BCAN to a client's securities order does not have to wait until the receipt of the response file or full list.

The SFC's response

143. The party from whom the CID is collected is the party to whom a BCAN is assigned and included for an order or a trade. Where orders are placed by an overseas broker with an EP for execution, the EP would be the Relevant Regulated Intermediary responsible for assigning a BCAN to the overseas broker and submitting the CID of the overseas broker to SEHK's data repository³⁰.

(vi) Confidentiality of data submitted to SEHK and the SFC

Public comments

144. More information was sought on the data protection and security measures to be adopted for protecting the data collected by the SFC and SEHK. A respondent sought clarification of whether the personal data submitted by intermediaries under the HKIDR will not be made publicly available. The respondent suggested that more information be provided about the software and systems used for CID submission and to illustrate how they compare internationally in terms of data collection and storage for investor identification measures, as intermediaries may need to put in place specific or additional software or systems for compliance. The other respondent suggested that the SFC establish a formal framework governing access to this client information by limited staff.

145. A respondent sought clarification of how long the SFC and SEHK intend to retain personal data received under the HKIDR as well as transaction information, and whether this data may be transferred to other law enforcement agencies in or outside Hong Kong.

The SFC's response

146. The BCAN tagged to orders and the BCAN-CID Mapping File collected from Relevant Regulated Intermediaries under the HKIDR will not be made publicly available.

147. We understand the importance of stringent data security measures to protect investors' personal data. Appropriate security requirements and measures will be considered at the system design phase and will be developed. Access to BCAN and CID information by the SFC and HKEX staff will be on a strict need-to-know basis and they will have to adhere to the security requirements and measures. The details of the system security measures will be set out in the HKEX Information Paper.

148. To strike an appropriate balance between transparency and safeguarding system integrity, the details of the file sharing system between the SFC and SEHK are confidential. Please refer to the HKEX Information Paper for the system and software requirements to be used by Relevant Regulated Intermediaries for the submission of BCAN-CID Mapping Files. In formulating the system and software requirements, the current local market landscape and industry practices have been taken into account.

³⁰ This scenario assumes that the client places an order directly with an overseas broker, not with a Relevant Regulated Intermediary. If a client places an order with a Relevant Regulated Intermediary which then routes the order to an overseas broker, which in turn routes the order to an EP, the party which should assign a BCAN and submit the BCAN-CID Mapping File to SEHK's data repository should be the first-mentioned Relevant Regulated Intermediary, with whom the client has a direct client relationship.

149. The SFC and SEHK will keep the data only for as long as necessary to perform their statutory functions and will put in place measures to comply with the Personal Data (Privacy) Ordinance (**PDPO**). Information is collected under the HKIDR solely for the SFC's regulatory and surveillance purposes and SEHK's market surveillance and its rules' enforcement³¹. It is not anticipated that it would be disclosed to law enforcement agencies in other jurisdictions.

Q4	Do you have any comments or suggestions on the proposed measures for Regulated Intermediaries' compliance with relevant data privacy laws and in relation to data security, including the proposed arrangements concerning clients' consent for the handling of their personal data? Please explain your view.
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- (i) Consent from investors and confidentiality measures expected of Relevant Regulated Intermediaries

Public comments

150. Two respondents requested the SFC to allow intermediaries to rely on the express consent given by their clients in existing client documentation, if the intermediaries consider it is sufficient to permit the clients' personal data to be used for the purposes of the two proposed regimes (ie, where the intermediaries consider that the form of consent in the existing client documentation is sufficiently broad to cover the purposes of the use of individual clients' personal data as set out in paragraph 60 of the consultation paper).
151. One respondent commented that it has been a long-standing practice for intermediaries to be allowed to determine whether client documentation is sufficient for compliance with the PDPO. Another respondent stated that it would be less burdensome for intermediaries to rely on existing consent or notifications, especially given the wide impact of the regime and the absence of any new exemptions under the PDPO.
152. One respondent enquired whether one-way notifications to clients or other steps can be taken by Relevant Regulated Intermediaries, if and where the SFC is amenable to not mandating a new express consent from a client. The respondent also requested that the SFC advise on the controls it expects Relevant Regulated Intermediaries to implement to safeguard the confidentiality of data for the purposes of the HKIDR.
153. Clarifications were also sought by respondents as to: (i) whether express consent is required for corporate clients under the PDPO; (ii) the period for which the consent record has to be kept; and (iii) where an RI channels its client's order to an EP, whether the EP can report the BCAN of the RI while the RI reports the client's BCAN to the SFC, as an RI is bound by banking secrecy requirements.
154. A respondent also requested the SFC's guidance on acceptable electronic means to obtain consent.

³¹ The purposes of use of personal data are outlined in paragraph 60 of the consultation paper. Please refer to the Consent Circular for the specified purposes of use of personal data which should be covered in an express client consent.

The SFC's response

155. The consultation paper proposed that LCs and RIs should obtain written or other express consent from both new and existing clients who are individuals in a form and manner in compliance with the requirements of the SFC having regard to Data Protection Principle 3 of the PDPO which provides that personal data shall not, without the prescribed consent of the data subject, be used for a new purpose.
156. We are not in a position to ascertain if intermediaries' existing client documentation is broad enough to cover the purposes of use of personal data under the HKIDR and OTCR. The use of an individual investor's CID under the HKIDR and OTCR is also likely to constitute a new purpose of use, as the two regimes are new initiatives. We understand from relevant publication that a transferor (Relevant Regulated Intermediary) should obtain prescribed consent where transfer of personal data would amount to use for a new purpose and in case of doubt about whether personal data is used for a new purpose, the recipient of personal data (which would include the SFC under the regimes) should, as matter of prudent practice, seek the prescribed consent of the data subject before making further use of the data subject's personal data³².
157. In light of the foregoing, the following approach will be taken and reflected in the Code of Conduct amendments as set out in Appendix C:
- (a) Relevant Regulated Intermediaries will be required to obtain express consent from their individual Relevant Clients for the use of personal data under the HKIDR and OTCR; and
 - (b) no standard form of client consent would be prescribed by the SFC but the consent must expressly cover the purposes of use of personal data to be specified in our Consent Circular to Relevant Regulated Intermediaries (such specified purposes of use will be substantially similar to those outlined in paragraph 60 of the consultation paper).
158. This approach would provide a degree of flexibility in that Relevant Regulated Intermediaries would not have to obtain new consent from clients for the purposes of the HKIDR and the OTCR if both of the following are met: (i) client consent on the use of personal data has already been obtained from these clients; and (ii) the consent expressly includes the purposes of use specified by the SFC in the Consent Circular (the requirement to obtain consent will not be complied with where the specified purposes of use may only be implied or inferred from the client documentation). Furthermore, client consent need not include the purposes of use as specified by the SFC in a verbatim manner, provided that all of the purposes are covered. That said, if the aforementioned requirements are not complied with, express client consent will be required in the form required by the SFC.

³² Please refer to paragraphs 7.23 and 7.24 of Personal Data (Privacy) Law in Hong Kong – A Practical Guide on Compliance (the second edition) co-authored by the former Privacy Commissioner for Personal Data, Stephen Wong, and Guobin Zhu, whereby it is noted that the Privacy Commissioner takes the view that personal data transferred between data users must comply with DPP 3, that is, if the transfer amounts to a new purpose, prescribed consent must be obtained from the data subject by the transferor. In case of doubt as to whether the recipient's intended use of personal data amounts to use for a new purpose, it is prudent practice for the recipient to seek the prescribed consent of the data subject before making further use of his or her personal data.

159. Relevant Regulated Intermediaries may also seek professional advice on additional measures and controls which they may need to take to ensure compliance with all applicable data privacy laws and to safeguard the information collected.
160. The Code of Conduct will only require Relevant Regulated Intermediaries to obtain express consent from a Relevant Client who is an individual. A record of client consent should be maintained as long as the client remains a client of the Relevant Regulated Intermediary and for no less than two years after the client has ceased to be its client.
161. The Consent Circular will cover obtaining consent by electronic means, in addition to obtaining consent in writing or by phone. In general, consent may be obtained by electronic means including by email or instant messaging applications provided that the measures set out in the Consent Circular are observed.
- (ii) BCAN for investors who refuse to provide consent and for whom a sale order is made

Public comments

162. Clarification was sought as to BCAN assignment and validation where a client refuses to provide consent for submission of his or her CID under the HKIDR and whether the Relevant Regulated Intermediary has to input a BCAN for a sale order in this case.

The SFC's response

163. A specific type of BCAN as referred to in the HKEX Information Paper should be used when submitting a sale order of this kind.
- (iii) Whether the personal data collected under the HKIDR will be used to carry out "matching procedures" under the PDPO

Public comments

164. A respondent asked the SFC to confirm that it will not use personal data to carry out "matching procedures", as defined under the PDPO.

The SFC's response

165. The SFC has no current plan to carry out matching procedures as defined under the PDPO in respect of personal data collected under the regimes.

- (iv) Retention period

Public comments

166. Clarification was sought as to how long Relevant Regulated Intermediaries have to retain investors' BCANs and BCAN-CID Mapping File information.

The SFC's response

167. BCANs and BCAN-CID Mapping File information should be retained by a Relevant Regulated Intermediary for as long as the client remains its client. The Relevant

Regulated Intermediary should keep the records for no less than two years after a person ceases to be a client.

(v) Other comments

Public comments

168. A respondent suggested that the SFC inform a Relevant Regulated Intermediary after the SFC has accessed client information kept in SEHK's data repository.

The SFC's response

169. We do not consider it appropriate for the SFC to inform a Relevant Regulated Intermediary that we have accessed client information kept in SEHK's data repository. Relevant Regulated Intermediaries and their clients should be aware that personal data submitted under the HKIDR may be disclosed to the SFC for the purpose of performing its statutory functions including monitoring, surveillance and enforcement and individual clients have consented to the SFC doing so. We do not see the necessity of informing the Relevant Regulated Intermediary again when the SFC has accessed such data and consider that informing Relevant Regulated Intermediary of review of data by the SFC may interfere with the SFC's performance of its functions.

Q5	Do you have any comments on the proposed amendments to the Code of Conduct for the purpose of implementing the HK Investor ID Regime? Please explain your view.
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Public comments

170. Most respondents had no comments or agreed with the proposed amendments to the Code of Conduct. A respondent sought clarification of paragraph 5.6(j)³³ of the draft Code of Conduct amendments, specifically whether in the event an incorrect BCAN is tagged or otherwise an error is made with regard to a trade tagged with a BCAN, there will be an error report to file and what other requirements would apply.

171. A respondent asked if there will be a separate consultation on proposed amendments to the Code of Conduct and corresponding changes to the Rules of the Exchange. The respondent also suggested that additional guidance be provided by the SFC and SEHK before the regimes are implemented.

The SFC's response

172. The Code of Conduct amendments including paragraph 5.6(k) have been revised taking into account respondents' comments. The details of the information to be filed and the manner in which error notification is to be made will be set out in the HKEX Information Paper.

³³ Now paragraph 5.6(k) of the Code of Conduct in Appendix C of this paper.

173. There will be no separate consultation on the Code of Conduct amendments. We have already set out our proposed amendments to the Code of Conduct in the consultation paper for comments and further revisions to the proposed amendments as set out in this paper do not result in any material changes to the original proposed amendments save for those made in response to the consultation feedback as discussed above. Amendments to the Rules of the Exchange will be made in line with the proposals set forth in the consultation paper.
174. Following the release of this paper, we will issue the Consent Circular on obtaining client consent for CID collection under the HKIDR and OTCR and guidance to Relevant Regulated Intermediaries on the implementation of the HKIDR. SEHK will also release the HKEX Information Paper to provide technical operational details to facilitate the implementation of the HKIDR. We will keep in view market feedback prior to the implementation of the regime and work with SEHK to provide further guidance as appropriate.

Q6	Do you have any comments on the proposed implementation timeline for the HK Investor ID Regime? Please explain your view.
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Public comments

175. The consultation paper proposed at the earliest to implement the HKIDR by the first quarter of 2022 and the OTCR by the third quarter of 2022. A number of respondents proposed more preparation time, with some requesting 18 months from the date of the release of the requirements for the regime. A few viewed that the regimes should be implemented after 2024. A respondent proposed to defer implementation of the HKIDR to the third quarter of 2022 to correspond with the proposed implementation timeline for the OTCR and to facilitate Relevant Regulated Intermediaries' compliance.
176. Reasons provided by respondents for postponing implementation include needing more time to enhance operational systems, obtain client consent and update CID, modify existing workflows and procedures, engage personnel and conduct staff training. Respondents were also concerned whether sufficient technical experts and service vendors would be available to meet a surge in demand for their services.
177. A soft launch was suggested for the market to get familiar with the requirements. A respondent also suggested training sessions and a testing environment be arranged for users prior to implementation to gather market feedback and to ensure a smooth rollout.
178. Two respondents suggested that the SFC enable bulk uploads by market participants, with a particular suggestion for a single reporting template supporting multiple securities and multiple clients, including aggregated orders.

The SFC's response

179. We expect to implement the HKIDR by the second half of 2022 and the OTCR by the first half of 2023, subject to the completion of system testing and market rehearsals.

This would provide more time for the industry to prepare for implementation. We will work with SEHK to provide a system testing period and organise training sessions for the industry (including service vendors) before the system testing period begins. SEHK will soon release a document on technical specifications and interfaces to facilitate technical enhancements.

180. In addition, we will work with SEHK to streamline the technical processes under the HKIDR with a view to promoting operational efficiencies and reducing manual reporting procedures to the extent practicable.

Other comments

181. A respondent proposed that the requirement set out in paragraph 27 of Schedule 8 of the Code of Conduct on reporting the volume of trades conducted by each of the 10 largest users of alternative liquidity pools (**ALP**) on a calendar monthly basis be removed as the HKIDR provides information identifying the clients of orders. We would like to point out that the SFC's regulation of ALPs and their operators are beyond the scope of the current exercise. Further, the focus of the current ALP reporting requirements is to gauge general market risks and it would not be appropriate to remove the monthly ALP reporting after the implementation of the HKIDR regime.
182. Some feedback remarked that the HKIDR will help with the allotment process of initial public offerings. To clarify, the intention of the current consultation exercise is to establish a regulatory framework for the collection of CID for the purpose of the HKIDR. Matters relating to initial public offerings are beyond the scope of this consultation.

Part B – Introduction of an OTC securities transactions reporting regime for shares listed on SEHK

Comments received and the SFC's responses

Q7	Do you have any comments on the proposed OTC Securities Transactions Reporting Regime? Please explain your view.
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(i) New types of transactions that will be exempted from reporting obligations

Public comments

183. A few respondents sought clarifications of whether a transfer of shares off the back of a physically-settled structured product or an exercise of stock options or rights will be reportable under the OTCR. If they are reportable, it would be better to allow a longer transition period for implementation or grant a waiver for those transfers, one respondent commented.
184. A respondent requested that the movement of underlying shares as a result of the creation and redemption of depository receipts should not fall within the OTCR.

The SFC's response

185. Stamp duty is generally chargeable on the delivery of shares in accordance with the terms of a structured product or as a result of an exercise of stock options. Therefore, these could fall within scope of the OTCR.
186. Having reconsidered the nature of these share transfers, we conclude that the drawback of not having the corresponding information in the OTCR is manageable as these transactions are sufficiently visible through on-exchange activities (for example, hedging conducted on-exchange). We assume that the movement of shares as a result of the creation, redemption or cancellation of depository receipts refers to transfers of shares made for the conversion of depository receipts into shares listed or traded on SEHK and vice versa. We consider that these share transfers are of limited surveillance value. Therefore, paragraph 5.7 of the Code of Conduct is revised such that a transfer of shares made in accordance with the terms of a structured product or a derivative (whether listed or not), or for the conversion of a depository receipt into shares and vice versa, is exempted from reporting under the OTCR.

(ii) Scenarios with stamp duty relief

Public comments

187. A respondent asked whether the following scenarios where the IRD grants stamp duty relief or remission will be reportable under the OTCR:
- (a) intra-group transfers of shares with stamp duty relief

- (b) stock borrowing and lending transactions, repurchase transactions and reverse repurchase transactions with stamp duty relief
 - (c) transfers of a basket of securities for allotment or redemption of an ETF with stamp duty remission
188. The respondent would like the SFC to clarify how Relevant Regulated Intermediaries should treat OTC Securities Transactions which may potentially be exempted from the payment of stamp duty, subject to approval by the IRD. For example, whether it is feasible to extend the reporting deadline from T+1 to T+2, pending the IRD's determination on stamp duty relief. The SFC was also asked to clarify the procedures and timeframe for reporting of stock borrowing and lending transactions, repurchase transactions and reverse repurchase transactions if they are unable to rely on an exemption under the Stamp Duty Ordinance.

The SFC's response

189. For the scenarios mentioned in paragraph 187 above, the SFC's position is that the corresponding share transfers are not reportable as no stamp duty is payable. The SFC also considers that other transfers made in connection with OTC Securities Transactions granted stamp duty relief (whether in full or in part) from the IRD should not be reportable. Paragraph 5.7 of the Code of Conduct is revised accordingly.
190. When an application for stamp duty relief has been or will be submitted to the IRD, the Relevant Regulated Intermediary which makes the share transfer would not be required to report it prior to the IRD's determination. However, if the IRD subsequently determines that no stamp duty relief (whether in full or in part) would be granted, the Relevant Regulated Intermediary should report the share transfer as soon as practicable after being notified of the IRD's determination.

(iii) Transactions with affiliated companies

Public comments

191. There was a suggestion that any OTC Securities Transactions with affiliated entities (excluding asset management and private banking entities) for the purposes of internal risk management or group restructuring should not fall within the OTCR.

The SFC's response

192. Intra-group transfers of shares granted stamp duty relief by the IRD are not required to be reported under the OTCR, in accordance with the revisions to paragraph 5.7 of the Code of Conduct as discussed in paragraph 189 above.

(iv) Issues related to custodians

Public comments

193. Respondents sought confirmation of whether custodians are required to comply with the OTCR. The following specific situations were mentioned:
- (a) Acquisitions or disposals of shares by a custodian as a result of taking up error positions while processing corporate actions (eg, where a client wants to

obtain cash dividends but the custodian mistakenly inputs the instruction as bonus shares and the custodian takes up the bonus shares as an error position).

- (b) A custodian may not be aware of whether stamp duty is chargeable on a transaction where it merely acts on the instructions of an execution broker to facilitate settlement.
- (c) A custodian does not act as an agent for clients but only provides administrative services and assists clients in paying stamp duty (eg, acting as an administrative agent for tax filings).
- (d) Where a custodian receives instructions from its direct client which is an overseas regulated intermediary, whether it is only necessary to provide the CID of the overseas regulated intermediary and whether there is any difference if the overseas regulated intermediary is an affiliate of the custodian.
- (e) Whether a custodian will need to report the deposit and withdrawal of physical certificates as a client's agent.

The SFC's response

194. Similar to the HKIDR, not all LCs and RIs are subject to the obligations under the OTCR. It is intended that only Relevant Regulated Intermediaries (ie, licensed or registered persons which (i) carry out proprietary trading, or (ii) provide securities brokerage services for another person in respect of orders placed through an account opened and maintained for that person) will be subject to the OTCR. It follows that a custodian who does not act as an execution broker (ie, is not a Relevant Regulated Intermediary) would not be subject to the OTCR.
195. The SFC would also like to clarify that:
- (a) The taking up of bonus shares is not reportable as no stamp duty is chargeable on the issuance of new shares including bonus shares. When these bonus shares are sold on-exchange, the transaction would be covered under the HKIDR because the sale is conducted on the trading system of SEHK.
 - (b) A Relevant Regulated Intermediary is only required to report the transfer of shares that is made in connection with an OTC Securities Transaction. The mere provision of administrative services (such as payment of stamp duty and tax filing), without making the transfer, does not trigger reporting obligations for the Relevant Regulated Intermediary.
 - (c) When an overseas regulated intermediary, regardless of whether it is an affiliate of a Relevant Regulated Intermediary, is a direct client of a Relevant Regulated Intermediary, the overseas regulated intermediary's CID is required to be submitted under the OTCR. The CID of the client of the overseas regulated intermediary will not be required to be submitted.

(v) Share placements

Public comments

196. A respondent questioned whether a share placement will be reportable under the OTCR when a Relevant Regulated Intermediary (i) transfers shares into clients' accounts or (ii) gives physical certificates to clients.

The SFC's response

197. As long as stamp duty is chargeable in respect of a share placement (eg, a placement of existing shares) and the share placement is not required to be conducted on or reported to SEHK as an off-exchange trade, the transfer of shares arising from the share placement will be reportable under the OTCR regardless of how the share transfer takes place, provided that a Relevant Regulated Intermediary makes the transfer of shares. If a client receives a physical certificate in a placement and subsequently deposits the physical certificate into his or her account with a Relevant Regulated Intermediary, then the Relevant Regulatory Intermediary will be subject to a separate reporting obligation in respect of the deposit.

(vi) Employee share incentive schemes

Public comments

198. A respondent asked whether employee share incentive schemes are subject to the OTCR, and if yes, then how submissions should be handled.

The SFC's response

199. Employee share incentive schemes may have different structures, such as option schemes, award schemes and purchase plans. As stamp duty is not chargeable on an issuance of new shares, the issuance of new shares in an employee share incentive scheme will not be reportable under the OTCR. Transfers of shares arising from a purchase of shares on-exchange through an employee share incentive scheme will not be reportable under the OTCR, as the relevant purchase is executed on-exchange.
200. On the other hand, transfers of shares within an employee share incentive scheme made in connection with OTC Securities Transactions which are subject to stamp duty are reportable under the OTCR if they are made by a Relevant Regulated Intermediary. Similar to other types of OTC Securities Transactions, the report should be made by the Relevant Regulated Intermediary which makes the transfer.

(vii) Dual-listed securities

Public comments

201. There was a question about whether dual-listed securities would be covered under the reporting requirement.

The SFC's response

202. Transfers of SEHK-listed shares of companies whose securities are also listed elsewhere (ie, dually listed on SEHK and elsewhere) will fall within the scope of the OTCR because under the proposed paragraph 5.7 of the Code of Conduct, "shares" are defined as the ordinary shares of a company, or units of a REIT, listed on SEHK. However, a transfer of shares of dual-listed securities is reportable only if it is in connection with a transaction for which stamp duty is chargeable in Hong Kong (and not granted stamp duty relief).
203. A deposit or withdrawal of physical certificates of dual-listed securities should be reported if the physical certificate is for ordinary shares of a company, or units of a REIT, listed on SEHK.

(viii) OTC short selling and transactions in suspended stocks

Public comments

204. A few respondents asked whether a share transfer effected by short selling which takes place over-the-counter is reportable. Some requested that transactions in suspended stocks by non-EPs or short selling of securities carried out on an over-the-counter basis be exempted from the OTCR, as these transactions are not reportable to SEHK.

The SFC's response

205. A transfer of shares effected by an OTC Securities Transaction in respect of which stamp duty is chargeable in Hong Kong (and not granted stamp duty relief) will be reportable under the OTCR, regardless of whether the OTC Securities Transaction involves short selling. Considering that a Relevant Regulated Intermediary might not necessarily know whether an OTC Securities Transaction involves short selling, it will not need to indicate whether an OTC Securities Transaction is a short sell in its report made under the OTCR.
206. The SFC also does not consider it appropriate to exempt transactions in suspended stocks by non-EPs from the OTCR as information about these transactions is important for market surveillance purposes.

(ix) Internal cross between funds

Public comments

207. A question was asked about whether an internal cross of shares between two funds in the same fund house would fall within the scope of the OTCR. Some respondents would like the SFC to clarify whether the Relevant Regulated Intermediaries should report the fund managers, the funds or the trustees or directors (depending on the structure of the funds) as the transferor or transferee.

The SFC's response

208. An internal cross of shares will not be reportable under the OTCR if it is reportable to SEHK as an off-exchange trade pursuant to the rules of SEHK and covered by the HKIDR. However, if a share transfer arising from an internal cross is an OTC

Securities Transaction in which stamp duty is chargeable in Hong Kong (and no stamp duty relief is granted), then it will be reportable when the transfer is made by a Relevant Regulated Intermediary, which will be responsible for reporting to the SFC.

209. According to the proposed paragraph 5.6(m)(iv) which applies to paragraph 5.7 of the Code of Conduct by virtue of paragraph 5.7(a), in the case of a collective investment scheme, “the client” refers to the collective investment scheme or the asset management company, as appropriate, which has opened the trading account with the Relevant Regulated Intermediary.

(x) No additional reporting for on-exchange trades

Public comments

210. A respondent mentioned that, during the course of or after settling on-exchange trades, fund managers may direct Relevant Regulated Intermediaries to settle with different funds. With reference to paragraph 91 of the consultation paper, the SFC was asked to confirm that it is not necessary under the OTCR for Relevant Regulated Intermediaries to report share transfers made in connection with these transactions.

The SFC’s response

211. This understanding is correct.

(xi) Rationale for a “transfer of shares” to trigger a reporting obligation

Public comments

212. A respondent asked if the SFC can explain the rationale for considering a “transfer of shares” by a Relevant Regulated Intermediary as one of the activities which trigger obligations under the OTCR. The respondent also asked the SFC to consider removing the “share transfer date” from the information to be submitted to the SFC for each transfer, as this could complicate implementation.

The SFC’s response

213. Paragraph 86 of the consultation paper stated that an OTC Securities Transaction might be arranged directly between investors who instruct a Relevant Regulated Intermediary to handle only the share transfer. Paragraph 85 of the consultation paper also explained that, for an OTC Securities Transaction, a Relevant Regulated Intermediary could only effect a transfer of shares for its client on the back of a valid document evidencing the transaction, including evidence of payment of the stamp duty chargeable under the Stamp Duty Ordinance. Therefore, imposing these reporting obligations could provide the SFC with relevant information about the OTC Securities Transactions effecting share transfers.

214. The “share transfer date” would provide the SFC with information about when the transferee could use the shares. Therefore it would not be appropriate to remove the date from the information required.

215. In view of feedback about the efforts required to implement the regime, the SFC would provide the industry with sufficient preparation time and expects to launch the

OTCR in the first half of 2023 (please also refer to discussion at paragraph 263 below).

(xii) Transfers not involving a Relevant Regulated Intermediary

Public comments

216. A respondent asked about a transfer of Hong Kong stock which is made by an overseas regulated affiliate of a Relevant Regulated Intermediary without involving the Relevant Regulated Intermediary, and the Relevant Regulated Intermediary is not involved in arranging for the transfer to be stamped. In this situation, would the Relevant Regulated Intermediary be required to file any reports under the OTCR if it subsequently becomes aware of the transfer.
217. The respondent also sought clarification of whether activities will be reportable when Relevant Regulated Intermediaries which are part of global financial groups assist in settling stamp duty or providing administrative services for trades made by overseas affiliates where the Relevant Regulated Intermediaries are not involved in the share transfers.

The SFC's response

218. The SFC would like to reiterate that a Relevant Regulated Intermediary will only need to report a share transfer related to an OTC Securities Transaction if it makes the share transfer. The mere knowledge of a transfer (even if made by its affiliate) does not trigger a reporting obligation. Similarly, merely being involved in settling stamp duty or providing administrative services for trades conducted by overseas affiliates, without making the transfer, would not trigger a reporting obligation.

(xiii) OTC Securities Transactions booked overseas

Public comments

219. A respondent sought clarification as to the applicability of the OTCR to an OTC Securities Transaction which is booked overseas but arranged by a Relevant Regulated Intermediary for a client of its overseas affiliate. The respondent requested that, for cross-border trades, the time to report a share transfer should be extended to 30 days after the trading day to align with the timeframe for the stamp duty payment for any sale or purchase of Hong Kong stocks effected outside Hong Kong. There was also a suggestion to include a "settlement agent" as one of the roles of the reporting Relevant Regulated Intermediary in a transfer as this is a more accurate description of the role of Relevant Regulated Intermediaries in settling the trade.

The SFC's response

220. A Relevant Regulated Intermediary is subject to reporting obligations under the OTCR only if it makes a share transfer in connection with a transaction chargeable with stamp duty in Hong Kong. It follows that when a Relevant Regulated Intermediary does not make the share transfer, the corresponding OTC Securities Transaction is not reportable even if the Relevant Regulated Intermediary arranges for a client of an overseas affiliate to buy or sell Hong Kong stocks by way of an OTC Securities Transaction.

221. As the time to report under the OTCR will be based on the transfer date and not the trading day or stamp duty payment date and the stamp duty payment date is not required to be submitted to the SFC, the SFC considers that changing the time to report cross-border trades to 30 days after the trading day would unnecessarily complicate the regime and be undesirable.
222. The SFC intends to keep the reporting as simple as possible and does not consider it necessary to include a “settlement agent” as an additional role for the reporting Relevant Regulated Intermediary.

(xiv) Definition of transfer date

Public comments

223. A respondent asked whether the “transfer date” refers to the date when Relevant Regulated Intermediaries receive settlement instructions from clients, or the date when they input the settlement instructions into CCASS³⁴ or effect them with a clearing house.

The SFC’s response

224. If a transfer is conducted via a settlement instruction, the “transfer date” is the date when the Relevant Regulated Intermediary inputs the settlement instruction into CCASS. If a transfer takes place between accounts with the same Relevant Regulated Intermediary, the “transfer date” is the date when the transfer is effected. This will be specified in the Technical Document which is expected to be released by the end of 2021.

(xv) Questions on reporting deposits and withdrawals

Public comments

225. Some respondents requested that deposits and withdrawals of physical certificates be removed from the OTCR to make it easier to implement, as on some occasions this is done merely to create or split jumbo certificates rather than to make changes to beneficial ownership.
226. A respondent asked whether the deposit or withdrawal of a physical certificate which does not involve any change of beneficial ownership will be reportable, and whether a withdrawal made under the name of HKSCC Nominees³⁵ or re-registered under the same customer’s name will be reportable. As a physical certificate deposit or withdrawal request will be sent to CCASS, there was a question about whether CCASS will play any role in the OTCR.
227. Another question concerned the determination of the deposit and withdrawal date and what would happen if a physical certificate were ultimately rejected by the share registrar.

³⁴ The Central Clearing and Settlement System.

³⁵ HKSCC Nominees Limited, a subsidiary of HKEX, acts as the common nominee for the shares held under CCASS.

The SFC's response

228. Paragraph 88 of the consultation paper explained that many share transfers which take place without involving Relevant Regulated Intermediaries involve physical certificates of shares. The movement of physical certificates of shares into or out of Relevant Regulated Intermediaries may indicate that such a share transfer has occurred. Therefore, it is important that deposits and withdrawals of physical share certificates are within the reporting scope of the OTCR. In view of the feedback about the efforts required to implement the regime, the SFC would provide sufficient preparation time and anticipates that the OTCR will be launched in the first half of 2023 (please also refer to discussion at paragraph 263).
229. A deposit to or withdrawal from a Relevant Regulated Intermediary of a physical share certificate will be reportable under the OTCR, regardless of whether any change in beneficial ownership is involved and regardless of a withdrawn physical certificate is in HKSCC Nominees' name or is to be re-registered under the client's name.
230. Information relating to a deposit or withdrawal of physical share certificates will be reported directly to the SFC by Relevant Regulated Intermediaries under the OTCR. CCASS will not be involved.
231. The deposit and withdrawal date will be the date when the request is submitted to CCASS. This will be specified in the Technical Document. If a physical certificate deposit is ultimately rejected by the share registrar, no further reporting about this rejection and no amendment to information submitted previously about this deposit under the OTCR will be required.

(xvi) Reporting by offshore entities

Public comments

232. A respondent suggested that the SFC consider permitting an offshore entity to authorise Relevant Regulated Intermediaries in Hong Kong to report for and on behalf of the offshore entity directly.

The SFC's response

233. The reporting obligations under the OTCR will be imposed on Relevant Regulated Intermediaries which are LCs and RIs in Hong Kong. Therefore there should be no circumstances under which an offshore entity will need to report under the OTCR.

(xvii) Time to report

Public comments

234. There were suggestions to extend the reporting time to two or three trading days after the transfer/deposit/withdrawal day (Hong Kong time). A respondent explained that more time is needed to cater for overseas clients in different time zones, and there are circumstances beyond their control (eg, COVID-19). Some respondents elaborated that when buyers and sellers have arranged transactions themselves and Relevant Regulated Intermediaries are merely instructed to process stock transfers, the Relevant Regulated Intermediaries may only receive the instruction on the

settlement date. To allow more time to gather information, it was suggested to allow reporting on the later of (a) two or three days after the settlement date as a minimum, or (b) two or three days after Relevant Regulated Intermediaries are aware of effected stock transfers.

The SFC's response

235. In view of the feedback and in particular the challenges in filing by one Hong Kong trading day, paragraph 5.7 of the Code of Conduct is revised to extend the time to report to within three Hong Kong trading days after the transfer/deposit/withdrawal day (Hong Kong time).

(xviii) Reporting threshold

Public comments

236. Some respondents requested that, given the volume of off-exchange transactions, the SFC should set a reporting threshold. Otherwise, Relevant Regulated Intermediaries will need to devote substantial resources to ensure that they collect accurate information and complete filings on a T+1 basis, which is not practical.

The SFC's response

237. The consultation paper explained that our understanding of activities related to the shares of listed companies would be clearer if information about OTC Securities Transactions was available to the SFC on a timely basis. A reporting threshold would undermine the aims of the OTCR. To help reduce the reporting burden for Relevant Regulated Intermediaries, the SFC has provided exemptions to the OTCR, as discussed above. In addition, the time to report will be extended to within three Hong Kong trading days after the transfer/deposit/withdrawal day (Hong Kong time).

(xix) Clarification of reporting obligations

Public comments

238. A respondent commented that the OTCR would not have any impact on a Relevant Regulated Intermediary which makes a share transfer and a deposit or withdrawal of physical share certificates on behalf of the initiator of the request as the reporting obligation resides with the initiator of the request.

The SFC's response

239. The reporting obligations under the OTCR will be imposed on a Relevant Regulated Intermediary which, whether as principal or agent for a client, makes a share transfer and a deposit or withdrawal of physical share certificates. The initiator of the request has no reporting obligation under the OTCR.

Q8	Do you have any comments on the proposed OTC Securities Transactions Reporting Regime submission system? Please explain your view.
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(i) Submission platform infrastructure

Public comments

240. A few respondents suggested that the SFC's OTCR submission portal should be modern and efficient, and the SFC should consider employing file transfer protocol, application programming interface, straight-through platform or other automated data transfer functionalities.

The SFC's response

241. The SFC's OTCR submission portal will provide both manual and automated data transfer functionalities. Details will be specified in the Technical Document.

(ii) Enhance CCASS for reporting

Public comments

242. For the reporting of OTC Securities Transactions for share transfers (ie, not involving deposits or withdrawals of physical share certificates), a respondent suggested that the SFC and SEHK consider enhancing CCASS to enable Relevant Regulated Intermediaries to tag CID to an instruction to effect share transfers. In addition, new flags can be added to the instruction (eg, a change in beneficiary flag, stamp duty flag) to enable SEHK to extract relevant information effectively and share it with the SFC for surveillance purposes. With this enhancement, the SFC can have access to the information on the share transfer day and in turn Relevant Regulated Intermediaries will only have to submit the required information for share transfers and physical certificates deposits or withdrawals which are not processed in CCASS.

The SFC's response

243. Paragraph 95 of the consultation paper explained that reporting to the SFC directly via the OTCR submission portal would enable the SFC to potentially leverage its centralised submission portal, therefore minimising the need for Relevant Regulated Intermediaries to design a reporting interface. It would also simplify data privacy issues as the SFC hosts the information directly. Accordingly, the SFC believes that reporting via the SFC's OTCR submission portal is better than reporting via HKEX's CCASS for the OTCR.

(iii) Quantity to be reported for transfers from joint accounts to sole accounts

Public comments

244. A respondent sought clarification as to the quantity to be reported for a transfer from a joint account to a sole account. For example, if a transfer is made from a two-name joint account to a sole account, whether the quantity to be reported is half or the full portion of the transaction and whether the quantity depends on the amount of stamp duty chargeable.

The SFC's response

245. The consultation paper proposed that a Relevant Regulated Intermediary will need to provide two types of information about the quantity of shares. The SFC would like to clarify that:
- (a) for the quantity of shares transferred by a Relevant Regulated Intermediary, it is the full quantity of shares transferred between the joint account and sole account;
 - (b) for the quantity of shares of a transaction, it is the number of shares in a transaction on which the stamp duty is chargeable.

(iv) Appointment of reporting agents

Public comments

246. There was a question about whether a Relevant Regulated Intermediary can appoint a reporting agent to report on its behalf.

The SFC's response

247. There is no restriction in the OTCR as to the appointment of a reporting agent. Nevertheless, the reporting obligation under the OTCR will still rest with Relevant Regulated Intermediaries, and that obligation, including the obligation to ensure all information submitted to the SFC is accurate, cannot be delegated to the reporting agent.

(v) Relevant Regulated Intermediaries as principals to transfers

Public comments

248. A respondent asked if the private banking business line of a Relevant Regulated Intermediary needs to register an identifier for itself and report that identifier under the OTCR if the private banking business makes a transfer of shares as a principal.

The SFC's response

249. If a Relevant Regulated Intermediary makes a transfer of shares as a principal, only the CID of the Relevant Regulated Intermediary is required to be reported and the business line does not need to be identified.

Q9	Do you have any comments on the proposed arrangements concerning clients' consent under the OTC Securities Transactions Reporting Regime? Please explain your view.
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(i) Reporting information when clients do not provide consent

Public comments

250. A respondent would like to know how to report a share transfer out or a withdrawal if the client does not provide consent.

The SFC's response

251. An individual client who does not provide consent to a Relevant Regulated Intermediary for transfer of personal data to the SFC will still be able to transfer shares or withdraw physical share certificates. When reporting is made under these circumstances, a special indicator (to be specified in the Technical Document) will need to be submitted instead of the client's CID.

(ii) Request for masking relief

Public comments

252. One respondent requested masking relief to exempt investors residing in jurisdictions with potential reporting barriers. This is akin to the masking relief under section 26 of the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules.

The SFC's response

253. The SFC does not consider it appropriate to introduce masking relief in the OTCR. Please refer to paragraph 65 of Part A of this paper for more information.

254. Separately, the consultation paper proposed that, for a share transfer, the full name of the counterparty corporation to the Relevant Regulated Intermediary in the transfer will need to be submitted. To simplify the reporting requirement, the SFC will remove this data field so that information about the counterparty corporation is not required where the counterparty corporation is not a LC or RI. Where the counterparty corporation is a LC or RI, only the counterparty corporation's CE number will be required. The proposed paragraph 5.7 of the Code of Conduct is revised accordingly.

(iii) Issues relating to obtaining client consent

255. There were comments relating to obtaining client consent from investors under the HKIDR and OTCR. Please refer to paragraphs 155 to 161 of Part A of this paper for the SFC's response.

Q10	Do you have any comments on the proposed amendments to the Code of Conduct? Please explain your view.
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Public comments

256. A respondent considered that the proposed paragraph 5.7(a) of the Code of Conduct has provided that Relevant Regulated Intermediaries should refer to the definition of “client” in paragraph 5.6(l)(ii)³⁶ – the client shall be the person to whom the BCAN is assigned for on-exchange orders and off-exchange but reportable orders, and requested that the SFC clarify whether Relevant Regulated Intermediaries should refer to Appendix 1 of the consultation paper to determine who qualifies as a “client”.
257. The respondent also suggested that, for the proposed paragraph 5.7(h)³⁷ of the Code of Conduct, a mandatory withdrawal of shares for clients who refuse to grant consent should only apply to individual clients. This will align with the proposed paragraph 5.6(p)³⁸ of the Code of Conduct which mandates that Relevant Regulated Intermediaries sell down the individual clients’ shares if they refuse to grant the requisite consent.

The SFC’s response

258. The proposed paragraph 5.7(a) of the Code of Conduct states that expressions appearing in paragraph 5.7 bear the same meanings as defined in paragraph 5.6(b), save for the definition of “client” in paragraph 5.6(m)(ii). It follows that paragraph 5.6(m)(ii) is not applicable to the OTCR.
259. Appendix 1 of the consultation paper included illustrations of situations set out under the proposed paragraph 5.6(m)(ii), which is not applicable to the OTCR, and relates to BCAN assignment under the HKIDR. Appendix 1 is not a suitable reference for the OTCR.
260. The proposed paragraph 5.7(i) of the Code of Conduct refers to the consent specified in the proposed paragraph 5.7(h) of the Code of Conduct which is required only for a client who is an individual. It follows that the requirement under paragraph 5.7(i) of the Code of Conduct is only applicable where consent cannot be obtained from a client who is an individual. The SFC would also like to clarify that there is no “mandatory withdrawal of shares” requirement under this paragraph. If the consent under the proposed paragraph 5.7(h) of the Code of Conduct cannot be obtained from a client who is an individual, the Relevant Regulated Intermediary should only effect transfers of shares out of, and withdrawals of physical share certificates from, that client’s account. Similarly, there is no mandatory sell-down of shares under the HKIDR pursuant to 5.6(q) in the proposed Code of Conduct where client consent is not obtained from an individual. In other words, clients who have not provided consent can continue to maintain their SEHK-listed or traded securities on account with the brokers. However, if they wish to take action, they can only sell those securities or transfer shares out of or withdraw physical share certificates from the

³⁶ Now paragraph 5.6(m)(ii) in the Code of Conduct in Appendix C of this paper.

³⁷ Now paragraph 5.7(i) in the Code of Conduct in Appendix C of this paper.

³⁸ Now paragraph 5.6(q) in the Code of Conduct in Appendix C of this paper.

account. They will be unable to purchase SEHK-listed or traded securities, transfer shares to or deposit physical share certificates into the account.

Q11	Do you have any comments on the proposed implementation timeline for the OTC Securities Transactions Reporting Regime? Please explain your view.
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Public comments

261. A few respondents suggested deferring the OTCR to 2023 or later, citing the difficult business environment amid COVID-19 and the time needed to implement necessary systems and procedures and recruit additional employees. A few other respondents opposed the regimes and believed that they should be implemented after 2024.
262. A respondent commented that the implementation timeline should depend on the complexity of the platform, and most likely more than six months will be needed as new infrastructure will be required. Another respondent commented that, considering it is uncommon to include settlement information (eg, the share transfer date) as part of the required data, it will normally take a Relevant Regulated Intermediary 18 to 24 months to put processes in place after the system interface specifications become available. The respondent would also appreciate it if the SFC can (i) consult with the industry again on the proposal, (ii) publish frequently asked questions to address industry concerns and (iii) set up an industry working group to discuss the system and interface requirements. One respondent proposed a soft-launch prior to the official implementation date.

The SFC's response

263. The SFC understands the importance of providing sufficient preparation time for Relevant Regulated Intermediaries to implement the OTCR. To facilitate system development by Relevant Regulated Intermediaries, we expect to issue the Technical Document (which will include, for example, file specifications, templates and submission channels) by the fourth quarter of 2021. Tests by Relevant Regulated Intermediaries of connectivity with the OTCR submission portal will tentatively be conducted from the third quarter of 2022 when the OTCR submission portal is released for trial. Details of the arrangements will be announced in due course. Currently, the SFC expects to launch the OTCR in the first half of 2023.

Conclusions and way forward

264. Having considered the responses and its regulatory objectives, the SFC will implement the proposals as discussed above and adopt the revisions made to the Code of Conduct as set out in Appendix C of this paper.
265. We have set up two mailboxes, “HKIDR_faq@sfc.hk” for enquiries about the HKIDR and “OTCR_faq@sfc.hk” for enquiries about the OTCR, and will prepare frequently asked questions to address the questions we receive. We will also issue an implementation circular by September 2021 to provide guidance to the industry on the preparations required and the timeline for the various matters that underpin the implementation of the regimes.
266. The amendments to the Code of Conduct will be gazetted and come into effect on a future date, which would be determined by the SFC in line with the implementation of the regimes following the completion of required system tests and market rehearsals. The SFC would like to take this opportunity to thank all respondents for their submissions.

Appendix A - List of respondents

(in alphabetical order)

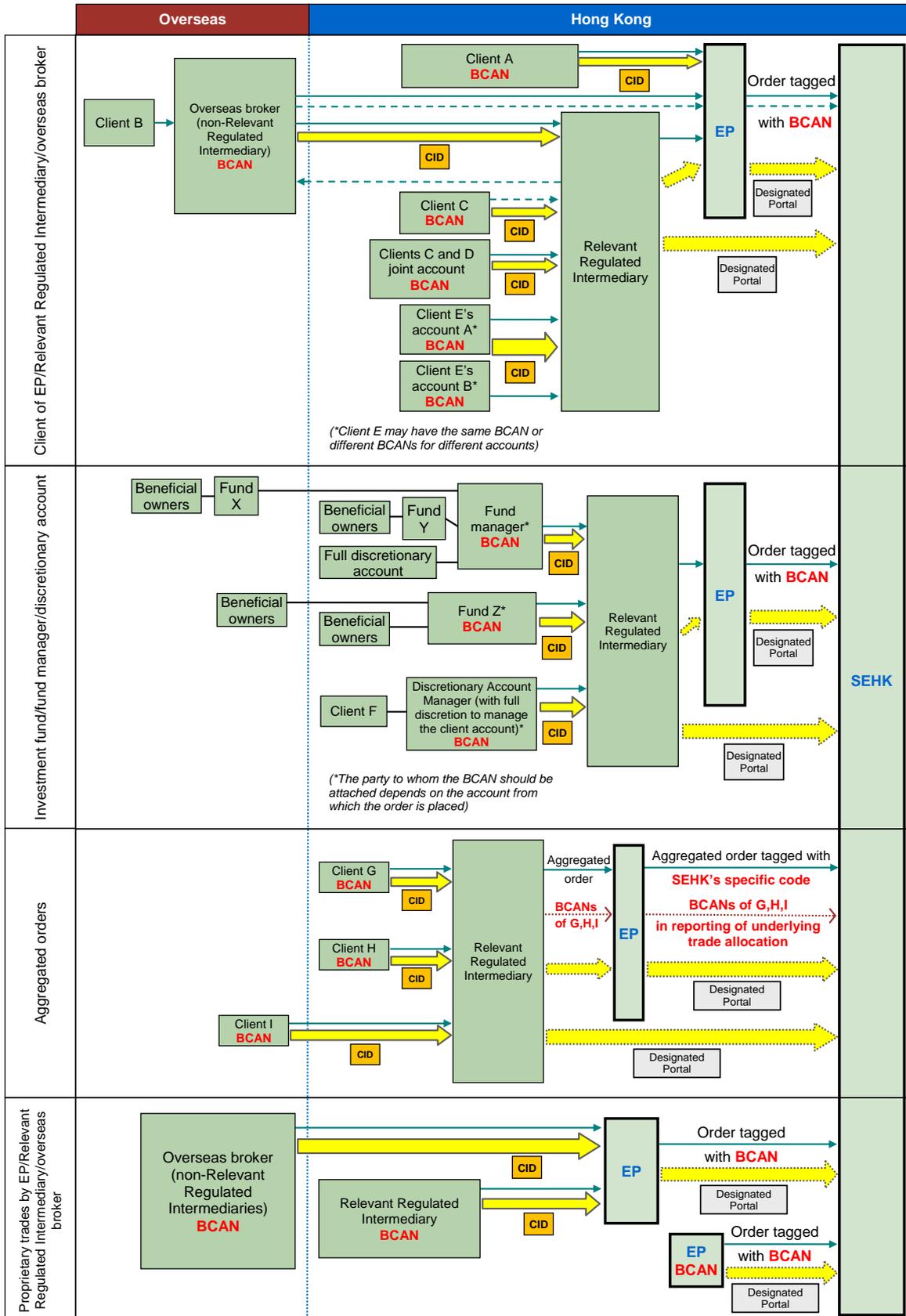
Respondent has no objection to publication of name and content of submission

1. Asia Securities Industry & Financial Markets Association
2. China Citic Bank International Limited
3. Depository Trust and Clearing Corporation
4. Emperor Securities Limited
5. Hong Kong Association of Online Brokers
6. Hong Kong Investment Funds Association
7. Hong Kong Securities & Futures Professionals Association
8. Hong Kong Securities Association
9. Hong Kong Securities Professionals Association
10. The Institute of Securities Dealers
11. Mr Ho
12. Private Wealth Management Association
13. S2 Compliance Limited
14. Standard Chartered Bank
15. Success Securities Limited

Respondent requested submission to be published on a "no-name" basis

Five submissions

Appendix B - Illustrative scenarios for BCAN assignment



EP	Exchange Participants (they are also Relevant Regulated Intermediaries)
Relevant Regulated Intermediary	SFC-licensed corporation or registered institution subject to the obligations under the HKIDR
	Flow of CID to the data repository maintained by SEHK. For BCANs associated with multiple accounts of the same client of a Relevant Regulated Intermediary, the same CID should be reported to SEHK
	Flow of CID file submission to SEHK either through a designated EP or the Designated Portal directly at the discretion of Relevant Regulated Intermediary
	Flow of an order instruction
	Flow of an order instruction received by Relevant Regulated Intermediary from Client C and then routed to an overseas broker for EP's execution. The Relevant Regulated Intermediary needs to have an arrangement with overseas brokers to transmit BCAN back to the executing EP
	Submission of the BCANs for the underlying trade allocation to SEHK by T+3 for an executed aggregated order
BCAN	Broker-to-Client Assigned Number
	Client Identification Data to a Relevant Regulated Intermediary. The Relevant Regulated Intermediary stores CID with associated BCANs for all direct clients in a BCAN-CID Mapping File
	A designated portal to be developed for Relevant Regulated Intermediary including EPs to submit CID (in a BCAN-CID Mapping File)

Appendix C - Amendments to the Code of Conduct

The SFC will introduce the proposals discussed in this paper by adding the following new sub-paragraphs 5.6 and 5.7 at the end of paragraph 5 of the Code of Conduct. The amendments will be gazetted and will come into effect on a future date to be determined by the SFC in line with the implementation timeline. The highlighted parts indicate revisions made to the Code of Conduct since the consulted draft.

5.6 Investor identification — on-exchange orders and off-exchange trades reportable to the SEHK

- (a) This paragraph applies to a relevant licensed or registered person who submits (or arranges to submit) for execution an on-exchange order or carries out an off-exchange order for a listed security, and a licensed or registered person who conducts OE Trade Reporting. The obligations set out in this paragraph do not apply to an order or trade of odd lots of listed securities traded on the odd lot /special lot market of the SEHK (save for underlying orders in an executed aggregated order) and transaction(s) reported via SEHK's trade amendment system.
- (b) For the purposes of this paragraph:
- (i) A company is considered an "affiliate" of another company if the two companies belong to the same "group of companies", as defined under Schedule 1 to the SFO.
 - (i)(ii) "aggregated order" means an order which comprises two or more buy order(s) and/or sell order(s) for the same listed security placed by different clients, which may be executed as an on-exchange order or an off-exchange order;
 - (ii)(iii) "BCAN" means a "Broker-to-Client Assigned Number", being a unique identification code in the format prescribed by the SEHK, generated by a relevant licensed or registered person in accordance with the SEHK's requirements of the SEHK;
 - (iii)(iv) "BCAN-CID Mapping File" means the data file containing a client's the BCAN and CID of all clients of a relevant licensed or registered person in the format prescribed by the SEHK from time to time in connection with on-exchange orders and off-exchange trades;
 - (iv)(v) "CID" means the client identification data as described in paragraph 5.6(mn) below;
 - (v)(vi) "direct client" means the most immediate client of a relevant licensed or registered person which has placed or proposes to place an on-exchange order or off-exchange order through a securities trading account with that person;
 - (vi)(vii) "client" has the meaning as set out in paragraph 5.6(lm) below;
 - (viii) "licensed or registered person" means an "intermediary" as defined under section 1 of Part 1 of Schedule 1 to the SFO.
 - (vii)(ix) "listed security" means any security listed and/or traded on the SEHK's trading system of the SEHK;
 - (viii)(x) "odd lot" means the number of shares of a corporation which is less than one board lot as shown on the SEHK's website of the SEHK;

- (ix)(xi) “odd lot/special lot market” means ~~such a~~ market established for the trading of odd lots ~~or special lots~~ as described in and pursuant to ~~the~~ SEHK’s requirements;
- (x)(xii) “OE Trade Reporting”, refers to the reporting of an off-exchange trade directly by an exchange participant to ~~the~~ SEHK according to its rules;
- (xi)(xiii) “on-exchange order” means a buy ~~order~~ or sell order for a listed security which is to be executed on the automatic order matching system operated by ~~the~~ SEHK;
- (xii)(xiv) “off-exchange order” means a buy or sell order for a listed security which is to be executed outside ~~the~~ SEHK’s automatic order matching system ~~operated by the SEHK~~ and the consummation of which would result in an off-exchange trade;
- (xiii)(xv) “off-exchange trade” means a trade of a listed security which takes place outside SEHK’s automatic order matching system but ~~which is~~ reportable by exchange participants to ~~the~~ SEHK pursuant to its rules;
- (xiv) “relevant licensed or registered person” means a licensed or registered person which:
- (1) submits (or arranges to submit) for execution an on-exchange order;
 - (2) carries out an off-exchange order; or
 - (3) conducts OE Trade Reporting,
- in connection with its carrying out any of the specified activities;
- (xv)(xvi) “SEHK” means The Stock Exchange of Hong Kong Limited; and
- (xvi) “specified activities” means (i) proprietary trading and (ii) the provision of securities brokerage services for a person in respect of orders placed through an account opened and maintained for that person.
- (c) Subject to ~~sub-~~paragraphs 5.6(d), and 5.6(e) ~~and (f)~~, a relevant licensed or registered person is required to:
- (i) assign a BCAN to each of its ~~direct~~ clients, ~~such~~ the BCAN to be linked permanently and exclusively to that client; and
 - (ii) collect ~~the~~ CID of each ~~direct~~ client to whom it has assigned a BCAN pursuant to paragraph 5.6(c)(i) ~~above~~ and ~~submit it in the form of~~ prepare a BCAN-CID Mapping File for submission to ~~the central~~ SEHK’s data repository ~~depository maintained by the SEHK~~.
- Where a client holds more than one securities trading account with a relevant licensed or registered person, a relevant licensed or registered person may assign more than one BCAN to the client to distinguish between orders placed through different accounts. However, orders placed through the same securities trading account must be tagged with the same BCAN.
- (d) Where an on-exchange order or off-exchange order is carried out through ~~an~~ intermediating chain of ~~licensed or registered persons~~ brokers, the last relevant licensed or registered person in the chain (starting with the exchange participant executing the order and working backwards), whose direct client is not a relevant licensed or registered person, shall be the party responsible for assigning the BCAN, collecting ~~the~~ CID, preparing the BCAN-CID Mapping File, and ~~arranging~~

for submission of submitting the BCAN-CID Mapping File to the SEHK either directly or indirectly through another relevant licensed or registered person.

- (e) ~~Where the direct client of a licensed or registered person who is the exchange participant executing the order is its affiliate, the exchange participant shall not assign a BCAN to such an affiliate but should instead procure such affiliate to (i) assign the BCAN to the first person who is not an affiliate further down the intermediating chain, (ii) collect the CID from the person to whom the BCAN is assigned, (iii) prepare the BCAN-CID Mapping File in respect of such person and (iv) provide such file to the exchange participant. If the intermediating chain consists only of affiliates of that exchange participant, the BCAN should be assigned to, and CID should be collected from, the last affiliate in the chain (starting with the exchange participant and working backwards) which places the on-exchange order or off-exchange order.~~
- (e)(f) Where an on-exchange order or off-exchange order is placed from a securities trading account held jointly by two or more persons, a relevant licensed or registered person is required to assign a BCAN to such the account and not to the account holders. This BCAN should be distinct from any BCAN assigned to any joint account holder who holds a securities account with the relevant licensed or registered person in his sole name. The BCAN-CID Mapping File containing the CID of all holders of that joint account should be submitted by the relevant licensed or registered person to the SEHK under the BCAN assigned to the joint account.
- (f)(g) A relevant licensed or registered person should ensure that the order information for each (i) on-exchange order which it submits (or arranges to submit) to the SEHK, or (ii) off-exchange order it carries out either directly or indirectly through another relevant licensed or registered person, and each (iii) trade when it conducts OE Trade Reporting, includes the CE number of the licensed or registered person (being the unique identifier assigned by the SFC) as well as (1) a BCAN assigned to the relevant client or joint account or (2) a specific code as prescribed by the SEHK (in the case of an aggregated order), in accordance with this paragraph 5.6 as the case may be.
- (g) Where a relevant licensed or registered person transmits an on-exchange or off-exchange order to another person who is not a licensed or registered person in an intermediating chain of brokers for execution, the relevant licensed or registered person should take reasonable steps (including putting in place arrangements with the receiving person) to ensure that the BCAN (and, in the case of an aggregated order, the specific code prescribed by SEHK) assigned and tagged to the order by the relevant licensed or registered person would be transmitted by the receiving person to the next relevant licensed or registered person in the intermediating chain.
- (h)(g) In the case of an executed aggregated order, a relevant licensed or registered person which submits (or arranges to submit) such the order to the SEHK, or carries out such the order should also ensure that the BCANs of each relevant client or joint account of to which the underlying orders relate are subsequently submitted to the SEHK in accordance with the SEHK's requirements of the SEHK either directly or through another relevant licensed or registered person.
- (i)(g) A relevant licensed or registered persons should have automated order management systems in place to ensure that the BCAN of a clients', BCANs and the specific codes prescribed by the SEHK (in the case of an aggregated order),

which are tagged to an on-exchange orders or off-exchange orders and included in OE Trade Reporting are correct and valid.

- (j)(h) A relevant licensed or registered person who which is responsible for collecting the CID and submitting-preparing the BCAN-CID Mapping File of a-its clients under this paragraph 5.6 should ensure that it makes-a submission-of-submits the BCAN-CID Mapping File to the SEHK by the prescribed time and in accordance with the SEHK's requirements stipulated by the SEHK either directly or through another relevant licensed or registered person.
- (i) A licensed or registered person passing on an on-exchange order or off-exchange order, either directly or indirectly through another licensed or registered person, or conducting OE Trade Reporting, should ensure that the BCAN-CID Mapping File of the relevant client is submitted to the SEHK by the prescribed time and in accordance with the requirements stipulated by the SEHK, either by another licensed or registered person or by it (whether for itself or on behalf of another licensed or registered person).
- (k)(j) A relevant licensed or registered person should ensure that which is responsible for assigning a BCAN and preparing the BCAN-CID Mapping File should take all reasonable steps to establish that the BCAN and CID that which it submits to the SEHK are accurate and free of errors and it kept up-to-date. It should notify the SEHK forthwith in accordance with the SEHK's requirements if when it becomes aware that any such information has changed, is or becomes inaccurate or should otherwise be updated, including where there is a closure of a client account, addition of a new client account, or a change in CID. A relevant licensed or registered person should have-put in place measures to ensure that the information remains up to date on an ongoing basis. Where an exchange participant passes on on-exchange orders or off-exchange orders received from its affiliate, it should procure that the affiliate performs the same obligations under this paragraph (j) in relation to the clients of the on-exchange orders or off-exchange orders that they pass on to that exchange participant require clients to notify the relevant licensed or registered person of any updates to their CID.
- (l)(k) A relevant licensed or registered person should comply with all applicable Rules of the Exchange of the SEHK and other requirements prescribed by the SEHK in relation to the assignment of BCANs and the submission of CID and/or BCAN-CID Mapping Files to the SEHK, including the notification of any changes, errors or omissions.
- (m)(l) For the purpose of the obligations to be carried out by a relevant licensed or registered person under this paragraph 5.6, a "client" means the direct client of the relevant licensed or registered person, save that:
- (i) in the case of proprietary trading by a relevant licensed or registered person, the a client refers to the relevant licensed or registered person itself;
 - (ii) in the situations mentioned in paragraph 5.6(d) and paragraph 5.6(e), the a client shall be the a person to whom the a BCAN is assigned for the on-exchange order or off-exchange order; and
 - (iii) in the situation mentioned in paragraph 5.6(f), the a client refers to each of the holders of the joint securities account; and

- (iv) for the avoidance of doubt, in relation to a discretionary account, the client refers to the legal entity for which the licensed or registered person opens the securities trading account; and
- (iv)(v) in the case of a collective investment scheme or discretionary account, the a client refers to the a collective investment scheme, discretionary account holder or the asset management company, as appropriate, as the case may be, which that has opened a trading account with the relevant licensed or registered person, through whose account an on-exchange order or off-exchange order is placed or proposed to be placed.
- (n)(m) For the purpose of this paragraph 5.6, CID shall mean the following information in relation to a client to whom a BCAN is assigned:
- (i) the full name of the client as shown in the client's identity document⁷;
 - (ii) the issuing country or jurisdiction of the identity document⁷;
 - (iii) the identity document type⁷; and
 - (iv) the identity document number.
- (o)(n) For the purpose of paragraph 5.6(mn), the CID of a client should be collected from the identity document that which is first mentioned in the list below save that where the client does not hold such document, the next mentioned document should be used and so forth:
- (i) in the case of a natural person, his or her (1) HKID card; or (2) national identification document; or (3) passport;
 - (ii) in the case of a corporation, its (1) legal entity identifier ("LEI") registration document; or (2) certificate of incorporation; or (3) certificate of business registration; or (4) other equivalent identity document; and
 - (iii) in the case of a trust, the trustee's information as in paragraph 5.6(no)(i) or (ii) above (as the case may be). However in the case of a trust which is an investment fund, the CID of the asset management company or the individual fund, as appropriate, that which has opened a trading account with the Regulated Intermediary relevant licensed or registered person should be obtained.
- (p)(e) On or before the collection of CID from an individual client or submission of the BCAN-CID Mapping File in respect of for an individual client, a relevant licensed or registered person should have obtained from such the client written or other express consent in a form and manner in compliance with the SFC's requirements of the Commission. A record of consent must be kept by the A relevant licensed or registered person receiving an order from its affiliates should ensure that its affiliates collecting CID from their individual clients have obtained the written or other express consent of those clients in form and manner in compliance with the requirements of the Commission for as long as the client remains its client and up to at least two years after the client relationship ceases.
- (q)(p) If the consent referred to in paragraph 5.6(ep) above cannot be obtained from any client who is a natural person, the relevant licensed or registered person should not submit any BCAN or CID of that client to the SEHK and should only effect sell orders or trades in respect of existing holdings of a listed security (but not buy orders or trades) for such that client.

5.7 Reporting of OTC securities transactions

- (a) Expressions appearing in this paragraph 5.7 bear the same meanings as defined in paragraph 5.6(b) above, save that, for the purposes of paragraph 5.7:
- (i) the definition of “client” in does not include paragraph 5.6(1m)(ii). For this paragraph 5.7, “shares” are defined as the ordinary shares of a company, or units of a REIT, listed on the SEHK;
 - (ii) IRD means the Inland Revenue Department of Hong Kong;
 - (iii) “OTC Securities Transaction” means a transaction involving shares which is not conducted by an on-exchange order or reportable as an off-exchange trade within the scope of paragraph 5.6 in respect of which stamp duty is chargeable in Hong Kong and the transaction is not granted stamp duty relief (whether in full or in part) from the IRD;
 - (iv) “relevant licensed or registered person” means a licensed or registered person who carries out any of the “specified activities” as defined in paragraph 5.6(b);
 - (v) “relevant transfer” means a transfer of shares in connection with an OTC Securities Transaction; and
 - (vi) “shares” means the ordinary shares of a company, or units of a REIT, listed on SEHK.
- (b) Subject to paragraphs 5.7(c) and 5.7(d), ~~When a relevant licensed or registered person makes, whether as principal or agent for a client, makes a relevant transfer of shares that is effected by a transaction in respect of which stamp duty is chargeable in Hong Kong (except where such transaction is conducted on the trading system of the SEHK, or it is required to be reported to the SEHK as an off-exchange trade), the licensed or registered person is required to report specified particulars of the transaction to the Commission by 1~~ the following information to the SFC within three Hong Kong trading days after the day (in Hong Kong time) of the transfer, such as the following information:
- (i) the CE number and role of the relevant licensed or registered person in making the transfer, e.g., for example, whether it is the transferee, transferor, or acting as agent for the transferee or transferor (or both);
 - (ii) a description of the transfer (including the stock name and stock code of the share(s) transferred, quantity of share(s) transferred handled by the relevant licensed or registered person in the transfer, quantity of share(s) of the transaction, share transfer date, transaction price per share and transaction date);
 - (iii) where the transferee is a client of the relevant licensed or registered person, the CID of the transferee;
 - (iv) where the transferor is a client of the relevant licensed or registered person, the CID of the transferor; and
 - (v) ~~the full name of where the counterparty corporation to the relevant licensed or registered person in the transfer, together with the CE number of such counterparty if it~~ is also a licensed or registered person, the CE number of that counterparty corporation.

- (c) A relevant licensed or registered person is not required to comply with the reporting obligations under paragraph 5.7(b) where a transfer of share(s) is made in accordance with the terms of a structured product or a derivative, or for the conversion of a depository receipt into shares or vice versa.
- (d) Where an application for a stamp duty relief has been or will be submitted to the IRD but the relief has not yet been granted, a relevant licensed or registered person would not be required to report the transfer of shares pending the IRD's determination. However, if the IRD subsequently determines that no stamp duty relief (whether in full or in part) would be granted, the relevant licensed or registered person should report the share transfer as soon as practicable after being notified of the IRD's determination.
- (e)(e) When a client of a relevant licensed or registered person, whether as principal or agent for a client, deposits or withdraws a physical share certificate(s) of shares, the relevant licensed or registered person is required to report the following information to the Commission by 1 SFC within three Hong Kong trading days after the day (in Hong Kong time) of the deposit or withdrawal:
- (i) the CE number of the relevant licensed or registered person, and whether it is processing a deposit or withdrawal of a physical share certificate(s) of shares, and whether it is acting as principal or agent;
 - (ii) a description of the deposit or withdrawal of share certificate(s) (including the stock name and code of the shares referenced in the physical certificate(s) of shares, quantity of share(s), date of the and deposit or withdrawal date); and
 - (iii) the CID of the client of the relevant licensed or registered person.
- (d) A licensed or registered person who conducts the reporting referred to under paragraph 5.7(b) or 5.7(c) should ensure that, before the reporting is conducted, it has collected the CID from the client.
- (f)(e) Regardless of whether a relevant licensed or registered person has already submitted the CID in respect of for the client (in the form of a BCAN-CID Mapping File) pursuant to paragraph 5.6, the relevant licensed or registered person needs to provide the client's CID of the client in the reporting made pursuant to under paragraph 5.7(b) or 5.7(ee).
- (g)(f) A relevant licensed or registered person should ensure that all information including CID that it submits to the Commission are SFC is accurate and free of errors and it kept up-to-date. It should notify the SFC Commission forthwith if it becomes aware that any such information is inaccurate or should otherwise be updated. A licensed or registered person It should have also put in place measures to ensure that CID collected from clients remain up to date on an ongoing basis require clients to notify it of any updates to their CID.
- (h)(g) On or before the reporting of information to the Commission-SFC in accordance with paragraph 5.7(b) or 5.7(ee) above, and where the information relates to a client who is an individual, the relevant licensed or registered person shall have obtained from such the client written or other express consent in form and manner in compliance with the SFC's requirements of the Commission. A record of consent must be kept by the relevant licensed or registered person for as long as the client remains its client and up to at least two years after the client relationship ceases.

- (i)(h) If the consent under paragraph 5.7(g) above cannot be obtained from a client, the relevant licensed or registered person should not submit any CID of that client to the SFC and. It should only effect transfers of shares held out of that client's account, and withdrawals of physical certificate(s) of shares share certificates from that client's account, (but not transfers of shares into that client's account and or deposits of physical share certificates certificate(s) of shares into that client's account).