



Institute of Financial Planners of Hong Kong

The premier professional body representing financial planners who uphold the highest standards in financial planning that benefit the public

IFPHK Response to the consultation paper on the proposed establishment of an investor education council and a financial dispute resolution centre

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IFPHK Company Profile

The Institute of Financial Planners of Hong Kong (IFPHK) is a non-profit, self-regulatory organization that is recognized in the region as the leading professional entity representing over 10,000 financial services practitioners from the financial planning and wealth management industry in Hong Kong.

The IFPHK began operation in June 2000 and in November 2000 obtained authorization from the CFP Board (US) to be the sole licensing body for assessment and certification of the CFP certificants in Hong Kong and Macau, and issuing the CFP certification marks, including CFP^{CM}, CERTIFIED FINANCIAL PLANNER^{CM}, and  CFP^{CM}, to qualified financial planning professionals in Hong Kong. Over the past nine years, CFP certification has gained respect and recognition from industry professionals, regulators and the broad retail community, and is currently regarded as the highest qualification for financial planning and wealth management practitioners.

The IFPHK is part of a strong global network and is an active Affiliate member of an international assembly of financial planning bodies called the Financial Planning Standards Board (FPSB), which was founded to promote the professionalism of individuals and organizations offering financial planning services to ensure that such services are offered in an ethical and competent manner throughout the world. FPSB works in conjunction with its Affiliate members to develop and promote rigorous international competency, ethics and professional practice standards for CFP certificants in member countries/regions to ensure that consumers looking for qualified personal financial planners understand and value professionally qualified advisors with the CFP designation. There are currently over 120,000 CFP professionals located in 23 countries.

Role of IFPHK in the Consultation

As the leading professional body representing the interests of the financial planning community in Hong Kong, IFPHK believes that it is important to respond to government and regulatory proposals and consultations on significant policy issues that might result in an immediate or major impact on the financial planning public, the financial planning community and/or their clients (either as individuals or institutions).

As the proposed creation of an investor education council (IEC) and a financial dispute resolution centre (FDRC) will have a direct impact upon the clients of financial planners operating across banking, insurance and IFA intermediaries offering financial planning/wealth management services. Therefore, it was



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deemed appropriate for IFPHK to develop a response paper to this FSTB consultation. In addition, the IFPHK and its corporate members have been actively involved in a variety of consumer focused financial literacy programs since 2000. We believed that it was important to share our experience in undertaking these programs with FSTB. The lessons learnt have been used to shape the recommendations contained within this consultation response.

In addition, it should be noted that the IFPHK has also put in place a highly regarded Professional Ethics Review Board, which meets semi-annually to review consumer complaints regarding professional misconduct of CFP certificants. Our experience in effectively managing financial service consumer complaints has also helped shape our recommendations in relation to the proposed creation of the FDRC.

The IFPHK's mission is to reinforce and uphold professional standards of the financial planning industry and to create a healthy, sustainable marketplace that protects the interests of both consumers and the industry. In considering the proposed creation of the IEC and FDRC, IFPHK took into account the following:-

- Cost effectiveness of the proposals in achieving it's stated goals
- Adequacy of projected funding for IEC in meeting it's stated goals
- Practical issues for consideration when implementing both the IEC and FDRC
- International insights from Affiliate members into the most effective financial dispute resolution schemes and financial literacy programs

When critically reviewing the 2 proposed reform initiatives, the following were highlighted:-

- Any unintended consequence resulting from the creation of either the IEC or the FDRC
- Any additional policy initiative for consideration that the IFPHK believes may assist the effectiveness of the IEC and the FDRC programs outlined in this consultation document

It should also be noted that the views and recommendations outlined below, referred to as "IFPHK views", represents the collective views of both the IFPHK management team and a few major industry players, as well as professional bodies. They, however, do not reflect a comprehensive membership consultation process.



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Major Proposals

The Securities and Futures Commission (SFC) and Hong Kong Monetary Authority (HKMA) analyses of the investigations into the alleged mis-selling of Lehman Minibonds identified faults in a number of areas. These include existing sales process operating in the industry, product disclosure, the quality of professional advice given to consumers, and dispute resolution mechanisms available in Hong Kong. Investigations and analyses of cases also clearly identified that in many instances consumers purchasing these products lacked a basic understanding of financial concepts that further impeded their ability to make sound and rational investment decisions.

Understanding that both HKMA and SFC are currently addressing sales process and product disclosure improvements, the IFPHK applaud the FSTB for developing specific initiatives aimed at improving deficiencies identified in (a) existing consumer financial literacy levels in Hong Kong, and (b) existing dispute resolution processes.

Understanding this, the IFPHK endorses-

- The creation of a well funded and resourced government body with the responsibility to implement a series of programs targeted at improving existing levels of financial literacy of the general Hong Kong population. IFPHK firmly believes that Hong Kong consumers currently are not sufficiently equipped with basic tools and knowledge to enable them to be effectively engaged with and/or relying confidently upon financial service providers, or allow them to make informed investment decisions in the future. IFPHK does however have specific recommendations regarding the corporate structure of this entity that we believe will increase its effectiveness in achieving the stated objectives.
- The need to improve the existing financial dispute resolution mechanisms available to Hong Kong consumers and thereby enabling them to receive a more efficient and less time consuming recourse to any unfavorable consumer experience. IFPHK does however have some concerns regarding the proposed model for the FDRC and some suggestions regarding alternative models for consideration.

Investor Education Council

The need for an IEC

As outlined in the IFPHK's response to the SFC consultation paper "Proposals to Enhance Protection for the Investing Public", we believe that well informed and



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financially literate consumers together with robust frameworks for regulating sales processes form the core pillars of assurance that benefit the investing public. Whilst the regulatory community has continued to refine and improve their oversight of the financial services industry, to date, limited resources have been allocated to address existing deficiencies in the levels of financial literacy in Hong Kong. As outlined in our response to the above mentioned consultation paper, the IFPHK believes that the expected improved consumer outcomes of the SFC recommended sales process and product disclosure enhancements will be jeopardized unless there are significant improvements to consumers' understanding of the financial products that they are investing.

In summary, the IFPHK firmly believes that the creation of a separate entity charged with the responsibility for providing financial literacy programs to mass market consumers in Hong Kong will, if properly funded and implemented, produce more fruitful relationships between financial service providers and their customers, as well as reduce future incidences of both mis-selling of products by intermediaries and 'mis-buying' of products by consumers.

Similar views were recently highlighted by Jon Pan of the Financial Services Authority, UK,

*"... we have seen the limits of what can be achieved with tools such as disclosure of product details and charges. In the past, we have attached great importance to ensuring that consumers were given the right information in order to enable them to make the right choices. However, experience has shown that although this might be a necessary, it is not a panacea to enable consumers to deal with product complexity and make informed choices. **The consumer must be able to understand the nature of the products they are actually buying and how it meets their needs**"¹*

Scope of services

In the absence of a centrally coordinated body with the responsibility and appropriate levels of funding to undertake financial literacy programs in Hong Kong, these services have been provided by a variety regulators, such as the SFC, the HKMA, the Mandatory Provident Fund Schemes Authority (MPFA), the Office of the Commissioner of Insurance (OCI), non-profit entities (including the IFPHK) and corporate financial service providers. Understandably, these multiple programs with different educational objectives and limited funding have not historically been able to produce the desired consumer financial literacy outcomes.

¹ Jon Pan, FSA Managing Director Retail Markets Speech September 19th 2009



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Understanding this, IFPHK endorses the need for the creation of the IEC offering expanded education **programs across the financial services industry**. The IFPHK acknowledges that this expanded scope of programs may address existing industry concerns regarding the product specific nature of education programs currently available in the market. Industry members have suggested that whilst many of these regulatory bodies operate world-class consumer education programs, their scopes are often limited to the specific product jurisdiction of each regulatory authority. The industry has expressed concerns that the development of basic levels of consumer understanding and confidence in financial concepts will not occur if education programs continue to be fragmented and limited by regulatory product specific educational mandates. The IFPHK therefore endorses the broad scope of products and services to be covered in these educational programs to also include the variety of services offered by the current providers.

Institutional set up

Governing structure

Whilst the IFPHK agree that operational efficiencies will be gained by leveraging the existing resources at the SFC when establishing the IEC, we have some reservations regarding the proposed governance structure, specifically with the SFC non executive director acting as Chair and the SFC appointment of IEC board members. Whilst we appreciate that relevant financial regulators and government will be represented on the IEC Board, IFPHK members have expressed concerns that the scope of the work conducted by this Board may be influenced by the preponderance of SFC appointed board members. We would like to see that investor education be done holistically and all financial products and services be given equal consideration.

In addition, there have also been concerns raised regarding the lack of industry representation at a board level. Industry bodies, such as the IFPHK, have substantial experience and expertise in the provision of consumer education, which we believe can provide useful assistance and direction to the future workings of the IEC. In the past, the IFPHK have been actively involved in a variety of consumer education programs conducted by the SFC and MPFA, and have proved to be a valuable asset to these programs.

As outlined above, the IFPHK firmly believes that one of the critical success factors for the creation of the IEC will be ensuring that its mandate is not limited to specific products operating within defined regulatory jurisdictions. We appreciate that the proposed scope of work to be undertaken by the IEC as outlined in this consultation paper is sufficiently broad, the IFPHK supports the proposal that IEC have a more independent governance structure with



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representations and board member appointments from the securities, insurance, banking and MPF regulators as well as industry bodies with expertise and experience conducting consumer education programs. With this in mind, we propose that the IEC Board be also accountable to the FSTB as its mandate covers the literacy of consumers in the whole financial services industry.

Funding

In addition to having an appropriately defined scope of work and governance structure, for the IEC must have appropriate levels of start up funding and annual funding to be successful in achieving its stated goals. Since many consumer education programs involve lengthy lead times, the IFPHK believes that it is extremely important that long-term funding budgets are not directly linked to the revenues derived from the SFC, which is typically market cyclical in nature. We note that the consultation paper suggested that "SFC will provide funding to IEC", but it is not clear whether or not the annual budget will be at the discretion of the SFC or will be defined externally by the FSTB for the stated HK\$50 million.

To ensure continuity of on going funding, the IFPHK recommends that an annual separate funding be established by FSTB and that the annual allocated funding of the IEC not be subject to the discretion of the SFC. International insights from FPSB Affiliate members suggest that in many instances well thought-out and designed consumer financial literacy programs are put "on the shelf" soon after development due to cuts in allocated funding for such projects. The IFPHK firmly believes that significant improvements to financial literacy levels of consumers in Hong Kong will only be achieved by investing in long-term programs delivered over a consistent time frame to specific target consumer groups. For IEC to deliver these programs, its annual budgets should not be subject to the discretion of one regulatory body but instead should be independently established by the FSTB.

In addition, the IFPHK endorses the suggested dollar value of the IEC budget of HK\$50 million. Whilst this dollar value may appear small relative to the HK\$270 million annual allocated in the UK budget for financial literacy programs, it should be recognized that the program costs in Hong Kong are likely to be lower due to the smaller population base requiring financial literacy education in Hong Kong.²

Financial Dispute Resolution Centre

It is proposed in the consultation paper that the FDRC should only address monetary issues, whilst regulatory breaches should be in the hands of the

² UK population 61 million Vs Hong Kong population 7 million.



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respective regulators. It is also proposed that it should be mandatory for SFC licensees and HKMA registrants to join the FDRC program.

Scope of service

Given this scope and coverage, we are concerned whether it the FDRC will be capable of addressing the consumer needs of receiving their unfavourable financial experience in a less costly and more time efficient manner. Whilst there could be insurance practitioners and MPF registrants not licensed/registered with the SFC and the HKMA, consumers wishing to lodge any complaints will be required to go through various channels to get their problems resolved.

We are concerned that for example, a complaint who maybe involved in a dispute with a HKMA registrant, but who is also involved in insurance products is covered in both the FDRC regime and the OCI regime. This may prove to be difficult to address any settlement/regulatory outcome that could arise.

Mandatory Program

It was mentioned in the consultation paper that the FDRC is a mandatory program for all SFC licensees and HKMA registrants. This could be the next stage in detail rule drafting but we propose to include precautionary measures to prevent institutions from applying delaying tactics or avoiding the mediation/arbitration proceedings.

Potential moral hazard issues for consideration

Whilst the IFPHK understands that consumers will be charged a HK\$100 non-refundable fee upon registration of the case and a HK\$500 fee when the case goes to mediation, we are concerned that this proposed fee structure is not at a sufficiently high level enough to prohibit unwarranted consumer claims and potential abuse of the system. The IFPHK also has reservations regarding the proposed level of charging for mediation to the firm involved in the alleged complaint. In some instances, this may be up to 10 times the fee charged to the consumer and may prove to be problematic for small independent financial advisers (IFA). Whilst a mixture of bank, insurance and IFA members make up the IFPHK membership base, the IFPHK believes that it is important to acknowledge potential problems it may present to the IFA community, especially those smaller financial planning/wealth management businesses.

To discourage potential abuse of the system by consumers and to ensure the smaller IFA businesses will not have an unwarranted financial burden placed upon them by the introduction of FDRC, the IFPHK recommends the following schedule fee split for consideration:



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- (a) For claims of less than HK\$100,000, consumers should be charged HK\$1500 and the financial institution HK\$4,500.
- (b) For claims above HK\$100,000, a split of HK\$3,000 to HK\$9,000 is recommended. For arbitration cases, a split of HK\$6,000 and HK\$18,000 is recommended.

Governing Structure

The IFPHK notes that the Board members of FDRC will be appointed by the government and will be constituted by major stakeholders. Whilst the consultation paper did not contain detailed information regarding potential advisory committees, the IFPHK recommends that industry body representation should be included in any resulting advisory committees, should they be created. Experience from international Affiliate members suggests that industry expertise is often needed in the mediation and arbitration processes. As such, the IFPHK recommends that industry bodies should be given the opportunity to be involved.