

Issuer Eligibility

1. Under what circumstances would the Exchange exercise its power to limit or pause product issuances by structured products issuers and when would such measures be lifted?

The Exchange retains absolute discretion to accept or reject applications for listing.

Non-compliance of minimum eligibility requirements

The Listing Rules set out minimum eligibility requirements for issuers to issue structured products. Where issuers fail to meet these eligibility requirements, they must not launch new products. In addition, they must apply for withdrawal of products (a) with no outstanding position in the market; and (b) launched but not yet listed. Issuers are expected to make necessary arrangements to enable re-compliance with the eligibility requirements as soon as practicable.

Other circumstances that the Exchange may impose restrictions

There may be circumstances of a rapidly deteriorating credit situation but such negative developments may not be timely reflected in issuers' credit ratings. Notwithstanding that issuers' credit ratings are still maintained at eligible investment grades thereby meeting the minimum eligibility requirements, the Exchange may at its sole discretion, impose a limit on product issuances and listing to contain market exposure to products issued by the relevant issuers. Such a limit will allow an orderly reduction of such issuer's market concentration risk as the stock of issuers' products naturally expire or get knocked out under the terms and conditions of the products.

The Exchange shall take into account market variables reflecting sustained elevation of credit risks of issuers and the speed of credit deterioration in determining whether limits on product issuances or other risk mitigation measures are required. Typically, market variables may include increase in cost of credit default swaps, drop in bond price and suspension of dividend payment to holders of preference securities. In determining the values of market variable, the Exchange may use rolling averages to reduce the effect of short-term market volatility. For example, an elevated credit default swap to an average of 400 bps or above over a three-day period may indicate a material adverse change in issuers' credit position. Where the above data is unavailable on the issuer level, the Exchange shall take into consideration the relevant data relating to issuers' parent companies. Where credit default swap and bond price data are unavailable, stock price volatility may be considered. In addition, the default in repayment obligations of financial instruments or breach of regulatory requirements on capital and liquidity is an indicator of financial stress to warrant imposition of risk mitigation measures.

The risk mitigation measures shall be lifted when issuers' credit conditions improve as reflected in the market variables. Using the credit default swap mentioned above as an example, the risk mitigation measures may be lifted when the three-day average of credit default swap falls below 400 bps for a rolling thirty-day period. Risk mitigation measures may be re-imposed at a later time if credit conditions worsen subsequent to the lift. Using the example above, credit default swap reaching 400 bps or above may trigger the risk mitigation measures to be implemented again.

*MB Rules 15A.02, 15A.12, 15A.13
First released: May 2024*

2. Can an issuer continue to issue new products upon a credit rating downgrade?

The creditworthiness of issuers is of critical importance in ensuring the integrity, stability and on-going investor confidence in the Exchange's uncollateralized structured products market.

For an issuer qualified via credit rating route, if the credit rating falls below one of the top three investment grades or under review for possible downgrade to less than such grade, the issuer must not launch any new issues or further issues. In addition, where an issuer fails to meet the credit rating requirements at any time, the issuer must apply for withdrawal of (i) products launched but not yet listed; and (ii) products with no outstanding position in the market. The issuer should also publish an announcement regarding the credit rating downgrade and its continuing obligation to provide liquidity and perform settlement obligation upon expiry.

*MB Rule 15A.13(1)
First released: July 2012; last updated: May 2024*

3. What is expected from issuers regarding their internal controls and systems on documentation?

Issuers should put in place adequate internal control systems to ensure accuracy of documentation and enable error detection. Frequent errors, irrespective of materiality, may indicate internal control weaknesses on documentation and may affect the structured products issuers' status. Past experience indicates that incidents and errors could have been avoided if there are:

- (a) adequate resources and sufficient time for the documentation process;
- (b) sufficient communication and coordination among different departments and external counsel;
- (c) robust review by staff with adequate technical competency;
- (d) robust and regular review of documentation controls; and
- (e) regular staff training to ensure they understand and adhere to the stated controls.

The above list is not exhaustive. Issuers are recommended to devise its internal controls and systems based on their specific circumstances.

*MB Rule 15A.11
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4. What is the protocol issuers should follow upon occurrence of documentation errors, pricing incidents or liquidity provision disruption?

Issuers should follow the following protocol:

- (a) inform the Exchange immediately of (i) errors that affect terms and conditions; (ii) errors that relate to disclosure required by the Listing Rules; (iii) matters which may cause unusual trading price or volume or an establishment of a false market; or (iv) the occurrence of a fast market, operational or technical problem or other matters that affect its ability to provide liquidity as set out in the guides published by the Exchange or the listing documents;
- (b) publish an announcement about the incident as soon as possible;
- (c) provide a preliminary impact assessment and the basis on whether suspension is needed or not needed as soon as possible;
- (d) where the error involves terms and conditions set out in the listing documents, provide a legal opinion whether the error affects the validity of the intended terms and conditions as soon as possible; and
- (e) where appropriate, provide a preliminary incident report on the cause of the incident and proposed remedial measures as soon as possible.

Consideration will be given to the cause of the incident, materiality, market impact, frequency of errors and prior compliance records. The Exchange may take the following actions as appropriate:

- (a) suspend new issuance until satisfactory remedial measures are taken;
- (b) request issuers to appoint an independent professional party to review the adequacy of internal control procedures; and/or
- (c) take disciplinary action including assessment of an issuer's suitability to manage structured products issuance.

MB Rule 15A.11

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5. What is expected from issuers regarding their investor communication strategy?

The past experience of the Exchange in handling investor complaints indicated that some complaints were caused by investors' misunderstanding of liquidity provider obligations, nature of structured products and how pricing may be affected. Issuers should therefore allocate adequate resources for investor education. This should include, among other things:

- (a) publishing on issuers' websites an agreed industry response to the questions most frequently asked by investors;
- (b) setting up a dedicated or user friendly hotline to answer enquiries and complaints. Complaints must be handled in a timely and appropriate manner. This involves an immediate investigation with possible remedial action and a prompt response to the complainant;
- (c) organizing regular investor seminars; and



- (d) conducting regular assessment on sufficiency and effectiveness of investor education programs for future planning.

Issuers should lay down procedures on how to communicate with investors, regulators and media, particularly in response to unanticipated events. The communication should be timely and transparent.

MB Rule 15A.11

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6. What is expected from issuers regarding their conduct and personal account dealing rules?

Issuers should act in the best interests of the integrity of the structured products' market and not bring that market or the Exchange into disrepute. The Exchange may suspend new issuance of structured products for issuers failing to comply with the guides published by the Exchange and commence a review of their suitability to act as listed structured product issuers.

Issuers, whether or not they are licensed or authorized by the SFC, should observe the relevant sections in the SFC's Code of Conduct for Persons Licensed by or Registered with the SFC, including the general principles, employee dealings, complaints handling and responsibility of senior management.

Issuers should formulate best practices on staff personal account dealings for products issued by their own firms or by other issuers.

MB Rule 15A.11

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