HKEX 香港交易所

Frequently Asked Questions
Structured Products

May 2024

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
First released: July 2012; last updated: May 2024

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
First released: July 2012; last updated: May 2024

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
First released: July 2012; last updated: May 2024

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
First released: July 2012; last updated: May 2024

Disclosure Obligations

1. What are the guidelines governing the publication of marketing materials in relation to listed structured products?

An issuer should comply with the Guidelines on Marketing Materials for Listed Structured Products issued from time to time by the Securities and Futures Commission. Any such marketing materials should also prominently display the non-collateralized nature of structured products and highlight the associated risks.

MB Rule 15A.53
First released: July 2012; last updated: May 2024

2. What is a "false market"?

The term "false market" refers to a situation where there is material misinformation or materially incomplete information in the market which is compromising proper price discovery. This may arise, for example, where:

(a) an issuer has made a false or misleading announcement;
(b) there is other false or misleading information, including a false rumour, circulating in the market;
(c) an issuer has inside information that needs to be disclosed under the Inside Information Provisions but it has not announced the information (e.g. the issuer signed a material contract during trading hours but has not announced the information); or

(d) a segment of the market is trading on the basis of inside information that is not available to the market as a whole.

Where a media or analyst report appears to contain information from a credible source (whether that information is accurate or not) and:

(a) there is a material change in the market price or trading volume of the issuer's structured products which appears to be referrable to the report (in the sense that it is not readily explicable by any other event or circumstance); or
(b) if the market is not trading at the time but the report is of a character that when the market starts trading, it is likely to have a material effect on the market price or trading volume of the issuer's structured products,

the issuer must announce information necessary to avoid a false market in its structured products.

MB Rules App E5–1(1)(a), APP E5-26
First released: April 2013; last updated: May 2024

3. What is the meaning of the term "such enquiry with respect to the issuer and/or the guarantor as may be reasonable in the circumstances"? What sort of enquiry is an issuer and/or its guarantor required to make in response to the Exchange's enquiries?

When will an issuer and/or its guarantor be expected to contact any of its controlling shareholders when they are not directors or officers of the issuer and/or the guarantor?

The facts and circumstances giving rise to each enquiry are different. Therefore, what enquiry is reasonable depends on the circumstances, and there are no hard and fast rules. The test is one of reasonableness.

To facilitate compliance, it is crucial that an issuer and/or the guarantor implement(s) and maintain(s) adequate and effective internal control systems and procedures to ensure material information concerning the issuer, the guarantor and/or any of its/their business would be promptly identified, assessed and escalated to the Board for consideration and action from a Rule compliance perspective. This would require a timely and structured flow to the Board of information arising from the development or occurrence of events and circumstances so that the Board can decide whether disclosure is necessary.

An issuer and/or its guarantor is/are generally not expected to contact (a) any of its controlling shareholders when they are not directors or officers of the issuer and/or the guarantor, or (b) counterparties to a transaction, except if there is information available to the issuer and/or the guarantor suggesting that the subject matter of the enquiry is related to the controlling shareholders or the counterparties to a transaction. For example, the issuer and/or the guarantor is/are aware of any of its controlling shareholder's plan to dispose of its interest in the issuer and/or the guarantor, and there is an unusual increase in the trading volume of the issuer's structured products. Another example is where there are press articles suggesting that the counterparty to a disclosed transaction may not be able to complete the transaction as a result of difficulties in obtaining financing.

MB Rule APP E5-26(2)
First released: April 2013; last updated: May 2024

4. An issuer has inside information which is exempted from disclosure under one or more of the safe harbours in the Inside Information Provisions. If there are market rumours which are unrelated to this information, but have resulted in unusual trading movements of the structured products, does the issuer need to publish a standard announcement?

If the standard announcement states that there is no inside information that needs to be disclosed under the Inside Information Provisions, but the issuer subsequently discloses the information, say a month later, will this result in market uncertainty?

Whether an announcement is required to be issued under these provisions depends on the facts and circumstances of the matter. It is only if and when requested by the Exchange that an announcement needs to be issued.

Information that is exempted from disclosure under the Inside Information Provisions does not fall within the term "any inside information that needs to be disclosed under Part XIVA of the Securities and Futures Ordinance" contained in the standard announcement. Therefore, a standard announcement issued under those circumstances will not be inaccurate.

To avoid market uncertainty arising from the subsequent disclosure of the inside information previously exempted from disclosure, the issuer can clarify in the disclosure announcement that the information was exempted from disclosure when the standard announcement was issued.

MB Rule APP E5-26(2)
First released: April 2013; last updated: May 2024

5. Where and for how long should documents on display be published online? How will these documents be removed from the relevant websites after the expiry of the prescribed display period?

An issuer should publish documents on display on both the HKEX website (through EPS under the headline category "Documents on Display") and the issuer's website for the time period prescribed by the Listing Rules (which is the same as what the Listing Rules originally require for physical display of such documents).

After the expiry of any relevant display period prescribed by the Listing Rules, an issuer should remove the documents on display manually from the HKEX website through EPS and its own website.

An issuer should not do so before the expiry of the relevant display period.

MB Rule APP D1D-27
First released: June 2021; last updated: May 2024

6. Do the obligations to make an announcement to avoid a false market in the issuer's structured products, to respond to the Exchange's enquiries, and to apply for a trading halt cover information relating to the underlying stock?

No, those obligations are generally confined to information relating to the structured products, issuers and/or guarantors.

MB Rules APP E5-1(1)(a), APP E5-26
First released: April 2013; last updated: May 2024

Products

1. Can an issuer round down the residual value for Category R CBBCs?

No. An issuer should act fairly and in good faith to investors i.e. not paying less than the residual value as determined in accordance with the listing documents. The Exchange expects the residual value to be rounded up instead of rounded down.

MB Rule 15A.36(1)
First released: May 2024

2. Should an issuer launch structured products linked to a stock underlying which is under trading halt?

No structured products linked to a stock underlying should be launched when the underlying is under trading halt. As such, the issuer should not submit term sheets on such underlying for the Exchange's approval.

If the trading halt of the underlying stock occurs in the afternoon session, term sheets submitted or approved prior to the trading halt should be withdrawn.

MB Rule 15A.55
First released: May 2024

Liquidity Provision

1. In response to a quote request, can an issuer (including its Liquidity Provider provide a one-sided quote if the theoretical value of the bid price of a structured product is less than HK$0.01?

An issuer has continuing obligations to respond to investors' requests for quotes within committed service levels, including the provision of two-sided quotes to meet the maximum bid-ask spread requirement. As stated in the launch announcement and supplemental listing document, if the Liquidity Provider chooses to provide liquidity when the theoretical value of the Warrant is less than HK$0.01, both bid and ask price quotes should be made available.

MB Rule 15A.22(4)
First released: May 2024

2. If a quote request is received three minutes before the close of the morning trading session, is an issuer obligated to meet the five-minute minimum holding time?

Yes. An issuer should provide quotes with a minimum holding time of five minutes in response to a quote request notwithstanding that such request is received shortly prior to the close of the morning session. Where the holding time is less than five minutes upon the close of the morning session, the Liquidity Provider should continue to provide quotes upon commencement of the afternoon session, such that the aggregate holding time is not less than five minutes to meet the minimum holding time standard set out in the Industry Principles on Liquidity Provision for Listed Structured Product (the "**Industry Principles**").

The obligation to maintain the five-minute minimum holding time lapses if any investor has

proceeded with a trade with such quote during this period.

MB Rule 15A.22(3)
First released: May 2024

3. Should an issuer provide active quotes all the time for its products?

An issuer should strive to provide quotes all the time when the prescribed criteria for active quotes set out in the Industry Principles are met. However, it is recognized that an issuer may temporarily cease quoting for a short period of time to adjust quotes in response to market conditions or other operational needs. The Exchange will monitor the duration of time during which active quotes are provided by an issuer for each product and may require an issuer to explain if (i) it fails to provide active quotes for at least 90% of the Qualified Period (as defined in the Industry Principles) of a trading day; or (ii) any temporary cessation of active quotes exceeds 10 minutes in the Qualified Period. The Exchange may review and adjust the monitoring thresholds from time to time.

While an issuer should comply with these principles, the principles are not intended to be binding commitments nor should they give rise to enforceable obligations or duties. Occasional failure to comply with the Industry Principles will not in itself render an issuer or its liquidity agent liable to any sanction or enforcement action. However, compliance with the Industry Principles is relevant to the Exchange's assessment of an issuer's suitability to list structured products.

MB Rule 15A.22(2-4)
First released: July 2012; last updated: May 2024

4. How should an issuer monitor liquidity provision performance?

An issuer should adopt the following best practices in monitoring its liquidity provision performance:

(a) implement internal systems and procedures to:
   i. monitor whether actual performance meets committed obligations and the Industry Principles;
   ii. record all quote requests and include them in monthly quote request report submitted to the Exchange; and
   iii. monitor unusual price and volume movements of structured products;

(b) keep records of actual liquidity provision performance and report the content of such records to the Exchange upon request;

(c) provide a report to the Exchange on remedial measures and signed by its compliance officer when there are material non-conformances with liquidity provision obligations;

(d) inform the Exchange immediately upon becoming aware of any events which affect its ability to provide liquidity and publish announcements to inform the market as soon as possible; and

(e) record complaints made with respect to its structured products as required by its internal policies and the SFC's Code of Conduct for Persons Licensed by or Registered with the SFC. The complaint log should be readily available to the Exchange upon request.

MB Rules 15A.11, 15A.22
First released: July 2012; last updated: May 2024

Trading Arrangements

1. Where an issuer's disclosure obligations are deferred under the FIRO[1], will dealings in structured products of such issuer be suspended?

There is no automatic suspension of dealings in structured products of such issuer, but the FIRO provides that the resolution authority may direct the Exchange to suspend, or not to suspend, dealings in structured products of an issuer despite its disclosure obligations have been deferred under the FIRO.

According to Part 9[1] of the FIRO, the resolution authority must consult the SFC (if the SFC is not the resolution authority) before its exercise of any powers to defer disclosure obligations or suspend, or not suspend, dealings to enable the SFC's views to be ascertained (including e.g. on the effects of deferral, suspension or non-suspension on the market, and financial stability).

Any decision to exercise such powers would not be taken lightly by a resolution authority given their potential risks and ramifications for the stability and effective functioning of the financial system. Ultimately, the extent to which the resolution authority would use any of these powers on failure of an institution would depend upon its assessment of the risks posed to the orderly resolution, its balancing of the resolution objectives in the context of securing its financial stability objectives as set out in the FIRO and the operational mechanics (to be developed by the resolution authorities) for the implementation of the FIRO stabilization options.

MB Rule 6.01
First released: October 2017; last updated: May 2024

2. Company A is an issuer of structured products listed on the Exchange. Company B, an unlisted group company of Company A, guarantees Company A's obligations under the structured products.

Company A is subject to Part 9 of the FIRO, while Company B is not.

Where Company A's disclosure obligations are deferred under section 150 of the FIRO or suspended of the FIRO or suspended under section 153 of the FIRO, will Company B's disclosure obligations remain intact?

Where Company A's disclosure obligations are deferred under section 150 of the FIRO or suspended under section 153 of the FIRO, the Exchange will exercise the general waiver approved by the SFC under Main Board Rule 2.04 to waive Company B's disclosure obligations under the Rules arising out of or in connection with the possible resolution which may be triggered, or the resolution triggered under the FIRO.

MB Rule 2.04
First released: October 2017; last updated: May 2024

[1] The Financial Institutions (Resolution) Ordinance (Cap.628)("**FIRO**") vests in the three sectoral resolution authorities (being the Monetary Authority, the SFC or the Insurance Authority) with a range of powers to enable orderly resolution of a non-viable, systemically important financial institution for the purpose of maintaining financial stability, while seeking to protect public funds. In particular, Part 9 of the FIRO empowers a resolution authority to temporarily defer certain entities' disclosure obligations under section 307B of the SFO in certain circumstances (including that the disclosure would cause or contribute to the non-viability of the entity or its group company or impede the ability of the resolution authority to achieve orderly resolution), and in that case, the entities' disclosure obligations under the Rules will also be deferred automatically.

3. Part 9 of the FIRO, as currently drafted, does not cover suspension of dealings in structured products listed under Chapter 15A of the Main Board Listing Rules that are cash settled only.

What will happen to dealings in the cash-settled structured products of an issuer that is subject to Part 9 of the FIRO in the three scenarios below?

(a) Prior to the application of a stabilization option under the FIRO, where the relevant issuer also has securities as defined under the FIRO (e.g. shares) listed on the Exchange;

Where the relevant resolution authority has served a direction under the FIRO on the Exchange to suspend, or not to suspend, the issuer's securities as defined under the FIRO (e.g. shares), the Exchange shall exercise its power under Main Board Rule 6.01 to suspend dealings, or refrain from directing a suspension of dealings, in the issuer's cash-settled structured products in the same way.

(b) Prior to the application of a stabilization option under the FIRO, where the relevant issuer does not have any securities as defined under the FIRO (e.g. shares) listed on the Exchange (i.e. the issuer issues cash-settled structured products only); or

The relevant resolution authority shall inform the Exchange when the issuer's disclosure obligations has been deferred under the FIRO, and request the Exchange to suspend, or not to suspend, dealings in the issuer's cash-settled structured products.

The Exchange shall exercise its power under Main Board Rule 6.01 to suspend dealings, or refrain from directing a suspension of dealings, upon receipt of the resolution authority's request.

(c) When and if a "bail-in" under the FIRO is in effect.

The relevant resolution authority shall inform the Exchange when and if a "bail-in" under the FIRO is in effect and the issuer's disclosure obligations are suspended by force of law pursuant to section 153 of the FIRO.

The Exchange shall exercise its power under Main Board Rule 6.01 to suspend dealings upon receipt of the notice.

MB Rule 6.01
First released: October 2017