

MEDIA STATEMENT



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organização Internacional das Comissões de Valores
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IOSCO/MS/04/2012

Madrid, 21 February 2012

IOSCO consults on suitability requirements for complex financial products

The Technical Committee of the International Organization of Securities Commission (IOSCO) has published a consultation report – [*Suitability Requirements with respect to the Distribution of Complex Financial Products*](#) (Suitability Requirements) – which sets out proposed principles relating to the customer protections, including suitability and disclosure obligations, which relate to the distribution by intermediaries of complex financial products to retail and non-retail customers.

The report was prompted by concerns regarding the assessment of customer suitability in relation to the distribution of complex financial products arising out of and in connection with recent market turmoil. It also supports the call by the G20 for action to review business conduct rules.

Proposed Principles on Suitability Requirements

The proposed principles are set out below:

Classification of customers

Principle 1: Intermediaries should be required to adopt and apply appropriate policies and procedures to distinguish between retail and non-retail customers when distributing complex financial products. The classification of customers should be based on a reasonable assessment of the customer concerned, taking into account the complexity and riskiness of different products and services. The regulator should consider providing guidance to intermediaries in relation to customer classification.

General duties irrespective of customer classification

Principle 2: Irrespective of the classification of a customer as retail or non-retail, intermediaries should be required to act honestly, fairly and professionally and take reasonable steps to manage conflicts of interest that arise in the distribution of complex financial products, including through disclosure, where appropriate.

Disclosure requirements

Principle 3: Investors should receive or have access to material information to evaluate the nature,

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costs and specific risks of the complex financial product. Any information communicated by intermediaries to their customers regarding a complex financial product should be communicated in a fair, comprehensible and balanced manner.

Protection of customers for non-advisory services

Principle 4: Even when an intermediary sells to a customer a complex financial product on an unsolicited basis (no management, advice or recommendation), the regulatory system should provide for adequate means to protect customers from associated risks.

Suitability protections for advisory services

Principle 5: Whenever an intermediary recommends to a customer that it purchase a particular complex financial product, including where the intermediary advises or otherwise exercises investment management discretion, the intermediary should be required to take reasonable steps to ensure that recommendations, advice or decisions to trade on behalf of such customer are based upon a reasonable assessment that the structure and risk-reward profile of the financial product is consistent with such customer's experience, knowledge, investment objectives, risk appetite and capacity for loss.

Principle 6: An intermediary should have sufficient information in order to have a reasonable basis for any recommendation, advice or exercise of investment discretion made to a customer in connection with the distribution of a complex financial product.

Compliance function and internal suitability policies and procedures

Principle 7: Intermediaries should establish a compliance function and develop appropriate internal policies and procedures that support compliance with suitability obligations, including when developing or selecting new complex financial products for customers.

Incentives

Principle 8: Intermediaries should be required to develop and apply proper policies that seek to eliminate any incentives for staff to recommend unsuitable complex financial products.

Enforcement

Principle 9: Regulators and self-regulatory organizations should supervise and examine intermediaries on a regular and ongoing basis to help ensure firm compliance with suitability and other customer protection requirements relating to the distribution of

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complex financial products. Enforcement actions should be taken by the competent authority, as appropriate. Regulators should consider the value of making enforcement actions public in order to protect investors and enhance market integrity.

As part of its work in developing this report IOSCO surveyed members on current regulatory frameworks with respect to conduct of business rules and required disclosures to customers regarding the distribution of complex financial products. In addition industry associations were also surveyed on industry practices with regard to suitability requirements with regard to complex financial products.

A summary of the outcome of these surveys, including lessons learned from the financial crisis and the relevant actions undertaken by members, is included as an Appendix to the Report.

The closing date for responses to this consultation report are due by Monday 21 May 2012.

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NOTES FOR EDITORS

1. CR03/12 [Suitability Requirements with respect to the Distribution of Complex Financial Products](#).
2. IOSCO is the leading international policy forum for securities regulators and is recognised as the global standard setter for securities regulation. The organization's membership regulates more than 95% of the world's securities markets in 115 jurisdictions and its membership continues to expand.
3. The [Technical Committee](#), a specialised working group established by IOSCO's Executive Committee, is made up of 18 agencies that regulate some of the world's larger, more developed and internationalized markets. Its objective is to review major regulatory issues related to international securities and futures transactions and to coordinate practical responses to these concerns. Mr. Masamichi Kono, Vice Commissioner for International Affairs at the Financial Services Agency of Japan (JFSA), is the Chairman of the Technical Committee. The members of the Technical Committee are the securities regulatory authorities of Australia, Brazil, China, France, Germany, Hong Kong, India, Italy, Japan, Mexico, the Netherlands, Ontario, Quebec, Spain, Switzerland, United Kingdom and the United States.
4. IOSCO aims through its permanent structures:
 - to cooperate in developing, implementing and promoting adherence to internationally recognised and consistent standards of regulation, oversight and enforcement in order to protect investors, maintain fair, efficient and transparent markets, and seek to address systemic risks;
 - to enhance investor protection and promote investor confidence in the integrity of securities markets, through strengthened information exchange and cooperation in enforcement against misconduct and in supervision of markets and market intermediaries; and
 - to exchange information at both global and regional levels on their respective experiences in order to assist the development of markets, strengthen market infrastructure and implement appropriate regulation.

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