Enhancements to investor compensation regime gazetted

The Government and the Securities and Futures Commission (SFC) published in the Gazette today (October 11) the Securities and Futures (Investor Compensation-Levy) (Amendment) Rules 2019, the Securities and Futures (Investor Compensation-Compensation Limits) (Amendment) Rules 2019 and the Securities and Futures (Investor Compensation-Claims) (Amendment) Rules 2019 (the amendment rules) to enhance the investor compensation regime (the Regime) in Hong Kong.

A Government spokesman said, "The objective of the Regime is to provide a degree of compensation to investors who have sustained a loss in relation to exchange-traded securities or futures contracts as a result of a default by their intermediary in Hong Kong. An Investor Compensation Fund (ICF) was established under the Regime for the payment of compensation. The SFC reviews the Regime from time to time, and if necessary, introduces enhancements to ensure that the arrangements are in keeping with the times."

Taking into account the growth and development of Hong Kong's securities and futures market, the following enhancements to the Regime will be introduced, including:

(a) raising the compensation limit from $150,000 to $500,000 per investor per default;

(b) consequential to the increase in the compensation limit, raising the trigger levels for suspending and reinstating the ICF levy, i.e. raising the suspension level from $1.4 billion to $3 billion, and the reinstatement level from $1 billion to $2 billion. The above trigger levels will not affect the levy suspension in effect since 2005; and

(c) expanding the coverage of the Regime so that it also covers trading on the northbound links of the Stock Connect.

"The Regime is intended to protect investors against losses due to default by intermediaries in Hong Kong. As transactions under the northbound links of the Stock Connect must be routed through Hong Kong intermediaries, these transactions should be covered under the Regime. Consistent with this, transactions under the northbound links of the Stock Connect should also be subject to the ICF levy if and when triggered," the spokesman added.

The SFC conducted a public consultation on the proposed enhancements to the Regime from April to June 2018 and received strong support for the proposed enhancements. The above enhancements would strengthen investor protection and investor confidence in the securities and futures markets in Hong Kong.

As a related matter, when the ICF came into operation in 2003, it replaced the pre-Securities and Futures Ordinance (the Ordinance) compensation funds/schemes which include the Dealers Deposit Scheme (DDS). Owing to certain technical legal issues, the winding-up procedures for the DDS have not commenced, although it had ceased to operate since 2003. The Ordinance was amended subsequently to deal with these technical issues.

To begin the winding-up process of the DDS, the Government has published in the Gazette today the Securities and Futures Ordinance (Appointed Day-Dealers Deposit Scheme) Notice to appoint January 1, 2020 as the appointed day to begin the process to wind up the DDS.

The amendment rules will be tabled before the Legislative Council for negative vetting on October 16. Subject to negative vetting by the Legislative Council, the amendment rules will come into operation on January 1, 2020. The appointed day to begin the process to wind up the DDS is also January 1, 2020.