INVESTMENT COMPANY INSTITUTE

COMMENT LETTER

November 12, 2020

ICI Global's Response to the HKMA Consultation on the Greater Bay Area Wealth Management Connect (pdf)

9 November 2020 1 Mr. Alan Au Executive Director (Banking Conduct) Hong Kong Monetary Authority 55th Floor, Two International Finance Centre 8 Finance Street Central Hong Kong ICI Global Responses to the HKMA Consultation on Implementation Arrangements for the Cross-boundary Wealth Management Connect Pilot Scheme in the Guangdong-Hong Kong-Macao Greater Bay Area Dear Alan, On behalf of our members, ICI Global1 appreciates the opportunity to provide feedback to the Hong Kong Monetary Authority (HKMA) on the proposed implementation arrangements for the Cross- boundary Wealth Management Connect Pilot Scheme ("WMC Scheme") in the Guangdong-Hong Kong-Macao Greater Bay Area ("GBA"). These recommendations summarize our thoughts on the proposed implementation arrangements and feedback that ICI Global members have provided during the abbreviated comment period. Scope of Investment Products We appreciate the efforts the HKMA and the Securities and Futures Commission (SFC) made in allowing a broader range of investment products under the first phase of the WMC Scheme, e.g., approved pooled investment funds (APIFs) and unlisted share classes of exchange-traded funds. We are grateful that, as per discussions during the consultation sessions held on 29 October and 4 November, funds of funds that meet eligibility criteria set for WMC Scheme products are also eligible. We assume that this includes hybrid funds of funds which invest parts of their assets directly and parts via other funds and which otherwise meet the eligibility criteria. A wider range of 1 ICI Global carries out the international work of the Investment Company Institute, the leading association representing regulated funds globally. ICI's membership includes regulated funds publicly offered to investors in jurisdictions worldwide, with total assets of US$33.8 trillion. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of regulated investment funds, their managers, and investors. ICI Global has offices in London, Hong Kong, and Washington, DC. 9 November 2020 2 product offerings is a fundamental building block for an attractive and successful cross-boundary investment scheme. We understand that whether feeder funds rated as low-to-medium risks should also be included in the WMC Scheme is still under discussion among the authorities. We would urge the Hong Kong side to put this forward. Currently, Hong Kong-domiciled funds typically pursue predominantly Asian or China-centric strategies. Yet, we need to make our product offerings more diverse to attract and better serve investors. One simple step in this direction would be to include in our product pool Hong Kong-domiciled funds that feed into other funds that pursue global strategies. Most global strategies funds are managed by global asset managers who have strong expertise in global equities/bonds and are based in

other major hubs. Including feeder funds in the range of eligible products would provide a well-diversified product range for mainland Chinese investors, most of whom would be looking for a balanced and diversified portfolio through the WMC Scheme. While it would appear obvious from the discussions during your briefings in August, October and earlier this month, we would like to confirm that the size of a fund, whether it is an existing or a completely new fund and whether it has a RMB share class are not part of the eligibility criteria. In addition, we also urge the regulators to consider further expanding the scope of eligible investment products in the second phase of the WMC Scheme by including other products such as individual bonds, exchange-traded funds and Mandatory Provident Funds (MPFs) that are classified as low-to-medium risk. Account Opening Procedures We understand and support the decision that an in-person account opening arrangement is preferable for a phased and prudent approach in launching the WMC Scheme. We would recommend that the HKMA review the in-person account opening requirements and introduce streamlined procedures after the WMC Scheme has been in operation for a certain period, such as six to 12 months. Sales and Marketing Arrangements – Southbound We understand that an execution-only model is necessary for product distribution under the WMC Scheme to stay clear of possible regulatory issues in mainland China given that the investment products are not authorized by the China Securities Regulatory Commission (CSRC). As mainland investors likely are unfamiliar with Hong Kong investment products and the investment environment, for the WMC Scheme to succeed, i.e., build meaningful traction, attract a critical mass of mainland investors and ultimately meet their investment needs, we suggest building in a hybrid selling process for mainland investors. We could segment mainland Chinese investors into two groups – (i) potential WMC Scheme customers and (ii) WMC Scheme customers who come to Hong 9 November 2020 3 Kong in person to open WMC investment accounts and ask for WMC Scheme product advice or recommendations. For Group 1 customers, we agree that the banks should perform execution-only services and provide only factual information at the request of the customers. For Group 2 customers who are physically in Hong Kong, we would suggest allowing the banks in Hong Kong – those who are licensed or registered with the SFC to conduct Type 1 and Type 4 regulated activities – to provide advice on investment products (which are authorized by the SFC) under the WMC Scheme. As banks directly interact with mainland Chinese investors in Hong Kong, their conduct and relationship with these investors are subject to the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (“Code of Conduct”)2. The Code of Conduct mandates that, when opening investment accounts for investors, banks must conduct Know-Your-Client (“KYC”) and suitability risk profiling assessments as part of the account opening and investment product selling process. Furthermore, banks are required to observe Paragraph 5.1 of the Code of Conduct which provides specific guidelines on the acceptable approaches for opening accounts, and Paragraph 5.2 of the Code of Conduct3, which makes clear that when making a recommendation or solicitation to a client, the bank must ensure that the suitability of the recommendation or solicitation for that client is reasonable in all the circumstances. Paragraph 5.1 and 5.2 together are aimed at protecting the interests of investors by ensuring that when a regulated intermediary recommends an investment product, he has done proper KYC and product due diligence and that he is satisfied that the product suitability assessment that he made is reasonable having regard to the client’s investment objective, financial situation and other relevant circumstances. This is a high standard which has worked well in Hong Kong to protect investors, uphold professional standards and ensure market confidence. We therefore suggest that, for mainland investors who are physically in Hong Kong to open their accounts, they should be given the option, if they choose, to make their investment decision upon suitability advice. Compared to a strict execution-only model, this flexibility allows investors to invest with the assurance that the products recommended are considered suitable for them. This is in the interest not only of banks and asset managers, but more importantly the investors. On post-sale follow-up, we welcome the decision that banks in Hong Kong are permitted to contact the mainland Chinese investors to provide updates on their investment portfolios regardless of whether the investors are physically in Hong Kong or not. We agree that no solicitation or recommendation should be involved in the post-sale follow-up process unless the investors are physically in Hong Kong and have asked for this service. 2 Paragraph 5.1 of the Code of Conduct is available at https://apps.sfc.hk/edistributionWeb/api/circular/openFile?lang=EN&refNo=19EC45 3 Paragraph 5.2 of the Code of Conduct is available at https://www.sfc.hk/en/Rules-and-standards/Suitability-requirement 9 November 2020 4 Investment Quota We agree that RMB 1 million for individual investment quota would be a good starting point for the first phase of the WMC Scheme. Nevertheless, we recommend that the HKMA consider increasing the quota limit in the subsequent phase of the WMC Scheme. Tax Arrangements – Northbound and Southbound We request clarification on the tax obligations for Hong Kong investors and mainland Chinese investors under the WMC Scheme. It is unclear whether investors will be subject to tax on both or either side of the border when investing via the WMC Scheme and whether the tax obligation rests with the banks or with the individual investors. We truly appreciate the opportunity to express our comments to the HKMA and look forward to the issuance of the final implementation rules. Please free feel to contact me if you have any questions regarding ICI Global's recommendation or would like any additional information. Sincerely, Alexa Lam CEO, ICI Global Asia Pacific