

LIST OF QUESTIONS FOR CONSULTATION

Question 1

1.1 Do you agree with the proposed amendment to raise the upper claimable limit to HK\$3,000,000? Please state your reasons.

SERICA: Agreed that the suitable upper claimable limit to be HK\$3,000,000 which has been a reasonable increase of 6 times since 2012.

1.2 If not, what would be your suggestion of a suitable upper claimable limit?

__HK\$1,000,000; __HK\$2,000,000; __Others (please specify) _____

Please state the reasons for your selection.

Question 2

2.1 Do you agree that a single maximum claimable amount continues to be applicable for the banking and the securities industries? If not, why?

SERICA: Yes.

2.2 If there are two different maximum claimable amounts, what would be your suggestion of suitable upper claimable limits for the banking and securities industries respectively?

Please state the reasons for your suggestion.

Question 3

3.1 Do you agree to extend the limitation period for lodging Claims to 36 months? Why or why not?

3.2 Do you have other suggestions?

12 months; 24 months; 48 months; 60 months;

72 months; Others (please specify) _____

Please explain your choice.

SERICA: We believe a reasonable timeframe to be 24 months that is good enough time for one to lodge a claim against another.

Question 4

4.1 Do you agree with the proposal to extend the service scope to cover Claims from SEs (as defined in paragraph 2.33 of this Consultation Paper)? Why or why not?

SERICA: Yes, that is fair to also cover SEs which has customer relationship with an FI.

4.2 Besides the proposed definition of SEs in

paragraph 2.33 of this Consultation Paper, do you have any other suggestions to define the size of a small business? Please provide elaborations on your suggestions.

SERICA: Suggest the size of a small business to be similar to the European Commission to define the size of a business i.e. Small Enterprise: Below 50 employees and balance sheet total / turnover shall be less than or equal to HKD82million (or EUR 10million).

4.3 Do you agree that an FI qualifying as an SE could file a Claim as an EC against another FI? Please explain.

SERICA: Yes. It may be fair to cover an FI that is qualifying as an SE because it will mean such FI is smaller in size and lacking necessary financial resources to maintain a better infrastructure than a bigger size FI.

Question 5

5.1 Do you agree that the FDRC should deal with cases under current court proceedings without the claimant withdrawing the case from the Court? Why or why not?

SERICA: Agreed. The current court proceedings for a claimant may involve more complicated issues than a financial dispute against an FI.

5.2 For PD31 cases, do you agree that the maximum claimable amount be set at an amount in tandem with the future monetary jurisdiction of the District Court? Please give your reasons.

SERICA: Agreed. The upper limit set at HKD3,000,000 as suggested on Question 1 shall be the maximum claimable amount in tandem with the future monetary jurisdiction of the District Court.

5.3 Do you agree that parties to the mediation in PD31 cases at the FDRC can be legally represented as elaborated in paragraph 2.43 of this Consultation Paper? Please explain.

SERICA: Agreed. This shall simplify the process and be more efficient to settle the disputes with the same group of legal representatives for both parties.

Question 6

Do you agree that, subject to a prior mutual agreement between an FI and a claimant, the FDRC could consider handling disputes which exceed its certain amended Intake Criteria as specified in paragraph 3.1(a) and (b) of this Consultation Paper? Why or why not?

SERICA: Agreed. The FDRC could consider handling such disputes. Since there is a prior mutual agreement between an FI and a claimant, it is very likely that the FI would accept the claim handled by FDRC as the mediator.

Question 7

7.1 Do you agree that when there is a financial dispute between an EC and an FI, the FI may refer the financial dispute to the FDRC, subject to the consent of the EC? Why or why not?

SERICA: Agreed. It is always good to have a mediator like FDRC when the disputes cannot be resolved between an EC and an FI.

7.2 Do you agree that when there is a Claim by an EC against an FI, the FI with a counterclaim may lodge the counterclaim to the FDRC, subject to the consent of the EC? Why or why not?

SERICA: Agreed. It is fair to both EC and FI to be able to lodge a claim and/or counterclaim.

7.3 Do you agree with the arrangement that the FI can pay for the mediation and/or arbitration fees for their customers if the FI so wishes? Why or why not?

SERICA: Agreed. It is beneficiary to the Claimant.

Question 8

8.1 Do you agree that options of “mediation only” and “arbitration only” in addition to the original “mediation first, arbitration next” be offered to the parties with mutual agreement? Please state your reasons.

SERICA: Agreed. This will give more options/choices to both ECs and FIs. And, the settlement of disputes might be quicker.

8.2 Do you agree that such “mediation only” or “arbitration only” option should not be available for “normal” cases under the FDRS? Why or why not?

SERICA: Disagreed. It sounds difficult for the FDRS to justify a case to be “normal” or “abnormal”. Suggest to make it simple, the choice of “mediation only” or “arbitration only” shall be applicable to all cases when there is a prior mutual agreement between the EC and FI.

Question 9

Do you agree with the proposed revised fee scale for dispute resolution services of the FDRC? Please provide your comments and/or suggestions.

SERICA: Agreed.

Question 10

Do you agree that the FDRC could re-consider the rejected applications if they now fall within the amended Intake Criteria? Why or why not? Please give your reasons.

SERICA: Disagreed. The enhanced FDRS shall be applied to cases after the proposed Scheme is effective. This shall allow the FDRC to have full resources to handle new cases falling within the amended Intake Criteria.