

Practical Implications of the SFC's Guidelines for Market Soundings – Immediate Actions for Fund Managers



[Nithi Genesan](#)

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The Securities and Futures Commission (“SFC”) has published the [Hong Kong Market Sounding Guidelines](#) (the “Guidelines”), which will take effect on 2 May 2025.

These Guidelines establish regulatory standards for SFC-licensed and registered intermediaries conducting market soundings. To ensure compliance, intermediaries must review and update their internal policies, procedures and systems before the effective date.

The SFC has also published a set of Frequently Asked Questions (“FAQs”) to provide practical guidance and examples. These Guidelines apply to all SFC-licensed and registered intermediaries engaged in disclosing or receiving confidential information in relation to possible transactions.

Core Principles

Market sounding intermediaries must adhere to four core principles:

- 1. Confidentiality:** safeguarding sensitive information and preventing misuse or leakage.
- 2. Governance:** robust oversight by senior management.
- 3. Policies and procedures:** documented processes, staff trainings and compliance measures.
- 4. Review and monitoring:** controls to detect and address suspicious or non-compliant activities.

The Guidelines are primarily focused on sell-side firms, usually acting as the Originating Persons when conducting market soundings, such as when gauging investor interests in securities offerings or placements. Buy-side firms, such as a private equity firm, are less likely to act as the Originating Persons, since they are typically on the receiving end of market sounding information shared by brokers or banks.

Nevertheless, buy-side firms, including licensed fund managers, should still take proactive steps to ensure compliance and mitigate risks when receiving market soundings. Below are some key practical implications and immediate actions that fund managers should consider:

1. Strengthen Internal Policies on Market Sounding Information Handling

Licensed fund managers should update their internal policies and procedures to reflect obligations when receiving market soundings. Since buy-side firms are considered Recipient Persons, they must:

- **Define market sounding procedures:** clearly outline how employees should respond when approached for market soundings by banks, brokers or other sell-side firms.
- **Mandate explicit consent:** ensure fund managers actively agree (or decline) to receive market-sounding information and maintain documentation of such agreements.
- **Set clear boundaries:** establish clear guidelines on what constitutes acceptable non-public information vs. what is considered to be restricted information.

Immediate action: update the firm's compliance manual to define protocols for market soundings, specifying how employees should document, escalate or decline such interactions.

2. Train investment teams on insider trading and MNPI risks

Investment teams, portfolio managers and deal professionals, must understand the risks of receiving market-sounding information, particularly the risk of inadvertently possessing material non-public information ("MNPI") that could restrict trading. Firms should provide training for employees to include:

- how to recognise when a conversation qualifies as market sounding.
- when to accept or refuse market-sounding information.
- how to avoid trading restrictions when in possession of such information.
- proper documentation and reporting obligations.

Immediate action: conduct mandatory training for fund managers and investment teams on how to handle MNPI and market-sounding interactions, ensuring they can spot regulatory red flags.

3. Implement documentation and audit trails for market sounding interactions

Since fund managers may receive market-sounding information, they should implement controls to demonstrate regulatory compliance in the event of an audit or inspection by doing the following:

- maintain an internal register to track all information received and restrictions placed if any.
- establish escalation procedures that all employees should adopt.

Immediate action: implement a market sounding register in the firm's compliance system to log all incoming market-sounding interactions for transparency and oversight.

4. Monitor and restrict trading when necessary

Licensed fund managers should establish processes to restrict trading in securities affected by market soundings until the information is no longer considered to be MNPI.

Key controls include:

- **Trade pre-clearance:** require investment teams to check with compliance before trading securities discussed in market soundings.
- **Restricted list:** if market sounding information is deemed material, add them to the restricted list to prevent trading.
- **Review timelines:** establish periodic reviews to assess if information needs to be updated in the restricted list.

Immediate action: work with the trading and compliance teams to implement pre-trade approval for securities potentially impacted by market soundings.

5. Coordinate with sell-side counterparties to ensure compliance

Licensed fund managers should work closely with their sell-side brokers, investment banks and counterparties to ensure that market soundings are conducted in compliance with SFC guidelines.

- request formal written policies from sell-side firms to understand how they approach market soundings
- clarify expectations regarding confidentiality, disclosure and consent procedures before engaging in market soundings
- avoid informal market soundings where there is no formal acknowledgement of consent or MNPI management.

Immediate action: require all market soundings from sell-side firms to follow a structured approach, ensuring compliance with SFC disclosure and confidentiality rules.

6. Align with global regulatory standards

For firms operating across multiple jurisdictions, it is essential to align market-sounding practices with global regulatory frameworks including:

- EU Market Abuse Regulation (“MAR”) for firms conducting market soundings in European markets.
- Securities and Exchange Commission (“SEC”) Insider Trading Rules for firms dealing with US securities.
- UK Financial Conduct Authority (“FCA”) Market Sounding Guidelines, which impose similar obligations to those of SFC.

Immediate action: firms should conduct a cross-jurisdictional review of their market sounding compliance frameworks to ensure consistency with global regulatory standards.

How can Waystone help?

Waystone is a global firm with over 100 [compliance specialists](#) across multiple jurisdictions. Our extensive expertise in regulatory compliance for fund managers, particularly in the APAC region enables us to provide pragmatic, tailored and risk-based solutions that align with both local and international standards.

We understand the complexities of operating in multiple jurisdictions and can support firms in achieving compliance while enhancing operational efficiency.

To ensure ongoing compliance, Waystone can assist asset managers to take the following steps:

1. Update internal policies and procedures to reflect the latest regulatory guidelines.
2. Enhance existing MNPI controls and insider trading safeguards.
3. Conduct training for employees.
4. Align the compliance framework with evolving global regulatory standards.

If you would like to discuss how we can assist your firm in staying ahead of regulatory expectations and building a stronger compliance foundation, please reach out to your usual Waystone Compliance Solutions representative or contact us below.

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