



Chapter 6 - Client Protection

10 Questions



Suitability Standards - Introduction

- Rationale for categorizing clients: clients are given the **right level of protection**
- The standards relate to what are described as **'complex' financial products**
 - E.g. A bond with the right to convert into shares

Article 3: Know
the suitability
standards



Suitability Standards

- Client's Experience: Assess **type** of **financial services** client is involved in, **nature and size** of transactions, client's **level of education and experience**.
- Client's Financial Circumstances: **Source and amount** of client's regular income, expenses, financial obligations, assets and investments.
- Client's Investment Objectives: **Type of product** is preferred by client in terms of period and value.



Suitability Report

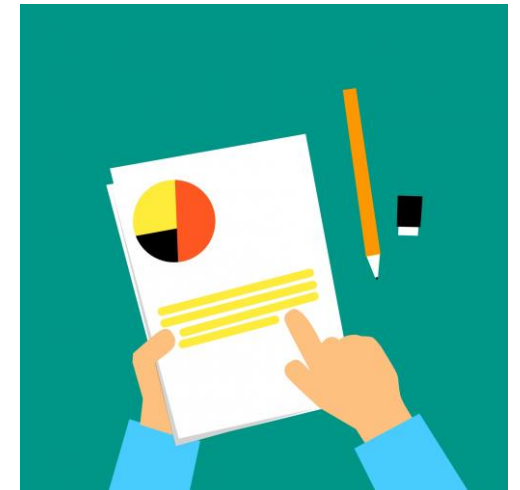
- Evidence of the client's knowledge plus the client's awareness of the need to provide the licensed entity with **up-to-date information**.
- Evidence that a correct and reliable assessment of the client's knowledge, experience and **ability to bear risks and losses** has been performed.
- **Statement of the mechanisms and tools used** in assessment and its suitability.

Article 4 : Know the content required in a suitability report



Suitability Report

- **Statement on the standards** that the **licensed entity depended on** to consider the financial product that the client wanted was a complex product.
- **Statement of the reasons** behind the **suitability or non - suitability**, indicating the method of meeting the client's position towards the risks and the ability to bear the risks.
- **Evidence** of the periodical updating and revision of the standards relating to the suitability of the financially complex product to the client



Obligations for Licensed Entities

1. Take **the measures to ensure that the information received from the client is correct** and updated, and that the recommendation is suitable to the client and does not conflict with the result of the firm's suitability assessment.

2. **Refrain from recommending** or implementing deals in financially complex products to clients **if information is not sufficient to assess** its suitability and notifying the client.

Know the content
required in a suitability
report (Article 4)

3. **Provide the client with sufficient information necessary to assess features**, costs and risks of the financial product, and indicating any potential risks.



Obligations for Licensed Entities

4. **Notify the client** regarding the suitability or non-suitability of investment using the financially complex product also extent of meeting the suitability standards. **This notice must be retained.**

5. **Comply with the client's orders if client insists** on the investment in the financially complex product inspite of notifying client. **Evidence on the client insistence must be retained.**

6. **Obtain an annual undertaking** from the client regarding data and updating it. **The report must be updated every three years.** All undertakings and updates must be retained.

7. **Retain the suitability reports** of the clients and provide SCA with the reports on request

8. **Update the internal procedures to ensure compliance** with suitability standards



As per article 3 of Decision No 05 of 2020 by SCA, licensed entity should consider suitability in relation to client using parameters such as

- A. Client's Financial Circumstances
- B. Client's Experience
- C. Client's Investment Objectives
- D. All of the above.

EXAM FOCUS



Appropriateness Standards - Factors

The client's **knowledge and awareness of the financial services**, activities and investments.

The **nature, size and frequency** of client transactions in related financial services and investments.

The client's **level of education, current and previous profession**.

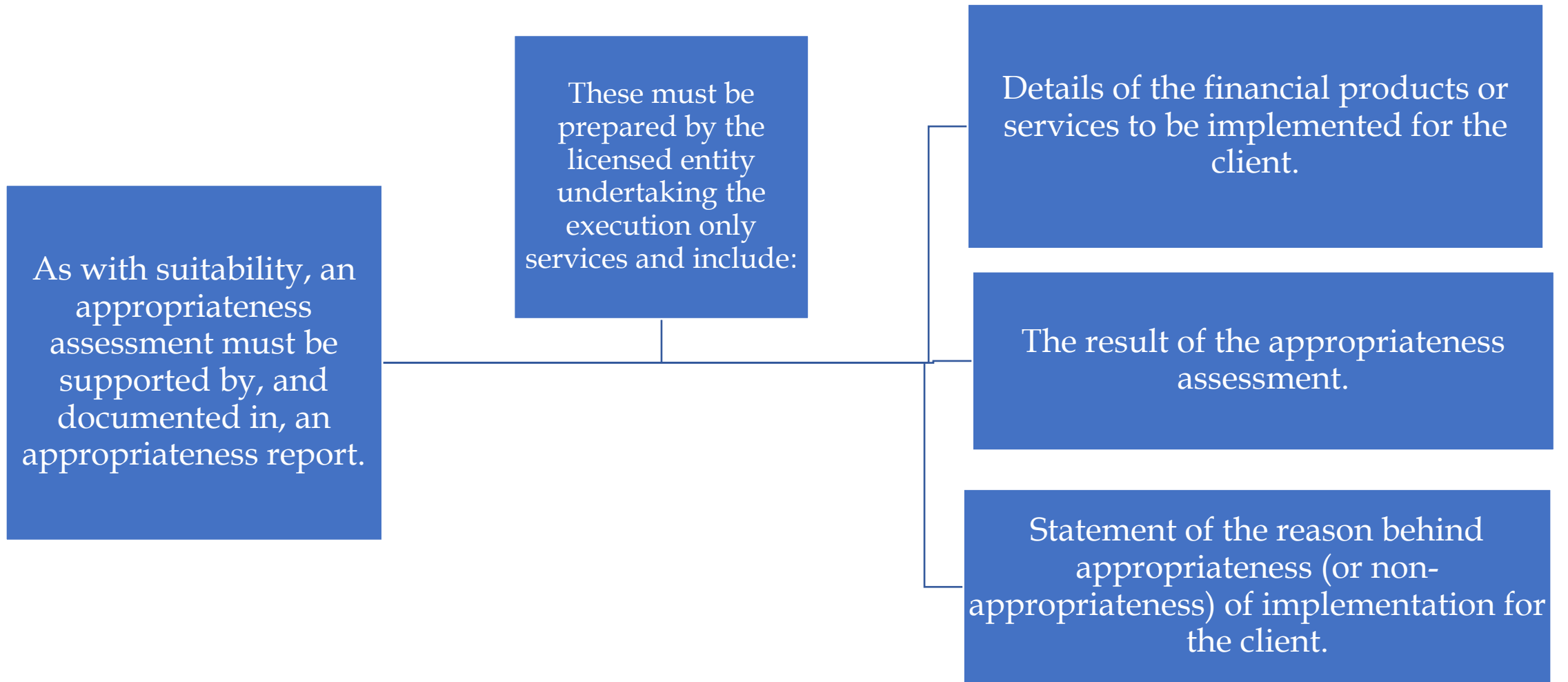
The **appropriateness of the financial products** for the client in light of the data obtained from the client.

The **appropriateness of the financial markets** that the client is targeting investment in, again in the light of the data obtained from the client.

Know the
appropriateness
standards (Article 6)



Appropriateness Reports



Appropriateness Obligations

Exercise due diligence in increasing client understanding of the financial service, activity, or product by providing the necessary information.

Update the internal procedures to ensure compliance with appropriateness standards, this must be retained.

Refrain from implementation for the client if sufficient information is not received to assess its appropriateness and to notify the client.

Comply with the client's orders in the event of insistence on implementation in spite of notifying the client that it is not appropriate. Evidence of the client insistence must be retained.

Retain the appropriateness reports of clients and provide them to SCA on request.

Notify the client regarding the appropriateness of the requested implementation, with the extent of meeting the appropriateness standards.



Client Assets Accepted Practice in UAE: Introduction



Financial services firms must make adequate arrangements to safeguard their client's assets

Adequate arrangements must prevent the firm from using the money for its own account

The main objective is to ensure that the **client's assets are segregated from the firm's own money**

This is done by ensuring that it is placed in a **designated client money account within a bank**



Reconciliation Requirements

Reconciliations should be **made frequently** to ensure the firm's accounts are accurate

Accepted practice for the reconciliation of client money is that firms **perform internal and external reconciliations**

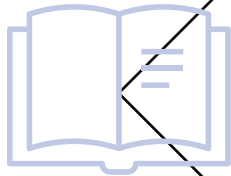
Firms **must perform internal reconciliations** for all financial instruments held by the firm and **those held with third parties**



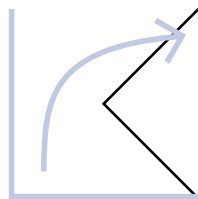
Internal Reconciliations



Cross-checking the records showing each client's entitlement to their money that the firm holds



Firms can choose **how often** they perform internal reconciliations



Where a reconciliation shows a discrepancy, the firm must **investigate to identify the reason for the discrepancy**



- **Cross-checking** the internal client accounts **against the records of third parties** with whom the money is held
- If there is a **discrepancy**, the firm must **investigate and correct** it as soon as possible
- An **adequate method** of reconciling client money balances with external records is as follows:
 - A reconciliation of a **client bank account with their bank statement**
 - A reconciliation of the **balance on each client transaction** account as recorded by the firm



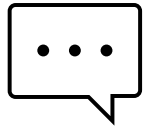
**Choose the incorrect statement.
During reconciliation:**

- A. Where a reconciliation shows a discrepancy, the firm must investigate to identify the reason for the discrepancy.
- B. Firms cannot choose how often they perform internal reconciliation.
- C. Cross-checking the records showing each client's entitlement to their money that the firm holds.
- D. None of the above.

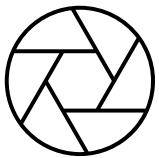
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Client Communications, Reporting, Financial Promotions & Advertising: Introduction



There need to be **rules set out to communicate** with clients regarding their investment business and also inform them about financial promotions



The **majority** of these **rules do not apply** when the **client is an eligible counterparty**



Clear, Fair And Not Misleading



Firms are required to ensure that any communication with a client is **clear and not misleading**



Communication addressed to a professional client may **not include the same information** as a retail client



Examples of communicating in a clear and not misleading manner include:

- A promotion relating to a product or service that places a client's capital at risk
- A promotions that quotes a yield figure giving a balanced impression of both the short and long-term prospects for the investment



Client Reporting Requirements

Firms are required to ensure that clients receive adequate reports on the services they provide to them

When a firm carries out an order for a client it must:

- Provide them with the essential information on it **promptly**
- For retail clients, send a notice confirming the deal details **as soon as possible** (but no later than on the next business day)
- Provide clients with information about the **status of their orders on request**



Periodic Reporting



Firms providing investment management services must also **provide periodic statements**, unless these are provided by another party



Firms must advise their retail clients of their right to request **quarterly statements**



Where firms manage investments for clients, they must **report any losses over a pre-agreed limit** to the client



For retail clients, this must be at least six-monthly, with the following exceptions:

- The client may request statements **quarterly** instead
- If they receive **deal-by-deal confirmations**, and certain higher-risk investments are excluded, the statement may be sent **every 12 months**
- Where the client has authorised that their **portfolio be leveraged**, the statement must be provided **monthly**





The purpose of the financial promotion rules is to ensure that such **promotions are identified as fair, clear and not misleading.** The rules are consistent with the firm's ability to meet to its customer's interests.



Appointed Representatives & Financial Promotion Rules

An appointed representative is:

1. A **self-employed individual**
 2. A **firm contracted** to sell the products of a particular financial services firm
-

The representative is exempt from obtaining his own authorisation, and the regulators rules don't apply to them

Firms must ensure that their appointed representatives comply with the rules



Promoter Obligations

It puts **regulations in place over the promotion** of financial products, including **funds as well as detailing the obligations** faced by the introducers of financial products

SCA Decision No. 3 of 2017 is titled 'The Organization of Promotion and Introduction'.

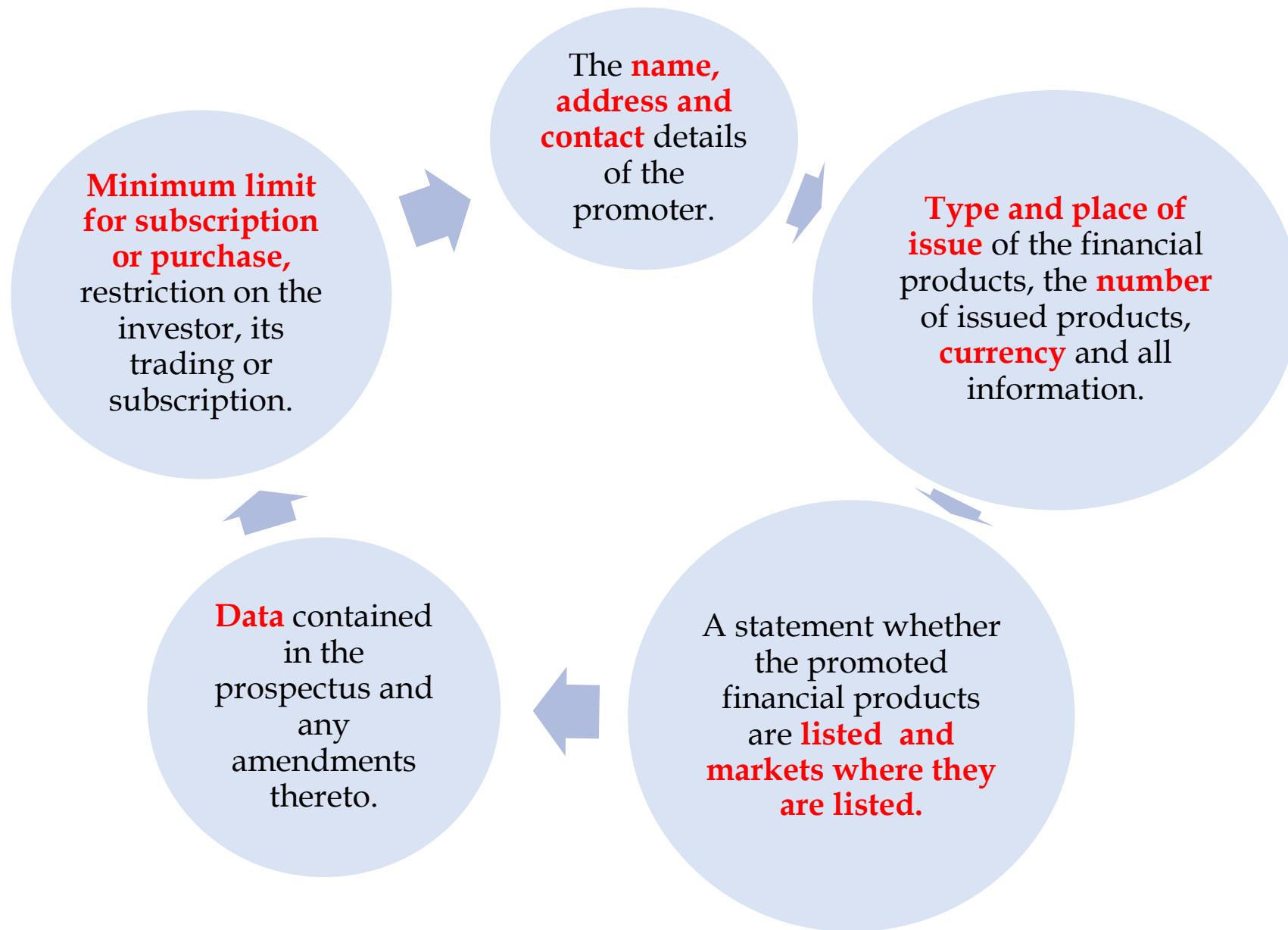


Notification Requirements

- **Notify SCA in advance** of the promotion of financial product. **Within ten days** of such notice, they may stop all promotion operations in the public interest.
- **In investment funds**, the notification to SCA is on an **application form** designed for this purpose and SCA may approve or reject the application **within 15 days** of the of submission.
- The notice or application submitted to SCA must **enclose all documents and data and these will include :-**
 1. The **type and quantity** of financial products
 2. The promoted products to be **registered** with SCA. Or promoter must register products after paying the **requisite registration fees** to SCA
 3. A **written approval** from the peer regulator in the promoter's jurisdiction if the foreign securities are to be **promoted in the UAE**
 4. A **disclosure of the relationship** between the promoter and the promoted products or their issuer during the 12 months preceding the promotion
 5. A copy of the **IPO prospectus, or** prospectus of the **issuer or foreign issuer**, if any, and the **investment policy** for investment funds
 6. A **statement of the methods of promotion**
 7. A copy of the promotional material in a **clear language** that is understandable to the investors.



Promotional Materials



Know obligations of the promoter relating to promotion material (Article 10);



Promotional Materials

Mechanisms of **dividends distribution and redemption** as well as maturity dates.

Specifying the **investor type** that is eligible to invest, also if such investors are **only** required to be 'regular' rather than 'qualified'.

The **investment risks** associated with the financial products to be promoted.

A statement identifying the **major shareholders of the issuer and/or the foreign issuer** who own 10% or more of the shares.

The **method of communication used** by the entities concerned with the subscription, selling and purchasing of the promoted products.

Specify the Shariah Supervisory Board whose function is to ensure conformity of the promoted products with Shariah.

The **mechanisms and means for disclosing data** and information.



Which of the following should promotional material not include:

- A. Mechanisms of dividends distribution and redemption as well as maturity dates.
- B. The mechanisms and means for disclosing data and information.
- C. A statement whether the promoted financial products are listed and markets where they are listed.
- D. All the above

EXAM FOCUS



Promoter's Ongoing Obligations

1. **Not act as a representative of a client** in dealing with the issuer or foreign issuer.
2. **Use the correct promotional materials** written in a language easy to understand by the investors, and without using any fraudulent means.
3. **Not publish, promote misleading data** on the financial products the issuer, including the foreign issuer or the market where they are listed.
4. **Abstain from providing any financial consultations** or analysis relating to the financial product subject of promotion, unless it is licensed to do so.
5. Alert the clients of the possibility that the **exchange rate may influence** the value of any promoted foreign financial securities.
6. Alert the clients that the **past performance of the promoted financial products is not necessarily an indicator** of the future performance.
7. **Withdraw promotional material immediately** when aware that the issuer breaches any legislative provisions or any potential damage that the investors may sustain.

Know obligations of the promoter relating to ongoing-obligations (Article 11)



Promoter's Ongoing Obligations

8. **Enable its clients to review** the material disclosures, reports and approved financial statement on a timely basis

9. **Disclose** through specified means, the **prices** of the promoted products and **risks or related information**, the sources used in preparing the comparisons, if they are reliable sources and do not include any projections of future prices, or selective information.

10. **Abstain** from **owning any promoted financial products on behalf of clients** or receiving any funds from them except after obtaining SCA's approval.

11. **Abstain from promoting the shares of the foreign issuer** intended to be **offered in IPO** except after the issue of SCA's approval of the offering



Promoter's Ongoing Obligations-

12.If **contracting with the issuer or foreign issuer**, the following conditions must be observed:

- show the **type and number** of financial products to be promoted
- ensure that the **signed agreement** between the parties does not violate any legislation in the UAE and includes a statement of the **rights, duties and responsibilities** of each party, the mechanism for the **termination, expiry or amendment** of the agreement and the means of communication between the parties
- **not to contract** with an issuer or foreign issuer with whom a promotion agreement was **terminated in the past** for reasons related to **violation** of its obligations or **breaching the legislation** the UAE
- **provide SCA with a copy** of the agreement (including any alteration or amendment, or subsequent termination).

13.Ensure the suitability of the product to be promoted for the **risk level** that the local investor may tolerate, after studying the **investor's financial position** and officially informing the investor of the outcome of the **risk appetite study** and specifying the types of financial products that suit that risk appetite.



Promoting Units in Foreign Funds

1. Ensure that any foreign fund subject to a public offering meets the following conditions:

- Must be subject to **the supervision of a regulator** similar to SCA
- Must be either **incorporated outside the UAE**, or if in the **UAE free zone**
- Must **be licensed in its jurisdiction for public offering.**

2. In a private offering, the foreign fund promotion must be **limited to qualified investors.**

3. Ensure that any foreign fund subject to a private offering meets the following conditions:

- **similar** to the conditions for public offerings
- Must be **licensed in its jurisdiction of a public or private offering.**

Article 12 of Decision No. 3 of 2017 adds additional obligations when promoting foreign funds



Promoting Units in Foreign Funds

4. The **foreign fund must not be exempt from any regulatory rules** or the regulations for preparing and issuing periodic reports.

5. Ensure that all mechanisms that enable the foreign fund promoted to **meet all functions and obligations** towards the holders of the promoted units in the UAE, in accordance with the public offering document.

6. **Exert the due diligence** when examining and selecting the foreign investment fund to be promoted in the UAE and in monitoring the performance of fund after the promotion in order to guarantee the protection of the investors' assets and ensure that the fund exists, and its legal position is sound at its domicile of incorporation.

7. **Keep a register** for the foreign fund units distributed through it. The register must include the following data:

- **for individuals** – the names, addresses, ID card or passport numbers of the unit owners as well as the number of units owned by each
- **for companies** – the names, address of the headquarters and commercial registration numbers and the number of units owned by each
- the **dates** the individuals or companies were added to the register
- any **other data related to the unit owners.**



Promoting Units in Foreign Funds

8. Ensure that the **investor in a foreign fund obtains a copy** of the public offering document of the fund's units whether the offering is public or private, before the investor subscribes for the foreign fund units.

9. Ensure that a **daily price of the fund's units is available**, or as stipulated in the offering document, or each unit's net asset value and providing suitable access to the investors in the UAE.

10. Provide the subscribing clients with a **proof of their subscriptions** in the fund, the units allocated/ purchased for them and the document that guarantees their exercise of all their rights as owners of such units.

11. **Assume the duties of dividend distribution** to the unit owners and/or redeem the units for the owners who so wish according to the announced price and in line with the foreign fund's offering document unless the foreign fund founder assigns these two functions to another entity in the UAE.



Promoting Units in Foreign Funds

12. The promotion means for a foreign fund approved by SCA for promotion in the UAE in a private offering must be **limited to direct contact with previously specified persons**.

13. The **minimum limit for subscription by a single investor** in a foreign fund approved by SCA for promotion in the UAE in a public offering must be included in the offering document.

14. The minimum limit for subscription by a single investor in a foreign fund approved by SCA for promotion in the UAE in a private offering is the limit detailed in the offering document provided that it **may not be less than AED 500,000, with the exception of a fund incorporated outside the UAE in a free zone or financial free zone**, in which case the minimum limit for subscription by a single investor will be the minimum limit detailed in the offering document provided that it may not be less than **AED 1 million**



Promoters and Introducers - Introducer Obligations

An introducer is a corporate entity that has been given approval by SCA to provide potential clients for financial services firms.

To gain SCA's approval to act as an introducer, the following conditions must be met:

Firstly, the entity
must either be:

- **licensed by SCA** to engage in financial activities or services
- **licensed by a similar regulator** engage in any financial activities or services, or
- **be a licensed bank or insurance company** (from within or outside the UAE).



Introducer Obligations

Secondly:

- SCA's application form must be submitted, including the required supporting documents, and specifying the **type of financial activities** or services to be introduced.
- SCA will issue its decision approving or rejecting the application within a period of **15 days from the date of submitting** the complete application.



Introducer Obligations

The **introduction must be related to financial activities** and services intended to deal in financial products.

The introducer must **disclose** to the investor both the **introduction procedures and any commissions** to be received by the introducer.

The introducer must **disclose** to the parties to the introduction the **relationship that links the introducer to each party.**

The introducer must **abstain from providing any financial consultation** or financial analysis, unless licensed to do so.

The introducer **is not permitted to receive any funds, assets, orders** or requests from the client, **directly or indirectly**, except for the disclosed commissions.

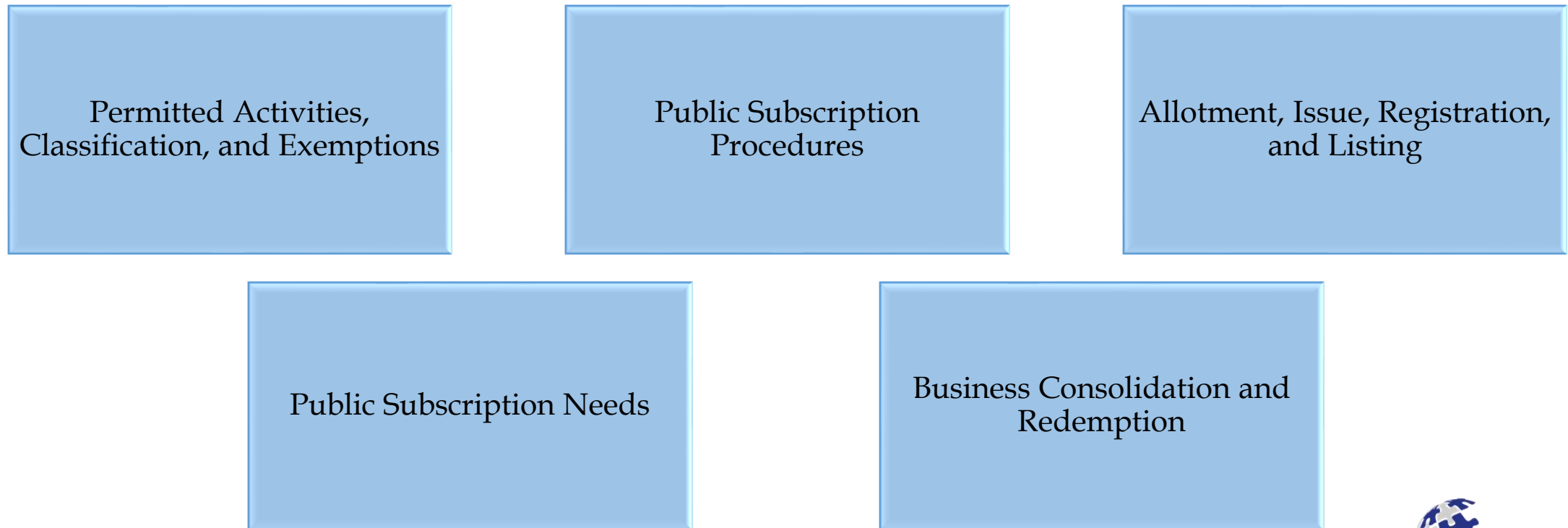
To **obtain the approval of SCA to conduct any introduction** business **outside the UAE**

The six obligations are detailed in Article 14 of SCA Decision No. 3 of 2017:



Regulations for Special Purpose Acquisition Companies

A special purpose acquisition company (SPAC), or 'blank check company', is formed with the sole purpose of **buying another company, or merger, by raising capital through an initial public offering (IPO)**. The regulations for SPACs can be summarised into 5 subsections:



Permitted Activities, Classification, and Exemptions

Permitted Activities



- Under Article 3 of the Special Purpose Acquisition Company regulations, a SPAC is prohibited from practising any economic activity, except:
 - To offer, issue and list its shares and/or warrants.
 - To **search for a target entity** to acquire/merge with.
 - Other business related to achieving its objectives.

Exemptions



- SPACs are exempt from many provisions of Commercial Companies Law including:
 - The need to invite the public to subscription.
 - The need to appoint an underwriter.
 - **Priority rights** to subscribe for **new** shares.
 - **Restrictions** on trading the **founders'** shares.



Permitted Activities, Classification, and Exemptions

SPAC application must meet the following requirements:

- Minimum issued capital of **AED 100 million**.
- Founders have not disclosed any acquisition target entity to anyone EXCEPT the sponsors.
- Proposed sponsors must meet certain individual requirements.
- **Objectives of the target company must not conflict** with those that the company is permitted to conduct.
- Articles of association must mention the initial issued capital of the SPAC (**minimum of AED 100,000**).
- Sponsors must have clear business goals.
- Sponsors must **prepare proposals to reduce the risk to investors**.
- Managers must have suitable experience to meet the outlined business objectives.



Public Subscription Procedures

SPAC requires approval from **the Authority** for the public subscription in shares and warrants.

The approval request must be submitted **within 30 business days** from **the date of issue of the company's commercial licence**.

The request must include a **draft prospectus** with the relevant details.

The founders and the board of directors will be responsible for validity of the provided data.

All parties to the public subscription process must provide due diligence.

Upon request, the founders should provide any additional documents **within five business days** from **the date of being notified**.

The Authority will either approve or dismiss the request **within ten business days** from **the date of submission**.

If the Authority does not move forward with the request, the board of directors of **must liquidate the company**.

Article (7) of the
Resolution Details
Certain Requirements



Public Subscription Procedures

Unissued shares must be offered as additional shares and concurrently with the public subscription **for sponsors**. The total shares of the sponsors should be **3% to 20% of the issued capital**.

For investors, unissued shares must be offered as **investor's shares in a public offering** at the subscription price mentioned in the prospectus.

The SPAC must appoint listing and financial consultants to receive the public subscriptions.

The SPAC must deposit the prospectus with the Authority and provide a free copy to the public.

The SPAC must publish the call for public subscription in **2 daily local newspapers** with **one in the Arabic language**.

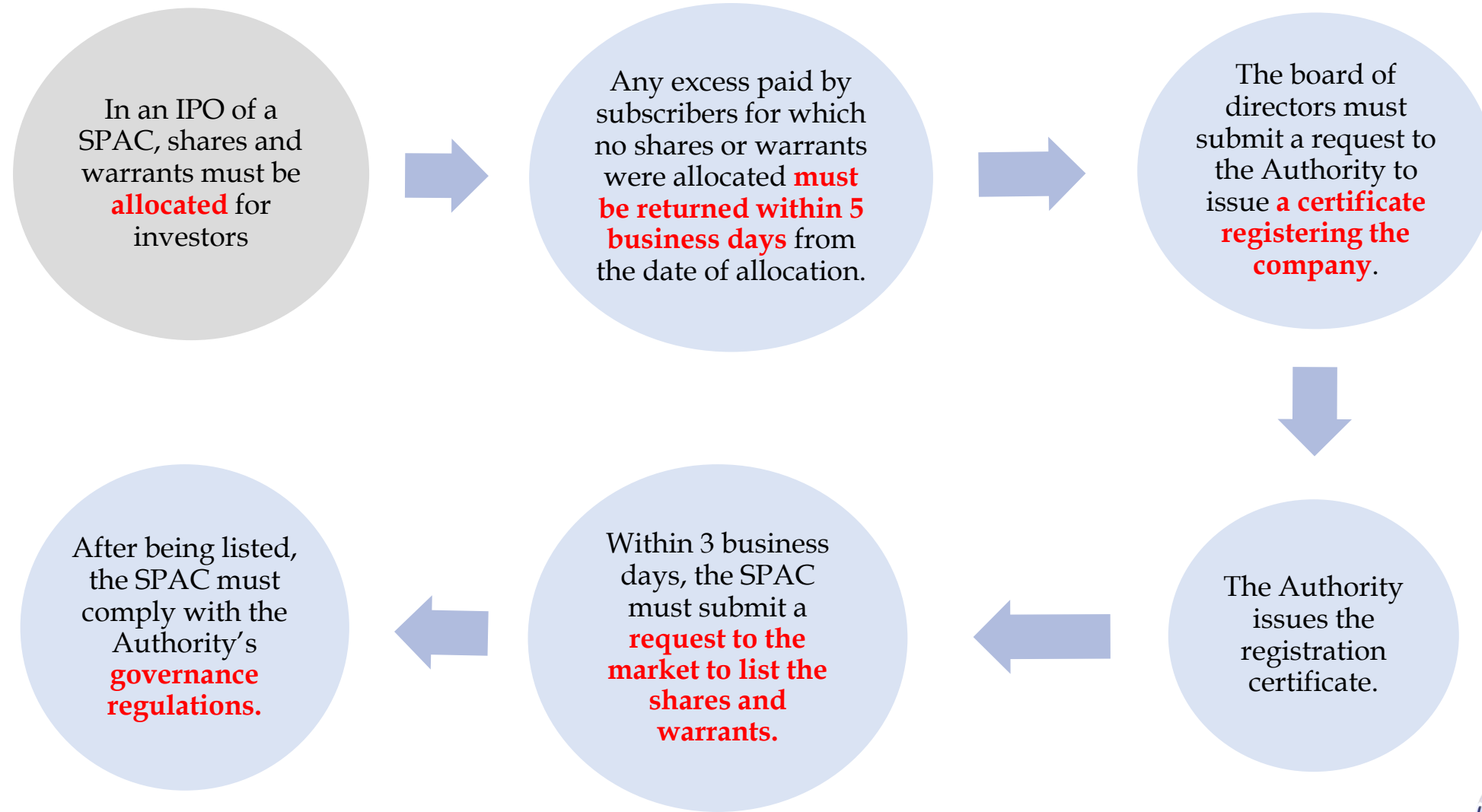
The investors must pay the full value of the shares and warrants upon subscription.

Subscription must **remain open for 5 to 30 business days**. If the extension period also expires, the **entire public subscription will be deemed as null**.

Article (8) of the
Resolution Adds
Further Requirements



Allotment, Issue, Registration, and Listing



Public Subscription Proceeds

The SPAC must **deposit a minimum of 90% of the public subscription proceeds** within two business days of receipt.



The proceeds can only be used for:

- A. **Finance a merger.**
- B. Meet recovery requests by the investors.
- C. Return proceeds to the investors in case of a failure event
- D. Pay fees for maintaining the account or fees associated with the merger as well as returning proceeds.



After listing and obtaining approval, the SPAC may:

- A. Receive money from any person against issuance of shares or warrants by special offer to complete the merger. New shares may be issued with an issuance **price less than the purchase price paid by investors.**
- B. Receive money from sponsors in a special offer against warrants issuance.



Business Consolidation and Redemption



The SPAC is should complete a merger in the earlier proposed time periods and two years from the date of listing.



The SPAC may **seek an extension** which requires a majority vote from the shareholders and the approval of the Authority.



Prior to the merger, the SPAC must provide the Authority and the shareholders with all the related information and obtain their approval. Shareholders must represent **a minimum of 75% of the shares** represented in the general assembly meeting.



The fair market value of the acquisition target entity must have been determined by an independent adviser, and this value as at the closing date must be **at least 80% of the value of the deposited funds in the account.**



The SPAC must have funds enabling it to complete the merger on the closing date which includes covering any refunds.



Business Consolidation and Redemption

Post Business Combination Procedures:

The board of directors must invite the company's shareholders to meet in a general assembly to decide on:

1. Amending the company's articles of association (**it is no longer considered a SPAC**).
2. Amending any of the rights attached to the shares to ensure they are equal.
3. Electing a new board of directors for the company.

The SPAC, as of the day following the closing date, will be subject to all of the regulations which apply to **public joint stock companies that are not classified as SPACs**.

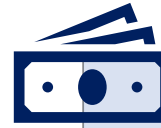
The SPAC must notify the Authority and the market as soon as the merger is complete.



Business Consolidation and Redemption



- If a SPAC fails to complete a merger, its board must:
 - Notify the Authority and the market of the failure.
 - Take the necessary measures to **return the funds to the investors with 10 business days**.
 - Appoint liquidators under the provisions of the Commercial Companies Law to **initiate the voluntary liquidation process**. Sponsors must **not participate in any distributions**.
 - The relevant market will suspend all trading in shares and warrants.



- Article 16 covers the redemption of investors' shares. Redemption is applicable:
 - Where the general assembly decided to extend the time period for the merger, but **the investor disagreed with the decision**.
 - Where the general assembly approved a merger, and the investor notified the SPAC **immediately upon the issuance of the decision**.
- The redemption amount is calculated **on a pro-rata basis** from the proceeds of the public subscription deposited in the account in addition to the interest or profits realised on this account.

