

**Guide on Practices and Procedures for  
Application for Authorization of Unit Trusts and Mutual Funds**

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## Chapter 1 - Introduction

1. This Guide on Practices and Procedures for Application for Authorization of Unit Trusts and Mutual Funds (“Guide”) is prepared by the Investment Products Division of the Securities and Futures Commission (the “SFC” or the “Commission”). It aims to provide general guidance to applicants in preparing their applications and their compliance with the requirements under the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (the “Handbook”), including the Code on Unit Trusts and Mutual Funds (the “UT Code”) therein, Frequently Asked Questions (“FAQs”) and other applicable regulatory requirements as may be issued by the SFC from time to time.
2. This Guide is only for general reference and is not meant to be exhaustive. It may be updated and revised from time to time for providing further guidance.
3. Compliance with all the requirements in this Guide does not necessarily mean an application will be accepted or authorization will be granted. An applicant should refer to the Handbook, the UT Code and other guidance (including this Guide) that may be issued by the SFC from time to time (such guidance will be referred to in this Guide collectively as “Published Guidance”) for details and seek professional advice in case of doubt. Applicants are reminded to ensure compliance with all applicable requirements before making the application to the SFC.
4. Applicants are encouraged to consult the Investment Products Division of the SFC if in doubt on any specific issues arising from the application / interpretation of the Handbook or the UT Code. Please note that each application for authorization will be considered on a case-by-case basis.
5. **The applicant should note that any representation in, or referred to in, an application, and any representation made from time to time in support of the application, which is false or misleading in a material particular, the provision of any information to the Commission which is false or misleading in a material particular and the provision of any record or document which is false or misleading in a material particular constitute an offence under either section 383(1), 384(1) and/or 384(3) of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) (“SFO”).**
6. For reference, below are the hyperlinks to the Handbook, the UT Code, various Published Guidance, application form, information checklist and templates on the SFC website for applicants’ preparation of their applications.

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| <b>Handbook</b>   |
| <b>UT Code</b>  |
| <ul style="list-style-type: none"><li>• <a href="#">List of acceptable inspection regimes</a></li><li>• <a href="#">List of recognized jurisdiction schemes</a></li></ul>   |
| <b>Published Guidance</b>   |
| <a href="#">FAQs on Application Procedures for Authorization of Unit Trusts and Mutual Funds under the Revamped Process (for new fund applications received on or after 9 November 2015)</a>  |
| <a href="#">Other FAQs applicable to SFC-authorized funds</a> , including without limitation: <ul style="list-style-type: none"><li>• <a href="#">FAQs on the Code on Unit Trusts and Mutual Funds</a></li><li>• <a href="#">FAQs on Exchange Traded Funds and Listed Funds</a></li><li>• <a href="#">FAQs on SFC Authorization of UCITS III Funds</a></li></ul>  |
| <a href="#">Various published circulars applicable to SFC-authorized funds</a> , including without limitation: <ul style="list-style-type: none"><li>• <a href="#">Circular on “Interim measures on the disclosure and submission requirements for the authorization of UCITS III funds domiciled in Luxembourg, Ireland and the United Kingdom by the SFC” dated 31 March 2005</a></li><li>• <a href="#">Circular on “Streamlined measures for processing UCITS III schemes with special features” dated 30 March 2007</a></li><li>• <a href="#">Circular on “SFC facilitates delegation of investment management functions to non-AIR</a></li></ul> |

[jurisdictions" dated 18 October 2007](#)

- [Circular to issuers of SFC-authorized investment products concerning the US Foreign Account Tax Compliance Act dated 21 March 2014](#)
- [Circular to management companies and trustees of SFC-authorized Hong Kong domiciled funds dated 17 April 2014](#)
- [Circular on "Guidance on internal product approval process" dated 30 April 2014](#)
- [Circular to management companies of SFC-authorized exchange traded funds and unlisted index funds – disclosure of tracking difference and tracking error dated 4 July 2014](#)
- [Circular to issuers of SFC-authorized investment products concerning the US Foreign Account Tax Compliance Act dated 13 November 2014](#)
- [Supplemental Circular to management companies of SFC-authorized funds on disclosure of the ongoing charges figure and past performance information in the Product Key Facts Statements dated 16 December 2014](#)
- [Circular to management companies of SFC-authorized funds - suspension of dealings dated 30 January 2015](#)
- [Circular to management companies and trustees / custodians of SFC-authorized funds - relating to fair valuation of fund assets dated 20 July 2015](#)
- [Circular to management companies of SFC-authorized unit trusts and mutual funds – launch of pilot revamped fund authorization process dated 9 October 2015](#)

[Press releases applicable to SFC-authorized funds](#), including without limitation:

- [Press Release on the new measures to raise investors' awareness of synthetic ETFs dated 18 November 2010](#)
- [Press Release on enhanced investor protection for domestic synthetic ETFs dated 29 August 2011](#)

#### **Forms, checklists and templates**

- [Application form for unit trusts and mutual funds, investment-linked assurance schemes and unlisted structured investment products \(the "Application Form"\)](#)
- [Information checklist for application for authorization of unit trusts and mutual funds under the Revamped Process \(for new fund applications received on or after 9 November 2015\) \(the "Information Checklist"\)](#)
- [Products Key Facts Statements \("KFS"\) illustrative templates](#)
- [Confirmation of fulfilment of authorization conditions](#)

*First published: 9 October 2015*

## Chapter 2 - Basic documentary requirements at the time of application

### General

1. An applicant must submit to the Investment Products Division of the SFC a duly completed and properly executed Application Form and Information Checklist, together with all relevant confirmations / documents as required to be submitted pursuant to the Information Checklist. Please refer to Question 2 of the FAQs on Application Procedures for Authorization of Unit Trusts and Mutual Funds under the Revamped Process (for new fund applications received on or after 9 November 2015) (the “FAQs on Application Procedures”) for details.
2. During the vetting process, the SFC may from time to time request for additional supporting information or documents in considering each application.
3. As set out in the Information Checklist, an applicant is required to submit 3 sets of all application documents and provide soft copies of such documents in text-searchable format, except for financial statements where a soft copy would suffice.

### Information Checklist

4. An applicant must ensure that the Information Checklist is duly completed, including ticking all relevant boxes for a scheme under application.
5. The Information Checklist and all relevant confirmations must be properly executed in accordance with the execution requirements set out in the confirmation templates in the Information Checklist.
6. **By executing the Information Checklist and the relevant confirmations in the Information Checklist and/or by ticking the relevant boxes in the Information Checklist that apply to a scheme, the party providing the confirmation is deemed to have confirmed compliance with the applicable requirements as specifically set out or referred to in this Guide.**

### Application fees

7. Application fees should be paid in the form of a cheque payable to "Securities and Futures Commission". Please consult the SFC in advance for other means of payment.
8. For the current fee schedule, please refer to Question 3 of the FAQs on Application Procedures.

### Hong Kong offering documents

9. Advanced draft of the English Hong Kong offering documents (including the main Hong Kong offering document and the Product Key Facts Statement (“KFS”)) of a scheme under application (collectively, the “HKOD”) must be submitted at the time of application and, where applicable, marked up against the previous version filed with the SFC. Applicants are required to submit the Chinese version of the HKOD and the corresponding executed Chinese translation certificate(s) before the authorization may become effective.
10. For an overseas scheme, the draft HKOD submitted at the time of application must be consistent with the scheme’s overseas offering documents authorized / approved by, or in the process of obtaining authorization / approval from, the home regulator of the scheme.
11. The draft HKOD are not required to be annotated at the time of application. However, please refer to Chapter 7 of this Guide for the submission and annotation requirements in respect of the finalised drafts of the HKOD before the authorization of a scheme may become effective.

### Constitutive documents

12. If the scheme under application involves a new umbrella fund or single fund, its constitutive documents are required to be submitted at the time of application.
13. In the case of an application of a new sub-fund under an existing SFC-authorized umbrella fund where proposed changes will be made to the version of the constitutive documents previously

filed with the SFC, applicants are required to submit at the time of application the revised constitutive documents as marked up against the previous version filed with the SFC.

14. Constitutive documents of a scheme are not required to be annotated against the applicable compliance / disclosure requirements at the time of application. However, in the case of Hong Kong domiciled schemes and other non-UCITS schemes, please refer to Chapter 7 of this Guide for the submission and annotation requirements in respect of their constitutive documents before the authorization of the schemes may become effective.
15. Applicants must ensure that nothing in the constitutive documents of a scheme should in any way contradict or result in any breach of the applicable provisions of the UT Code, the applicable provisions in the Overarching Principles Section of the Handbook or the Published Guidance.

## Chapter 3 – General matters

### Name of a scheme

1. The name of a scheme (including both the English and Chinese names) must be available at the time of the application and satisfy the requirements under 5.1 and 5.2 of the Overarching Principles Section of the Handbook and 7.24 of the UT Code.
2. Illustrative examples of non-compliance with the requirements set out in paragraph 1 above include:
  - 2.1 scheme names which may suggest that the scheme will not lose money or will deliver a level of performance / return which may not be achieved by the scheme (e.g. “No Loss”, “Forever Winning”);
  - 2.2 scheme names which are inconsistent with the investment objectives / policy – e.g. “Global equities” fund for a scheme which may, as part of its active investment strategy, hold less than 10% of its net asset value (“NAV”) in equity securities from time to time;
  - 2.3 scheme names which include the name or brand of a fund house that is not or no longer involved in the investment management of the schemes;
  - 2.4 scheme names which may give investors a sense of assurance or security not justified by the underlying features of the schemes, or which do not accurately reflect the nature or extent of the guarantee or capital / principal protection, taking into account the impression that may give to the investing public – e.g. a scheme proposes to be named as “wealth preservation” fund (of which investors might not expect any loss) even though significant loss may be suffered by the investors at any time; or
  - 2.5 scheme names which do not reflect the underlying investments – e.g. a scheme proposes to be named as “RMB fund” when less than 70% of its NAV is invested in Renminbi (“RMB”) underlying assets or when it merely offers RMB share class(es) without any RMB underlying assets.
3. For scheme names which include words such as “real estates”, “properties”, or “REITS” (or to similar effect), applicants are expected to include a disclaimer in the HKOD (including the KFS) and all marketing materials in a prominent manner to the effect that the schemes are not authorized by the SFC under the Code on Real Estate Investment Trusts.

### Nomination of approved person

4. Pursuant to 1.5 of the UT Code, an applicant should nominate an individual to act as the approved person for the purpose of section 104(2) and section 105(2) of the SFO in accordance with the requirements under 1.6 of the UT Code.
5. An individual nominated as an approved person for a scheme for the purpose of section 104(2) of the SFO should generally be nominated also for the issue of any advertisement, invitation or document in respect of such scheme for the purpose of section 105(2) of the SFO.

### Waiver application

6. In principle, new fund applications are expected to comply in full with all applicable requirements under the Handbook and the UT Code. Applicants should refer to Question 12 of the FAQs on the Code on Unit Trusts and Mutual Funds (the “FAQs on UT Code”) if they wish to apply for a waiver from any of the UT Code requirements.
7. Applicants are encouraged to consult the SFC in advance before submitting any formal application should they wish to apply for any waiver.

### One-off authorization of advertisements with respect to schemes constituted in corporate form

8. Since 1 August 2008, the SFC has ceased pre-vetting advertisements that are eligible for the exemptions under section 103 of the SFO (being the issue of any advertisement made by or on behalf of an intermediary licensed or registered for Type 1, Type 4 or Type 6 regulated activity in respect of securities including interests in any collective investment schemes (“CIS”)).
9. To facilitate schemes that are constituted in corporate form to utilise the exemptions under section 103 of the SFO and to ensure that such advertisements would not otherwise be subject to the prospectus regime under the Companies (Winding up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), in the case of a mutual fund, an applicant should submit an application for one-off authorization of the issue of advertisements pursuant to section 105(1) of the SFO (see Annex E to the Information Checklist).

### Application for exemption under section 309(2) of the SFO with respect to schemes listed on The Stock Exchange of Hong Kong Limited

10. Under Part XV of the SFO, investors are under a duty to disclose their notifiable interests and short positions in the relevant share capital of corporations whose securities are listed on The Stock Exchange of Hong Kong Limited.
11. Where applicable, for schemes that are constituted in corporate form, an applicant should submit an application to the Investment Products Division of the SFC for an exemption under section 309(2) of the SFO in respect of the scheme. For further details, the applicants should refer to the Guidelines for the Exemption of Listed Corporations and Other Persons from Part XV of the Securities and Futures Ordinance (Disclosure of Interests) published by the SFC: [http://en-rules.sfc.hk/net\\_file\\_store/new\\_rulebooks/h/k/HKSFC3527\\_699\\_VER20.pdf](http://en-rules.sfc.hk/net_file_store/new_rulebooks/h/k/HKSFC3527_699_VER20.pdf).

### Compliance with the UT Code and the Handbook

12. Applicants should ensure compliance with the UT Code and the Overarching Principles Section of the Handbook, including amongst others the applicable disclosure requirements.
13. Applicants should also ensure compliance with GP 1 of the Overarching Principles Section of the Handbook which provides that product providers shall act honestly, fairly and professionally. As such, applicants should avoid arrangements which might lead to unequal treatment of all investors and/or which may be prejudicial to individual retail investors. For example,
  - 13.1 there should not be preferential treatment to selected group of investors through prioritised redemptions or side letter arrangements;
  - 13.2 for non-index funds, management companies should not effect redemptions in specie without disclosing in the HKOD that prior consent from investors must be obtained for doing so;
  - 13.3 dealing for redemption and payment of redemption proceeds are not effected in compliance with the applicable requirements under the UT Code and the constitutive documents; and
  - 13.4 the constitutive documents should not contain provisions allowing compulsory redemption and/or cancellation of units unless the management company, when doing so, acts in good faith, on reasonable grounds and pursuant to applicable laws and regulations and the grounds for doing so are set out clearly in the constitutive documents.

### Incomplete application / material changes post submission

14. As stated in the Information Checklist, the SFC reserves the right to return forthwith, without processing, an incomplete or non-compliant application to the extent the Application Form, the Information Checklist and/or the accompanying documents are not properly or fully completed, and/or where negative responses in the Information Checklist are not properly explained, and/or the application is accompanied by documents that do not meet the applicable requirements, not in good order or otherwise not suitable for clearance.



15. For illustrative purposes, an application may be considered as incomplete or non-compliant by the SFC if at the time of application:
  - 15.1 not all required documents and confirmations have been properly executed and/or submitted (e.g. carve-outs / disclaimers in the required confirmations);
  - 15.2 disclosure in the draft HKOD is materially deficient (including where the HKOD are drafted in incomprehensive language);
  - 15.3 there is non-compliance with the Handbook, the UT Code or the Published Guidance; and/or
  - 15.4 there are structural or policy related issue(s) with respect to the scheme under application such that the authorization of such scheme may not be in the interest of the investing public.
16. Applicants are expected to provide proper, complete and substantive response(s) in a timely manner to the requisition(s) raised by the SFC in accordance with 4.1(b) of the Overarching Principles Section of the Handbook.
17. Applicants should notify the SFC immediately if there are any changes to the information and/or confirmations provided to the SFC at the time of application and from time to time in connection with the application or where the applicants have become aware of any matters or changes in circumstances that may affect the SFC's assessment of the application. Where applicants subsequently become aware of any material or fundamental changes to the application after submission, they should make a proper assessment as to whether to proceed with or to withdraw the application, taking into account the fact that the information, representations and confirmations previously submitted to the SFC may in any material aspect no longer be true, accurate and valid.

## Chapter 4 – Key operating parties to a scheme

### A. Management company (and its delegates)

#### Appointment of a management company

1. Every scheme seeking authorization should appoint a management company acceptable to the SFC pursuant to 5.1 of the UT Code.
2. Applicants should refer to Chapter 5 of the UT Code which sets out, among others, the criteria for the acceptability of a management company and the general obligations of a management company for an SFC-authorized fund. Reference may also be made to Questions 8 to 11 of the FAQs on UT Code which set out various practical guidance with respect to the eligibility of the management company of a scheme.

#### Delegation of investment management functions

3. Whilst the UT Code allows a management company to delegate its investment management functions to third parties, the responsibilities and obligations of the management company may not be delegated. Where such functions are delegated, there should be ongoing supervision and regular monitoring of the competence of the delegate(s) by the management company to ensure that the management company's accountability to investors is not diminished. Applicants are encouraged to discuss any proposed delegation arrangement (including all-time delegation) with the SFC prior to formal application in case of doubt.
4. As stated in Question 10 of the FAQs on UT Code, both the management company as the principal and all its delegate(s) (if any) are expected to meet the eligibility criteria of a management company as set out in Chapter 5 of the UT Code.
5. Under this Part A, references to the management company of a scheme are deemed to include its delegate(s) (if applicable), unless otherwise stated.

#### Acceptable inspection regimes

6. In accordance with 5.1 of the UT Code, in general, the investment management operations of a management company and its delegate(s) (if applicable) should be based in a jurisdiction with an inspection regime acceptable to the SFC ("AIR"). Please refer to the current list of acceptable inspection regimes ("List of AIR") posted on the SFC website and Question 9 of the FAQs on UT Code for details of the AIR concept and related information.
7. For delegation of the investment management functions to investment manager(s) which is/are not based in AIR, please refer to paragraphs 17 to 19 below.

#### Disciplinary proceeding / record

8. In assessing whether a management company is acceptable to the SFC for the purpose of 5.1 of the UT Code, one of the relevant considerations is that, in principle, the management company should not be the subject of any disciplinary proceeding in respect of its licence or registration to conduct any regulated activity, or subject to any action by an exchange, regulated market or self-regulatory organisation for breach of any applicable rule, which may materially affect its financial condition, status as a licensed or regulated entity, or ability to perform its licensed or regulated activity. Please refer to Section C and Annex G of the Information Checklist for the specific confirmations required to be provided by a management company managing SFC-authorized fund(s) and a new management company (as defined in paragraph 10 below) respectively at the time of application.

#### Compliance with 5.2 - 5.5 of the UT Code

9. Among other requirements, a management company should at all times comply with the requirements under 5.2 to 5.5 of the UT Code. In this connection:

- 9.1 sufficient human and technical resources must be at the disposal of the management company, which should not rely solely on a single individual's expertise. As such, it is expected that there should be at least two key personnel who are dedicated full-time staff of the management company possessing at least five years of investment experience managing unit trusts or other public funds with reputable institutions. With regard to the requirement of "dedicated full-time staff", the management company should ensure that the key personnel, being its employees, devote sufficient time to manage the scheme(s) under application; and
- 9.2 any proposed key personnel who has only been assuming a role with functions such as legal, compliance, administration, research, operational and/or general managerial role, without conducting any investment management function (such as portfolio / fund management with investment decision), would not generally be acceptable for the purpose of compliance with 5.5(a) of the UT Code; and
- 9.3 the financial resources requirements set out under 5.2(b) to (d) of the UT Code should be assessed and satisfied at the entity level of the management company (and **not** at the holding company group level or on a consolidated group basis).

#### New management company (for all schemes)

10. A "new management company" means that the management company of the scheme under application is not, at the time of application, managing any SFC-authorized funds. A management company which is not managing any SFC-authorized fund will be regarded as a "new management company" even though it is part of a management/corporate group where one or more of its group companies is/are currently managing SFC-authorized scheme(s).
11. In determining whether a new management company is subject to an AIR, reference should be made to the requirements and conditions applicable to the jurisdiction concerned as set out in the Notes to the List of AIR (e.g. whether it holds a valid licence for managing investment schemes / CIS). As part of the vetting process, the SFC will also conduct regulatory check on the new management company with its home regulator.
12. Each of the key personnel of the new management company for the purpose of 5.5(a) of the UT Code is expected to be properly licensed or regulated in Hong Kong or an overseas jurisdiction (as the case may be) to carry out Type 9 (asset management) regulated activity under the SFO or the equivalent in the relevant overseas jurisdiction (as the case may be), except where the key personnel is not required under relevant overseas laws and regulations to be licensed to carry out asset management activities.
13. Applicants should ensure that all requirements applicable to the new management company are satisfied at the time of application, save as follows. If the new management company is in the process of applying for the required licensing / registration status under Part V of the SFO to carry on the required regulated activity at the time of a new fund application, applicants are reminded that the authorization of the new fund application may only be granted by the SFC when, among others, the requirement as provided under 5.6 of the UT Code has been complied with to the satisfaction of the SFC.

#### Board of directors or investment manager of self-managed schemes

14. For a scheme seeking authorization which is managed by its board of directors that performs the functions of a management company (i.e. a self-managed scheme), references in the UT Code to the directors of a management company are deemed to be references to the directors of a self-managed scheme.
15. Under this Part A, for self-managed schemes, references to the management company are deemed to be references to the investment manager of the schemes, unless otherwise stated.
16. The board of directors of a self-managed scheme should at all times comply with the requirements under 5.4 and 5.5 of the UT Code. In general, it is expected that a self-managed

scheme will appoint an investment manager from an AIR jurisdiction in compliance with the applicable requirements under the UT Code.

#### Non-AIR delegation of investment management functions

17. In general, a management company may delegate its investment management functions to an entity that is not based in an AIR ("Non-AIR delegation") subject to various conditions set out in the Circular on "SFC facilitates delegation of investment management functions to non-AIR jurisdictions" dated 18 October 2007. Please also refer to Question 11 of the FAQs on UT Code for further details.
18. By submitting an application for a scheme involving a new Non-AIR delegation arrangement (i.e. not currently adopted by any existing SFC-authorized fund), the management company is taken to have confirmed and undertaken to the SFC all of the following:
  - 18.1 the management company is either a corporation licensed by or registered with the SFC to carry out Type 9 regulated activity or is subject to supervision in an AIR;
  - 18.2 the delegate is an affiliate of the management company and is subject to a system of internal controls and compliance procedures similar to that of the management company and/or the corporate group to whom both the management company and the delegate belong;
  - 18.3 the delegate is properly licensed or registered by its home regulator to manage investment funds and has good regulatory record;
  - 18.4 the delegate is subject to proper ongoing supervision and regular monitoring by the management company in compliance with 5.5(e) of the UT Code;
  - 18.5 the management company remains responsible for the activities of the delegate in respect of the delegated investment management functions of the scheme;
  - 18.6 the management company will report, or procure the delegate to report, to the SFC immediately upon the happening of any material breach, infringement of or non-compliance with any laws and regulations administered by the home / principal regulator whom the delegate is licensed with (*Note: The management company should have the same reporting obligations where any such breach, infringement or non-compliance was committed by the management company itself*);
  - 18.7 the management company will make appropriate arrangements to make available the transaction records relating to the delegated activities of the scheme in Hong Kong for inspection by the SFC on request within a reasonable time;
  - 18.8 enquiries from the SFC relating to the transaction records relating to the delegated activities of the scheme will be answered and the SFC will have access to the relevant officers, directors and other personnel of the delegate for answer to the enquiries;
  - 18.9 the SFC may instruct accountants / auditors / any other person to carry out an inspection of the books and records of the scheme and such cost should be borne by the management company or the delegate but not be charged to the scheme; and
  - 18.10 the management company will procure the delegate and the Hong Kong representative (where applicable) to make appropriate arrangements to enable the management company to carry out its duties stipulated in 18.5 to 18.9 above.
19. Delegation of investment management functions to non-affiliates of a management company in a non-AIR jurisdiction will be considered on a case-by-case basis. Applicants should discuss any plan of new non-AIR delegation arrangement with the SFC prior to formal application in case of doubt.

## Management company managing specific funds

### *(a) Management company of RQFII<sup>1</sup> / QFII<sup>2</sup> schemes*

20. The management company of a RQFII or QFII scheme and/or any other RQFII / QFII holder for the purpose of the scheme under application should have a valid RQFII or QFII licence from the China Securities Regulatory Commission (“CSRC”) at the time of application.

### *(b) Management company of exchange traded funds (“ETFs”)*

21. A management company of an ETF should possess the relevant experiences (whether acquired from similar previous transactions and/or via its key personnel) in managing and operating ETFs.

22. A management company of a RQFII physical A-share ETF must also comply with the additional requirements as set out in Questions 3 and 4 of the FAQs on Exchange Traded Funds and Listed Funds.

### *(c) Management company of hedge funds*

23. A management company of a hedge fund should comply with the requirements under 8.7(a) of the UT Code. Please refer to Part L in Chapter 5 of this Guide for further requirements applicable to a management company of hedge funds.

### *(d) Management company of funds of hedge funds (“FoHFs”)*

24. A management company of a FoHFs should comply with the requirements under 8.7(k) of the UT Code, i.e. to ensure that each of the key personnel of the management company of an underlying fund possesses at least two years’ experience in the relevant hedge fund investment strategy.

### *(e) Management company of futures and options funds*

25. A management company of a futures and options fund (including futures ETF) should provide a submission at the time of application to demonstrate that it has the specialist expertise in compliance with the requirements under 8.4A(i) of the UT Code.

## **B. Trustee / custodian**

26. Every scheme seeking authorization should appoint a trustee / custodian acceptable to the SFC pursuant to 4.1 of the UT Code. The trustee / custodian should ensure compliance with Chapter 4 of the UT Code at the time of application and at any time for so long as the scheme remains authorized by the SFC.

27. In accordance with the requirements under 5.4 and 5.5 of the Overarching Principles Section of the Handbook, the management company of a unit trust / mutual fund and the unit trust / mutual fund itself and (where the fund is in the nature of a mutual fund corporation) its board of directors should exercise reasonable care and diligence in the selection of the trustee / custodian.

28. To comply with 4.1 and 4.2 of the UT Code, a new trustee / custodian (i.e. an entity which is not currently acting as the trustee / custodian of any SFC-authorized funds) is generally expected to be a part of a banking group or substantial financial institution (as defined in the UT Code) being subject to the supervision of a prudential regulator. Applicants of new funds with new trustees / custodians should provide documentary evidence to the SFC at the time of application, including:

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<sup>1</sup> “RQFII” means Renminbi Qualified Foreign Institutional Investors.

<sup>2</sup> “QFII” means Qualified Foreign Institutional Investors.

- 28.1 certificate of incorporation / registration of the trustee / custodian; and
- 28.2 for a bank licensed under section 16 of the Banking Ordinance (Chapter 155 of the Laws of Hong Kong) or a substantial financial institution in Hong Kong, licence issued by the relevant authority; or
- 28.3 for a subsidiary of a licensed bank or a substantial financial institution, documentation showing such relationship, such as its group organisational chart, together with the licence of such bank or financial institution issued by the relevant authority; or
- 28.4 for a banking institution or trust company incorporated outside Hong Kong, the appropriate certificate issued by its primary supervisory authority.
29. For the purpose of 4.2(d) of the UT Code, whilst a new trustee / custodian may not be named or formed as a trust company, it is acceptable for the applicant to demonstrate compliance by submitting a satisfactory legal opinion at the time of application to the effect that the new trustee / custodian is in substance subject to the duties (including fiduciary duties) imposed on trust companies under general law of trusts.
30. A new trustee / custodian is generally required to provide the following documents to the SFC at the time of application to demonstrate compliance with 4.1 of the UT Code:
- 30.1 an audit certificate with respect to the trustee / custodian's internal controls and systems<sup>3</sup>; or

Note:

*Pursuant to paragraph 9 of Appendix G to the UT Code, the period under review should be for a period of at least twelve months and should coincide with the financial year of the trustee/custodian unless otherwise agreed with the SFC.*

*In the event that the audit review represents the first audit review of the trustee / custodian prepared in accordance with the requirements under Appendix G to the UT Code, the SFC may consider accepting an audit certificate based on a review period covering a period of six months and not coincide with the financial year end of the trustee / custodian. In any event, the review period of the audit should not end more than four months from the date of auditor's report.*

*Reference should be made to Appendix G to the UT Code (Guidelines for review of internal controls and systems of trustees / custodians) regarding other requirements relating to the audit review of a new trustee/custodian.*

- 30.2 an undertaking from the trustee / custodian (subject to ongoing regulatory supervision)<sup>4</sup> to the SFC stating that if the SFC is not satisfied with such ongoing regulatory supervision, an independent auditor would be appointed to periodically review its internal controls and systems on terms of reference agreed with the SFC and such report would be filed with the SFC.
31. In confirming its compliance with Chapter 4 of the UT Code, the trustee / custodian should ensure strict adherence to the financial resources requirements set out in 4.3 to 4.4 of the UT Code at all times. For avoidance of doubt, such requirements should be assessed and satisfied at the entity

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<sup>3</sup> This is required for new trustees / custodians whose functions are mainly carried out in Hong Kong. For new trustees / custodians whose functions are mainly carried out in a non-AIR jurisdiction, an audit certificate is generally required and applicants should consult with the SFC in advance.

<sup>4</sup> This is generally required for new trustees / custodians whose functions are (i) mainly carried out in AIR jurisdictions and with the primary supervisory authority being one of those with whom the SFC has co-operation agreements (including Australia, France, Germany, Malaysia, Taiwan, United Kingdom and United States of America); or (ii) carried out by the head / branch office(s) of a banking institution in an AIR jurisdiction whereby a separate arm / office of the banking institution is currently acting as trustee / custodian for SFC-authorized funds. Trustees / custodians whose functions are carried out in Luxembourg or Ireland would not normally be required to provide an audit certificate or an undertaking referred to in this paragraph 30.

level of the trustee / custodian (and **not** at the holding company group level or on a consolidated group basis).

32. The trustee / custodian and the management company should be persons who are independent of each other pursuant to 4.7 of the UT Code or deemed to be independent of each other pursuant to 4.8 of the UT Code.
33. For a non-Hong Kong domiciled scheme established in a jurisdiction where the trustee/custodian and the management company are required by law to act independently of one another, for the purpose of 4.8(b) of the UT Code, the applicant is expected to provide documentary evidence (such as in the form of a legal opinion) to that effect at the time of application.
34. The trustee / custodian is expected to update the management company and the SFC (via the management company) on any change that would impact on its eligibility / capacity to act as the trustee / custodian of SFC-authorized funds (including the regulatory status and/or financial position of the trustee / custodian).
35. Upon being satisfied with the relevant regulatory requirements, the trustee / custodian and/or management company must submit the duly completed and properly executed confirmations (together with the relevant supporting documents) to the SFC at the time of application as set out in the Information Checklist.
36. Please refer to Chapter 5 of this Guide for other requirements applicable to trustees / custodians of different scheme types.

### **C. Hong Kong representative (for non-Hong Kong based schemes only)**

37. A non-Hong Kong based scheme (i.e. its management company is not incorporated and does not have a place of business in Hong Kong) should appoint a Hong Kong representative pursuant to 9.1 of the UT Code to represent the scheme and the management company and to carry out the functions set out in 9.3 of the UT Code.
38. The applicant should ensure compliance with the following requirements in respect of the appointment of the Hong Kong representative of a scheme:
  - 38.1 the Hong Kong representative is licensed or registered under the SFO or is a trust company registered under Part VIII of the Trustee Ordinance (Chapter 29 of the Laws of Hong Kong) and such company is an affiliate of an authorized financial institution defined under the SFO and is acceptable to the SFC; and
  - 38.2 the Hong Kong representative agreement contains provisions in compliance with 9.3 of the UT Code to cover the functions of a Hong Kong representative and in compliance with 9.10 of the UT Code regarding jurisdiction.
39. If the new Hong Kong representative is in the process of applying for the required licensing / registration status at the time of application, the applicant is required to confirm to the SFC prior to the authorization becoming effective (by use of the "Confirmation of Fulfilment of Authorization Conditions" contained in Annex 2 to this Guide) that a Hong Kong representative has been appointed in respect of the scheme in accordance with the requirements under Chapter 9 of the UT Code. Please refer to Chapter 7 of this Guide for details.

## Chapter 5 - Specific scheme types

### A. Hong Kong domiciled schemes<sup>5</sup>

1. In principle, Hong Kong domiciled schemes should fully comply with all the requirements under the UT Code, including Chapter 7 of the UT Code in relation to the core requirements of the investment limitations and prohibitions of a CIS and/or Chapter 8 of the UT Code in relation to the guidelines for various types of specialized schemes (where applicable).
2. A fundamental principle regarding the investments of any scheme seeking authorization for offering to the public in Hong Kong is that the scheme should maintain proper diversification of its investments and liquidity to meet redemptions by investors from time to time.
3. In relation to the use of financial derivative instruments ("FDIs") by a Hong Kong domiciled scheme falling within Chapter 7 of the UT Code (a "Ch. 7 scheme"):
  - 3.1 a Ch. 7 scheme may use any FDIs (including those which are not specifically mentioned therein, e.g. interest rate swap, currency forward, etc.) for hedging purpose;
  - 3.2 Chapter 7 of the UT Code sets out various limits on the use by a Ch. 7 scheme of specific FDIs (e.g. warrants, options and futures) for investment purposes;
  - 3.3 in general, a Ch. 7 scheme is expected to be a plain vanilla fund not seeking to use FDIs extensively for investment purposes. As such, if a new Ch. 7 scheme proposes to use other FDIs not mentioned in Chapter 7 of the UT Code for investment purposes, the applicant should consult the SFC prior to formal application; and
  - 3.4 for schemes that seek to acquire FDIs for investment purposes but do not meet the specific criteria set out in the relevant provisions in Chapter 7 of the UT Code and this Guide, they should comply with the applicable requirements for specialized schemes as set out in Chapter 8 of the UT Code, e.g. 8.4A on futures and options funds (see Part I below), 8.7 on hedge funds (see Part L below), 8.8 on structured funds (see Part M below) and 8.9 on funds that invest in FDIs (see Part N below).
4. In view of the diversification requirement in 7.1 of the UT Code, a Ch. 7 scheme should not invest in any participatory notes / equity-linked notes with gross exposure to any single issuer of such notes exceeding 10% of the scheme's NAV. If a new scheme proposes to use collateral to reduce the gross counterparty exposure of any single issuer, the scheme will be regarded by the SFC as a scheme falling within 8.9 of the UT Code and should comply with the requirements thereunder.
5. For the purpose of 7.11A of the UT Code, "recognized jurisdiction schemes" means those UCITS schemes domiciled in Luxembourg, Ireland and the United Kingdom. Please refer to Note 6 of the List of RJS (see paragraph 9 below) for further details.
6. In relation to the investment in real estate investment trusts ("REITs") by SFC-authorized funds and whether REITs are considered as CIS or securities for the purpose of Chapter 7 of the UT Code, please refer to Questions 17 to 18 of the FAQs on UT Code.
7. In relation to whether ETFs are considered as CIS or listed securities for the purpose of Chapter 7 of the UT Code, please refer to Question 20 of the FAQs on UT Code.

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<sup>5</sup> Non-Hong Kong domiciled schemes which do not fall under Part B (Schemes established in recognized jurisdictions) or Part C (Schemes under mutual recognition arrangements / other fund authorization arrangements) shall be treated as Hong Kong domiciled schemes for the purpose of new fund applications.



## **B. Schemes established in recognized jurisdictions**

8. Schemes that are established outside of Hong Kong are normally expected to comply with the applicable provisions of the Handbook, the UT Code and the Published Guidance in order to be authorized in Hong Kong by the SFC for offering to the public in Hong Kong.
9. The UT Code accepts that some schemes already comply with certain provisions of the UT Code by virtue of prior authorization in a regulated jurisdiction. The SFC recognizes the types of scheme in jurisdictions set out in the list of recognized jurisdiction schemes ("RJS") posted on the SFC website ("List of RJS"). RJS will generally be reviewed on the basis that the scheme's structural and operational requirements, and core investment restrictions, already comply in substance with the UT Code. Reference should be made to 1.2 of the UT Code and the List of RJS for further details on the concept of RJS.
10. For avoidance of doubt, all RJS schemes seeking authorization should comply in full with the requirements applicable to the trustee / custodian and the management company (and its delegate(s), if applicable) of the schemes as provided under the UT Code, including, the provisions under Chapter 4 and Chapter 5 of the UT Code respectively.
11. The Notes to the List of RJS set out the application and authorization requirements applicable to various RJS. In particular, Notes 2 of the List of RJS refers to the Circular on "Interim measures on the disclosure and submission requirements for the authorization of UCITS III funds domiciled in Luxembourg, Ireland and the United Kingdom by the SFC" dated 31 March 2005 which applies to UCITS schemes domiciled in Luxembourg, Ireland and the United Kingdom. Applicants seeking authorization of UCITS schemes domiciled in these three recognized jurisdictions should note that the schemes' constitutive documents are required to comply with all applicable home jurisdiction's laws and regulations and home regulator's requirements and comply with 9.10 of the UT Code and D12 of Appendix D to the UT Code regarding connected party transactions.
12. A UCITS scheme should be approved by the home regulator at the time of application and its overseas offering documents (that are consistent with the scheme's HKOD) should be approved by the home regulator prior to the authorization becoming effective. Before making the formal application to the SFC, applicants are welcome to discuss their proposed applications with the SFC prior to receiving formal approval of the fund(s) by the home regulator.
13. An applicant of a UCITS scheme should inform the SFC of any waivers granted or special requirements and/or conditions imposed by the home regulator of the scheme that have not been stated in the evidence of approval granted by the home regulator at the time of application.
14. For a new Luxembourg-domiciled umbrella UCITS scheme, the applicant should make the appropriate arrangement with the Commission de Surveillance du Secteur Financier ("CSSF") so as to enable the CSSF to provide a confirmation to the SFC that (please refer to Section C of the Information Checklist):
  - 14.1 the scheme will comply with additional audit review procedures for authorization of the scheme in Hong Kong; or
  - 14.2 the scheme will prepare a long form audit report required or in accordance with Luxembourg's rules or regulations.

In respect of the additional audit review procedures mentioned in paragraph 14.1 above, the additional procedures essentially involve a review of additional matters concerning practices not already carried out by the auditor in its annual review for the CSSF (including, for example, window dressing, rebates, soft commissions, price calculation, choice of investment / borrowing limit, price allocation, best execution, underwriting / sub-underwriting agreements, connected party transactions, fees and expenses, portfolio turnover, unusual losses). The applicant must ensure that the relevant report to be issued by its auditor should conform with such other requirements (if any) by CSSF in rendering its confirmation referred to above.

15. For a UCITS scheme that uses / will use FDIs extensively for investment purposes, the scheme or its management company and its delegate(s) (if applicable) or the investment manager of a self-managed scheme should ensure (i) there are suitable risk management and control systems which are commensurate with the scheme's risk profile to monitor, measure and manage all the

relevant risks in relation to the scheme; and (ii) the home regulator of the management company or the investment manager of a self-managed scheme has either approved the risk management policy (“RMP”) or has no comments on the RMP as duly filed.

### **C. Schemes under mutual recognition arrangements / other fund authorization arrangements**

16. For applicants seeking authorization of funds pursuant to or in accordance with the mutual recognition arrangements and/or such other fund authorization arrangements that have been entered into between the SFC and the related countries or jurisdictions, they should follow the specific requirements and guidance issued by the SFC related thereto and prepare the application accordingly<sup>6</sup>.

### **D. Self-managed schemes**

17. Instead of revising its constitutive documents for the purpose of complying with 5.9(b) of the UT Code, SFC would accept a self-managed scheme to demonstrate compliance with 5.9(b) of the UT Code by way of disclosure in the HKOD of a maximum aggregate amount for directors’ remuneration and that any increase in the directors’ remuneration beyond the stated maximum would require shareholder’s prior approval at a general meeting, together with a confirmation from the board of directors to such effect.

### **E. RQFII / QFII funds**

#### General

18. RQFII funds or QFII funds are funds which invest 70% or more of their NAV using RQFII or QFII quota respectively.

19. The management company and the trustee / custodian of a RQFII / QFII fund should always ensure that proper arrangements referred to in Section 4 of the minimum disclosure requirements (“Minimum Disclosure Requirements”) (contained in Annex 1 to this Guide) are put in place for the safe custody and segregation of the fund’s assets. The management company should ensure that relevant disclosure is included in the HKOD (see Chapter 6 of this Guide for details).

20. The management company of a RQFII / QFII fund and/or any other RQFII / QFII holder for the purpose of the fund under application should have a valid RQFII / QFII licence from the CSRC at

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<sup>6</sup> For example:

- (i) for applicants seeking authorization of Mainland funds pursuant to the mutual recognition of funds between the Mainland and Hong Kong (“MRF”), they should follow the specific requirements set out in the Circular on mutual recognition of funds between the Mainland and Hong Kong dated 22 May 2015 and the FAQs on Mainland-Hong Kong mutual recognition of funds, and use the Information Checklist for Application for Authorization of Mainland Funds seeking SFC’s Authorization under the Mutual Recognition of Funds Arrangement and any other MRF-related documents as issued and/or updated by the SFC from time to time;
- (ii) for applicants seeking authorization of Malaysian Islamic collective investment schemes pursuant to the mutual recognition framework between the SFC and the Securities Commission of Malaysia (“SC”), they should follow the specific requirements set out in the Circular on mutual cooperation on development of Islamic capital market and Islamic collective investment schemes by the SFC and SC dated 9 November 2009, and use the Application Form and the Information Checklist;
- (iii) for applicants seeking authorization of Taiwan ETFs pursuant to the mutual recognition framework between the SFC and the Taiwan Financial Supervisory Commission, they should follow the specific requirements set out in the Circular to SFC-licensed fund managers of ETFs on the mutual recognition of ETFs between Hong Kong and Taiwan dated 22 May 2009, and use the Application Form and the Information Checklist; and
- (iv) for applicants seeking authorization of Australian managed investment schemes pursuant to the mutual recognition framework between the SFC and Australian Securities and Investment Commission (“ASIC”), they should follow the specific requirements set out in the Circular on mutual recognition of cross-border offering of collective investment schemes by the SFC and ASIC dated 7 July 2008, and use the Application Form and the Information Checklist.

the time of application. The fund should comply with the RQFII / QFII rules in terms of the investment policies and strategies of the fund as well as the custodian arrangements in the PRC.

21. If the RQFII / QFII quota is not available for use by the RQFII / QFII fund at the time of application and remains outstanding by the time of SFC's authorization of the fund, the applicant is required to confirm to the SFC prior to the authorization becoming effective (by use of the "Confirmation of Fulfilment of Authorization Conditions" contained in Annex 2 to this Guide) that (i) the RQFII / QFII quota has been obtained for use by the scheme and the relevant accounts (including securities account(s) and cash account(s)) have been opened in the Mainland or (ii) undertake to obtain such quota and open the said accounts in the Mainland prior to launching the scheme. Please refer to Chapter 7 of this Guide for details.

#### Specifically for RQFII ETFs

22. A management company proposing to launch its first RQFII ETF in Hong Kong is required to conduct operational testing(s) internally to examine its system and operational process in an end-to-end manner to ensure readiness for the launch and the on-going operations of the RQFII ETF. Generally, paper drill testing is acceptable and the operational testing plan is not required to be submitted.
23. At the time of application, the management company proposing to launch its first RQFII ETF is required to submit the following confirmations executed by its senior management (Responsible Officers are normally expected to execute):
- 23.1 testing has been completed and satisfactorily carried out and the existing system and operational procedures can fully support the RQFII ETF at its launch and on-going operations including system interface, system maintenance, data integrity and IT supports (both internal and external) with no fault detected; and
- 23.2 the management company has (i) sufficient human and technical resources and capability; (ii) adequate infrastructure and systems; (iii) adequate operational experience and processes; and (iv) adequate controls and procedures in place to ensure the smooth and efficient management and operation of RQFII ETF. These include but are not limited to:
- complete cycle of creation and redemption involving submission of creation and redemption orders;
  - RQFII quota control;
  - cash management and cross border money flow for creation and redemption operations;
  - trade execution in the Mainland including settlement and clearing;
  - procedures of handling corporate or other special events;
  - portfolio composition file generation and checking;
  - reference underlying portfolio value and estimated NAV calculation and publication; and
  - tracking error management.

#### **F. Feeder funds (7.12 of the UT Code)**

24. In addition to other requirements applicable to funds under Chapter 7 of the UT Code, a feeder fund should comply with the requirements under 7.12 of the UT Code.

#### **G. Unit portfolio management funds ("UPMF") (8.1 of the UT Code)**

25. A UPMF should fully comply with the requirements under 8.1 of the UT Code. A UPMF should invest all of its assets in other CIS (which may include ETFs) and it may hold cash for ancillary purposes and enter into financial futures contracts and other FDIs for hedging purposes.
26. A UPMF may only invest in units/shares of SFC-authorized CIS or in recognized jurisdiction schemes domiciled in Luxembourg, Ireland and the United Kingdom (whether authorized by the SFC or not), except that not more than 10% of the UPMF's total NAV may be invested in non-recognized jurisdiction schemes not authorized by the SFC.
27. A UPMF, except with the approval of the SFC, must invest in at least five CIS, and not more than 30% of its total NAV may be invested in any one CIS.

28. A UCITS UPMF is deemed to have complied in substance with the investment restrictions under 8.1 of the UT Code. However, such UCITS UPMF is required to comply with 8.1(h) and (i) of the UT Code in relation to the fees and charges of the underlying schemes. Please refer to the Circular on “Streamlined measures for processing UCITS III schemes with special features” dated 30 March 2007 for details.

#### **H. Money market / cash management funds (“MMF”) (8.2 of the UT Code)**

29. A MMF is a scheme with the sole objective to invest in short-term deposits and debt securities.
30. A MMF (including UCITS schemes that are named as money market funds or marketed as such) should fully comply with the requirements under 8.2 of the UT Code. Please refer to the Circular on “Streamlined measures for processing UCITS III schemes with special features” dated 30 March 2007 for details.
31. A MMF seeking authorization is expected to adopt a variable NAV (i.e. not a stable / constant NAV). For a MMF which adopts a stable / constant NAV and/or use amortised cost accounting for valuation, the MMF should comply with the relevant principles set out in the “Policy Recommendations for Money Market Funds (Final Report)” issued by the International Organization of Securities Commissions dated October 2012. Applicants should consult the SFC in advance should their MMFs wish to adopt a stable / constant NAV and/or use amortised cost accounting for valuation.

#### **I. Futures and options funds (8.4A of the UT Code)**

32. A futures and options fund is a scheme whose principal objective is investment in future contracts (including commodities and financial futures) and/or in options.
33. A futures and options fund (including UCITS funds with similar features) should fully comply with the requirements under 8.4A of the UT Code.
34. In general, futures and options funds invest substantially in various futures and options contracts and, as such, the risks inherent in these funds are not typically encountered in traditional funds. To enhance investor protection, authorization (if granted by the SFC) will be subject to a minimum initial subscription requirement of US\$10,000 or the equivalent currency of the futures and options funds seeking authorization so that they are better differentiated from other SFC-authorized public funds by investors in Hong Kong. In respect of investments by Hong Kong investors into SFC-authorized futures and options funds through SFC-authorized Investment-Linked Assurance Schemes (“ILAS”), the SFC also imposed corresponding minimum initial subscription requirement at the ILAS-level.
35. At the time of application, the applicant of a futures and options fund should provide a certification and a submission from the trustee / custodian to demonstrate that the trustee / custodian has the relevant experience pursuant to the requirements under 8.4A(j) of the UT Code.

#### **J. Guaranteed funds (8.5 of the UT Code)**

36. A guaranteed fund is a scheme with a structure whereby a guaranteed amount will be paid to investors who hold units / shares in the scheme at a specified date in the future.
37. A guaranteed fund should comply with the requirements under 8.5 of the UT Code and the core requirements in Chapter 7 of the UT Code and relevant provisions in Chapter 8 of the UT Code should also apply to the scheme where appropriate, depending on the nature and the underlying investments of the scheme.
38. UCITS schemes with guaranteed features should comply with all the provisions under 8.5 of the UT Code, except 8.5(a) of the UT Code which is regarded as having been complied with by UCITS schemes.

39. In order to limit a guaranteed fund's concentration risk and net single counterparty exposure, it is expected that the scheme's net single counterparty exposure to the guarantor would be limited to no more than 10% of the NAV of the scheme at all times. Structurally, guaranteed funds would likely also have features of a structured fund and offer structured pay-outs (i.e. in the form of a guarantee) when certain pre-determined conditions are met. In such cases, the scheme should also comply with applicable requirements under 8.8 of the UT Code (including without limitation the collateral requirements in 8.8(e)) and the relevant guidance set out in the Published Guidance (if any).

## **K. Index funds (including ETFs) (8.6 of the UT Code)**

### General

40. An index fund should fully comply with the requirements under 8.6 of the UT Code. Index tracking ETFs should also comply with Appendix I to the UT Code and observe the requirements under the FAQs on Exchange Traded Funds and Listed Funds.
41. For an index fund where the underlying index / benchmark is not tracked by any SFC-authorized index fund / ETF, the applicant should submit supporting information to demonstrate that the relevant index / benchmark fulfils the acceptability criteria under 8.6(e) of the UT Code.
42. The applicant of an ETF is expected to assess the impact of the Volcker Rule in the US and ensure that there is no adverse impact on the market making activities. The relevant confirmation should be provided at the time of application.
43. The management company is required to publish the following information on its website, namely the real time / near real time iNAV per unit, NAV per unit, NAV of the ETF, full holdings of the ETF (updated on a daily basis), rate of foreign exchange used and its sources (where applicable). For dual counter ETFs, the relevant information should be provided for both counters.

### UCITS index funds (including ETFs)

44. For UCITS index funds (including ETFs), they are deemed to comply with the investment restrictions of the UT Code for the purposes of 8.6(a), (b), (c), (g), (h) and (i) of the UT Code, but are specifically required to comply with 8.6(d), (e), (f), (j), (k), (l) and (m) of the UT Code, in addition to the disclosure and risk management requirements set out in the Circular on "Interim measures on the disclosure and submission requirements for the authorization of UCITS III funds domiciled in Luxembourg, Ireland and the United Kingdom by the SFC" dated 31 March 2005.

### Physical ETFs with stock lending activities

45. Physical ETFs that undertake stock lending activities should also comply with the requirements as set out in Question 7 of the FAQs on Exchange Traded Funds and Listed Funds.
46. For stock lending transactions for physical ETFs, the collateral management should be marked to market on a daily basis. The arrangement will be similar to the collateral management timeline for ETFs investing in funded swap transactions / China A-share access products ("CAAPs") as set out in 48.4 below. It is noted that such timeline may be modified depending on the specific circumstances (such as the location of the relevant markets and/or the funds) subject to prior consultation with the SFC.

### Futures ETFs

47. For futures ETFs, applicants should comply with all the requirements under 8.4A of the UT Code, unless any waiver is granted by the SFC.

### Synthetic ETFs

48. Synthetic ETFs are subject to the following additional requirements in order to raise investors' awareness:

48.1 Management companies of synthetic ETFs are required to:

48.1.1 add a marker X at the beginning of the English and Chinese stock short names of all synthetic ETFs listed on The Stock Exchange of Hong Kong Limited; and

48.1.2 annotate the name by putting an asterisk (\*) and an annotation in English (\*This is a synthetic ETF) and in Chinese (\*此基金為一隻合成交易所買賣基金), as the case may be, right after the name of a synthetic ETF.

For details, please refer to the Press Release on the new measures to raise investors' awareness of synthetic ETFs dated 18 November 2010.

48.2 Hong Kong domiciled and non-UCITS synthetic ETFs primarily regulated by the SFC are subject to additional measures to enhance the level of collateral and transparency, including:

48.2.1 collateral held must represent at least 100% of the ETF's gross total counterparty risk exposure and be maintained, marked to market on a daily basis with a view to ensuring that there is no uncollateralised counterparty risk exposure;

48.2.2 where collateral taken is in the nature of equity securities, such collateral should be subject to an additional requirement such that the market value of such equity collateral represents at least 120% of the related gross counterparty risk exposure;

48.2.3 the collateral must meet the requirements in 8.8(e) of the UT Code, as supplemented by such other guidance from the SFC from time to time;

48.2.4 the management company, as a fiduciary and with due care and skill, should adopt a prudent hair-cut policy on any non-equity collateral held by the ETF taking into account all relevant factors, including without limitation, the credit quality, liquidity, duration and other relevant terms of the collateral held;

48.2.5 the management company, as a fiduciary, should dynamically manage the collateral with due care and skill, and in the interest of the unitholders/shareholders, having due regard to the market circumstances from time to time; and

48.2.6 the management company is required to publish the latest collateral management policy of the ETF on the ETF's website on an ongoing basis.

Please refer to the Press Release on enhanced investor protection for domestic synthetic ETFs dated 29 August 2011 for further information.

48.3 For synthetic ETFs/unlisted index funds using funded swap transaction(s) or CAAPs other than Hong Kong domiciled and non-UCITS synthetic ETFs primarily regulated by the SFC, the management company should manage the funds to ensure that the collateral held by the funds will represent at least 100% of the funds' gross total counterparty risk exposure and be maintained, marked to market on a daily basis, with a view to ensuring that there is no uncollateralised counterparty risk exposure at the end of a trading day.

48.4 The valuation of the collateral and the calculation of counterparty risk exposure for synthetic ETFs/unlisted index funds using funded swap transaction(s) in respect of any trading day T generally occurs on the end of that trading day. If the collateral held by the fund is not at least 100% of the fund's gross total counterparty risk exposure in respect of any trading day T, by the end of that trading day T, the management company will generally require that each swap counterparty deliver additional collateral assets to make up for the difference in value, with the settlement of such delivery expected to occur on trading day T+1.

48.5 For synthetic ETFs / unlisted index funds using unfunded swap transaction(s), the management company should manage the fund with the objective to reduce to nil its single counterparty net exposure on the basis that where the fund's net exposure to each swap counterparty exceeds 0% at the end of a trading day T, by the end of that trading day T, the management company will generally require that each swap counterparty should make cash

payment to the fund so that the net exposure of the fund to each swap counterparty is limited to no more than 0% of its NAV. The settlement of such cash payment is expected to occur on trading day T+1.

48.6 Subject to prior consultation with the SFC, the above collateral / counterparty exposure management timeline may be modified depending on the specific circumstances (such as the location of the relevant markets and/or the fund).

48.7 The following information is generally expected to be disclosed on synthetic ETFs' websites:

48.7.1 overall collateralisation level / total invested assets (expressed as a percentage of the ETF's NAV);

48.7.2 hyperlinks to the websites of derivative issuers and their guarantors (where available);

48.7.3 pictorial presentation of collateral / invested assets information by way of pie charts showing the following information:

48.7.3.1 a breakdown by asset type, e.g. equity, bond and cash and cash equivalents;

48.7.3.2 for equity, further breakdown by (i) primary listing (i.e. stock exchanges), (ii) index constituents, and (iii) sector;

48.7.3.3 for bond, further breakdown by (i) types of bonds, (ii) countries of issuers / guarantors, and (iii) credit rating; and

48.7.4 top 10 holdings in the collateral / invested assets (including name, percentage of the ETF's NAV, type, primary listing for equities, country of issuers).

The information in paragraph 48.7.1 above is generally expected to be updated on a daily basis on the ETFs' websites. The information in paragraphs 48.7.2 to 48.7.4 above is generally expected to be updated on a weekly basis and uploaded onto the websites within three working days of the end of each week.

48.8 Management companies of synthetic ETFs should also comply with 8.9(f) of the UT Code and the relevant requirements under 8.8 of the UT Code.

## **L. Hedge funds (8.7 of the UT Code)**

49. Hedge funds (or alternative investment funds or absolute return funds) are generally regarded as non-traditional funds that possess different characteristics and utilise different investment strategies from traditional funds.

50. Hedge funds (including UCITS funds with similar features) should fully comply with the requirements under 8.7 of the UT Code.

51. The management company of a hedge fund should, amongst others, put in place suitable internal controls and risk management systems commensurate with its business and risk profile in compliance with 8.7(a)(iv) of the UT Code.

52. Where a scheme invests all its non-cash assets in other hedge funds, it is a FoHFs and should comply with the requirements under 8.7(j) and 8.7(k) of the UT Code.

53. Where a scheme has a capital guarantee feature, it is a capital guaranteed hedge fund and should comply with the requirements under 8.5 and 8.7 of the UT Code where relevant, depending on the nature of the scheme.

**M. Structured funds (including index funds / ETFs that adopt a synthetic replication strategy) (8.8 of the UT Code)**

54. A structured fund (including index fund / ETF that adopts a synthetic replication strategy) is a scheme which seeks to achieve its investment objective primarily through investing substantially in FDIs, for example swap or market access products or similar arrangements. A structured fund is passively managed and usually tracks the performance of an index and/or offers structured pay-outs when certain pre-determined conditions are met.
55. A structured fund (including UCITS fund with similar features) should fully comply with the requirements under 8.8 of the UT Code. For example:
- 55.1 a management company of a structured fund should be independent from the FDI issuer(s) in accordance with 8.8(a) of the UT Code;
- 55.2 the majority of the board of directors of the scheme should be independent directors in compliance with 8.8(b) of the UT Code (applicable where the scheme is a mutual fund company);
- 55.3 the management company of a structured fund should put in place detailed contingency plans regarding credit events as required under 8.8(f) of the UT Code.
56. In respect of the asset portfolio of a structured fund investing in unfunded swap:
- 56.1 the fund should have daily reset mechanism in place to limit the exposure of the fund to the counterparty risk of the FDI issuer to no more than 10% of the NAV of the fund;
- 56.2 there is no securities lending, repo, reverse repo or other similar over-the-counter transactions; and
- 56.3 the invested assets under an unfunded swap structure should comply with the collateral requirements in 8.8(e) of the UT Code with necessary changes as if they were applicable to invested assets. Please refer to Question 16A of the FAQs on UT Code for details.
57. For structured funds which are linked to one or more indices:
- 57.1 the index adopted by the structured fund should fulfil the acceptability criteria under 8.6(e) of the UT Code.
- 57.2 where the index is provided for the use of the structured fund only, the applicant should be able to justify the propriety of the fund seeking exposure to such index.
- 57.3 the index provider should be an independent person or should ensure the index provider is functionally and operationally independent from the swap counterparty in terms of personnel and reporting line if the index provider is a connected person.
58. In relation to the FDI issuer and the guarantor of the FDI issuer:
- 58.1 each of the FDI issuer and the guarantor of the FDI issuer should be a “substantial financial institution”, which is defined to mean an authorized institution as defined in section 2(1) of the Banking Ordinance (Chapter 155 of Laws of Hong Kong) or financial institution with a minimum paid-up capital of HK\$150 million or its equivalent in foreign currency; and
- 58.2 where the FDI issuer or guarantor of the FDI issuer is an overseas banking entity, it should be, on an ongoing basis, subject to prudential and regulatory supervision acceptable to the SFC. Please refer to Question 16B of the FAQs on UT Code for details.

**N. Hong Kong domiciled schemes and other non-UCITS schemes that invest in FDIs (8.9 of the UT Code)**

59. A Hong Kong domiciled scheme or other non-UCITS scheme which seeks to acquire FDIs for investment purposes, but does not meet the specific criteria set out in respect of other scheme



types in Chapter 8 of the UT Code or relevant provisions in Chapter 7 of the UT Code, should comply with the requirements under 8.9 of the UT Code. For avoidance of doubt:

- 59.1 the scheme should also comply with the provisions in Chapter 7 of the UT Code other than those in respect of FDIs which are aggregated and covered under 8.9 of the UT Code;
  - 59.2 UCITS schemes that use FDIs for investment purposes are deemed to have already complied with the relevant UCITS requirements and thus are not required to comply with 8.9 of the UT Code, except for the disclosure requirements set out in 8.9(j) and (k) of the UT Code; and
  - 59.3 collateral held by the scheme should comply with the requirements set out in 8.8(e) of the UT Code and please also refer to Question 16A of the FAQs on UT Code for details.
60. The management company and its delegate(s) (if applicable) should put in place suitable and adequate risk management and control systems to monitor, measure, and manage all the relevant risks in relation to the scheme in compliance with 8.9(c) of the UT Code and comply with the requirements under 8.9(d) to (e) of the UT Code.
61. In relation to the counterparties to over-the-counter derivative transactions or their guarantors, please refer to the requirements set out under paragraphs 58.1 and 58.2 above.

## **Chapter 6 – Minimum disclosure requirements for Hong Kong offering documents (including KFS) / constitutive documents**

### **A. General principles and requirements**

1. A scheme's HKOD should comply with all applicable disclosure requirements of the SFC as issued and/or updated from time to time, including the requirements under the Handbook, the UT Code (including Appendix C) and the Published Guidance.
2. An applicant should comply with GP 2 and the disclosure requirements under Chapter 6 of the Overarching Principles Section of the Handbook.
3. An applicant should prepare a KFS in accordance with the requirements under 6.5 to 6.8 of the Overarching Principles Section of the Handbook and 6.2A of the UT Code. Illustrative templates of the KFS for different scheme types are available on the SFC website. It is expected that the sections headed "Objectives and investment strategy" and "What are the key risks" in a KFS should not be more than four pages.

### **B. Guidance on minimum disclosure on topical areas**

4. In addition to the topical areas covered below, please refer to the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) for general guidance with respect to the SFC's expectations in relation to the minimum disclosure for a scheme's HKOD and the minimum compliance requirements for the constitutive documents of Hong Kong domiciled schemes and other non-UCITS schemes.

#### Investment objective and strategy

5. The HKOD of a scheme submitted at the time of application should contain full and proper disclosure of the investment policy and strategy with sufficient details and be in compliance with the applicable disclosure requirements for the relevant scheme type(s).
6. Applicants should ensure that the disclosure reflects the actual investment strategy and policy adopted by the scheme in practice. Disclosure seeking for maximum flexibility in the scheme's policy whilst such investment strategy / policy will unlikely be pursued should be avoided.
7. Please refer to Section 1 of the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) for the minimum disclosure regarding the investment objective and strategy in the KFS of certain scheme types.

#### Others scheme features

8. If a scheme may enter into stock lending, repo, reverse repo and similar over-the-counter transactions, the HKOD should disclose the minimum information set out in Question 21 of the FAQs on UT Code.
9. If a scheme may pay dividends out of capital, the HKOD should disclose the minimum information set out in Question 34 of the FAQs on UT Code.

#### UCITS schemes

10. For UCITS schemes that use a global offering document which contains information of both SFC-authorized funds and non-SFC-authorized funds, please refer to Question 9 of the FAQs on SFC Authorization of UCITS III Funds for the additional disclosure to be made in the Hong Kong wrapper of the global offering document for the purposes of distribution to the public in Hong Kong.
11. For UCITS schemes that may use FDIs extensively for investment purposes, the HKOD (including the KFS) should contain the following disclosure:

- 11.1 information as set out in Appendix C to Section 1 of the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) (in both the KFS and the main Hong Kong offering document);
- 11.2 additional risk disclosure including the risks associated with investments in FDIs (in both the KFS and the main Hong Kong offering document);
- 11.3 a statement indicating how and where information regarding the risk management and control policy, procedures and methods employed by the scheme will be made available to Hong Kong investors upon request (in the main Hong Kong offering document only); and
- 11.4 a summary of the risk management policy and methods employed by the fund to effectively measure and manage the risks associated with the investments in FDIs (in the main Hong Kong offering document only).

#### China and/or RMB related funds

- 12. If the fund's aggregate exposure to A shares and B shares (directly or indirectly) amounts to 30% or more of its NAV, the following disclosure should be made in the HKOD:
  - 12.1 the percentage of exposure to A shares and B shares (directly or indirectly) with reference to Appendix B to Section 1 of the Minimum Disclosure Requirements (contained in Annex 1 to this Guide);
  - 12.2 whether capital gains tax provision will be made and if so, the percentage of provision made (please refer to the requirements set out in paragraph 16 below under "RQFII / QFII funds"); and
  - 12.3 the necessary risk warning associated with investment in A shares and B shares.
- 13. For funds which may have exposure to A shares via the Shanghai-Hong Kong Stock Connect, please refer to the disclosure requirements as set out in Question 19 of the FAQs on Post Authorization Compliance Issues of SFC-authorized Unit Trusts and Mutual Funds.
- 14. RMB dim sum bond funds are required to comply with the investment restrictions under 8.2(g)(i) and 8.2 (g)(iii) of the UT Code in respect of holding of deposits (unless such holding is not substantial (i.e. not more than 30% of the fund's NAV) and the fund will only hold deposits temporarily or under extreme market conditions). For RMB dim sum bond funds related key risk disclosure, please refer to the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) for details.
- 15. Where RMB share classes are offered by Hong Kong domiciled funds managed by Hong Kong-licensed managers and denominated in non-RMB currency with limited or no RMB denominated underlying investments, specific key risks must be disclosed in the HKOD. Please refer to the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) for details.

#### RQFII / QFII funds

- 16. RQFII / QFII funds (i.e. funds investing 70% or more of its NAV using RQFII / QFII quota) should include the following disclosure in the HKOD:
  - 16.1 disclosure on the RQFII / QFII regime, capital injection and repatriation under the requirements of the State Administration of Foreign Exchange of the People's Republic of China ("SAFE") (if any) and the RQFII / QFII custodian arrangement;
  - 16.2 disclosure on the allocation of investment between onshore and offshore securities;
  - 16.3 disclosure of the percentage of investment in terms of the fund's NAV (on an aggregate basis or with respect to each of the following 3 types of investments individually) for funds with 30% or more exposure to any combination of the following investments: (i) urban investment bonds ("UIB"); (ii) asset-backed securities (including asset-backed commercial papers) ("ABS"); and (iii) bonds which are rated below investment grade or unrated bonds ("Non IG Bonds");

- 16.4 the eligibility of the management company (where applicable) (please refer to Questions 3 and 4 of the FAQs on Exchange Traded Funds and Listed Funds for details);
  - 16.5 extracts of PRC legal opinion<sup>7</sup> (or its corresponding confirmation, where applicable) and trustee's arrangements related to asset custody of RQFII / QFII funds (please refer to the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) for details);
  - 16.6 key specific risk disclosure e.g. risks associated with RQFII / QFII rules and restrictions, risks regarding remittance and repatriation of funds (if any) and risks associated with UIB, ABS and Non IG Bonds (where appropriate); and
  - 16.7 tax provision on PRC withholding tax on capital gains.
17. Management companies of RQFII / QFII funds are expected to make relevant disclosure on PRC taxation in the HKOD. At a minimum, the following information is expected to be disclosed in the HKOD:
- 17.1 a general description of the PRC Capital Gain Tax ("CGT") and related tax withholding regime and any applicable exemption;
  - 17.2 where CGT provision may be payable:
    - 17.2.1 details of the CGT provisioning policies (including whether CGT provision will be made and if so, the basis and percentage of the provision made);
    - 17.2.2 a confirmatory statement that proper tax advice has been obtained from independent professional / competent tax advisors with respect to the fund's tax provisioning policies; and
    - 17.2.3 relevant risk disclosure relating to the CGT provisioning policies adopted by the fund (including the consequences of any CGT levied on or exempted from the SFC-authorized funds and the consequential impact on investors);
  - 17.3 a warning statement that tax laws, regulations or practice in the PRC may be subject to change and associated risk disclosure; and
  - 17.4 a warning that all prospective investors should consult their own tax advisors regarding the possible implications of CGT on an investment in the fund.

Please also refer to paragraphs 38 to 40 below in relation to tax-related disclosure generally.

#### Feeder funds (7.12 of the UT Code)

- 18. The HKOD of a feeder fund should comply with the disclosure requirements under 7.12(b) of the UT Code.

#### Unit portfolio management funds ("UPMF") (8.1 of the UT Code)

- 19. The HKOD of a UPMF are expected to disclose the following:
  - 19.1 the matters set out in 8.1(a)<sup>8</sup>, (b), (c)<sup>8</sup>, (d)<sup>8</sup>, (e)<sup>8</sup>, (f)<sup>8</sup>, (g)<sup>8</sup>, (h) and (i) of the UT Code; and
  - 19.2 whether its underlying funds will use FDIs extensively for investment purposes; and if so (e.g. UCITS funds that may use FDIs extensively for investment purposes, and schemes

<sup>7</sup> Applicable only to RQFII / QFII schemes which are single funds or sub-funds under a new umbrella fund or sub-funds under an existing umbrella fund of which PRC legal counsel's opinion has not been obtained on the custody arrangement relating to any of its existing SFC-authorized sub-funds using RQFII/QFII quota.

<sup>8</sup> The disclosure requirements are deemed to have complied by UCITS schemes domiciled in Luxembourg, Ireland and the United Kingdom in accordance with the Circular on "Streamlined measures for processing UCITS III schemes with special features" dated 30 March 2007.

under 8.8 and 8.9 of the UT Code), please refer to the relevant disclosure requirements for funds that may use FDIs extensively for investment purposes (see paragraph 11 above).

#### Money market / cash management funds (“MMF”) (8.2 of the UT Code)

20. The HKOD of a MMF should disclose the matters set out in 8.2(b), (c), (e), (f), (g) and (h) of the UT Code.

#### Futures and options funds (8.4A of the UT Code)

21. The HKOD of a futures and options fund should disclose the matters set out in 8.4A(a), (b), (c), (d), (e), (f), (g), (k), (l) and (m) of the UT Code and the risk management policy in place as required under C2 of Appendix C to the UT Code.

#### Guaranteed funds (8.5 of the UT Code)

22. The HKOD of a guaranteed fund should disclose the matters set out in 8.5(a)<sup>8</sup>, (c), (d), (e), (f), (g) and (h) of the UT Code.

23. Please refer to the KFS template for guaranteed fund.

#### Index funds (including ETFs) (8.6 of the UT Code)

24. The HKOD of an index fund / ETF should disclose the matters set out in 8.6(f), (h), (i), (j), (k) and (m) of the UT Code.

25. For ETFs, the HKOD should also include disclosure of the following:

25.1 items 17, 17A, 18, 19, 20 and 21A under Appendix I to the UT Code (where applicable) and the procedures / conditions in respect of the creation / redemption mechanism as required under Question 1 of the FAQs on Exchange Traded Funds and Listed Funds; and

25.2 that at least one market maker is subject to three months' termination notice requirement. For dual counter ETFs, this requirement is applicable to market makers in both counters and details of the dual counter arrangement such as publication of trading information, distribution policy of the units traded under different counters and associated risks. Please refer to the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) for details.

26. All SFC-authorized ETFs and unlisted index funds are subject to the disclosure requirements of tracking difference. Please refer to the Circular to management companies of SFC-authorized exchange traded funds and unlisted index funds – disclosure of tracking difference and tracking error dated 4 July 2014 for details on disclosure in the offering document and on the website disclosures.

27. Please refer to the KFS template for ETFs / unlisted index funds.

#### Hedge funds (8.7 of the UT Code)

28. The HKOD of a hedge fund should disclose the matters set out in 8.7(b)(ii)(Note) (if applicable), (b)(iv) (if applicable), (b)(iv)(Note) (if applicable), (c), (d), (e) (if applicable), (f), (g), (h), (i) (if applicable), (i)(Note) (if applicable), (l), (m), (m)(Note), (n), (o), (p), (q), (r), (s) and (t) of the UT Code and the risk management policy in place as required under C2 of Appendix C to the UT Code.

29. In addition, a FoHFs should also disclose the matters set out in 8.7(a)(iv) (Note(c)), (j), (k)(iii), k(iv), k(v) and k(vi) (if applicable) of the UT Code.

#### Structured funds (including index funds / ETFs that adopt a synthetic replication strategy) (8.8 of the UT Code)

30. The HKOD of a structured fund (including index fund / ETF that adopts a synthetic replication strategy) should disclose the matters set out in 8.8(c), (d), (e), (f) and (h) of the UT Code and the

risk management policy in place and the collateral policy and criteria as required under C2 and C2A of Appendix C of the UT Code.

31. The HKOD of a structured fund should also disclose:

31.1 in respect of the asset portfolio of a structured fund investing in unfunded swap, the selection criteria and nature of the asset portfolio; and

31.2 in respect of the valuation of FDIs:

31.2.1 the entity responsible for valuation and frequency of such valuation;

31.2.2 the entity responsible for verification of valuation and frequency of such verification;  
and

31.2.3 any costs embedded in the valuation of FDIs.

#### Hong Kong domiciled schemes and other non-UCITS schemes that invest in FDIs (8.9 of the UT Code)

32. The HKOD of a Hong Kong domiciled scheme or other non-UCITS scheme that invests in FDIs should disclose the matters set out in 8.9(a), (b), (c), (f), (g), (h), (i) and (j) of the UT Code and the risk management policy in place as required under C2 of Appendix C to the UT Code.

#### Target date funds

33. Target date funds should make the following additional disclosure in the HKOD:

33.1 an explanation of the nature and features of a target date fund, including an explanation that the allocation among different types of investments of the fund (the “asset allocation”) changes over time;

33.2 disclosure regarding the date at which the asset allocation becomes fixed, and if such date is different from the target date, disclosure highlighting such fact;

33.3 where applicable, a statement that the fund will not be automatically terminated at the target date, but will continue to be managed in accordance with the existing investment objectives and policies disclosed in the HKOD of the fund;

33.4 where a date has been set for the fund to be terminated (the “maturity date”), details of any switching out option available to investors prior to or at the maturity date, and actions that will be taken by the management company / trustee at the maturity date;

33.5 corresponding disclosure on the risks and considerations that are important for investors when deciding whether to invest in a target date fund, including a statement that a target date fund should not be selected based solely on age or retirement date, that investors may suffer loss at and after the target date, and that there is no guarantee that investors will receive the principal on retirement date;

33.6 an asset allocation chart, graph and/or table that clearly depicts the intended asset allocation in percentage terms over the entire duration of the fund at identified periodic intervals that are no longer than five years in duration, including the asset allocation at the launch of the fund, at the target date, at the date when the asset allocation becomes fixed (if different from the target date) and, where applicable, at the maturity date. If the asset allocation becomes fixed at the target date, corresponding disclosure in the chart, graph and/or table; and

33.7 appropriate disclosure where such intended asset allocation may be subject to change.

#### Risk disclosure

34. An applicant should ensure that all relevant risks associated with a scheme are clearly and properly disclosed in the HKOD. Please refer to Section 2 of the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) for some common examples of risk disclosure in the KFS of a scheme.

## Fees and expenses

### 35. Ongoing charges

- 35.1 An applicant is required to disclose the ongoing charges figure in a scheme's KFS in accordance with the requirements set out in the Supplemental Circular to management companies of SFC-authorized funds on disclosure of the ongoing charges figure and past performance information in the Product Key Facts Statements dated 16 December 2014 ("Supplemental Circular"). Such figures should be calculated and presented in accordance with the methodologies set out in the Guidelines for the disclosure and calculation of the ongoing charges figure set out in the Supplemental Circular ("Ongoing Charges Guidelines").
- 35.2 Where applicable, the applicant should also comply with Questions 36 and 37 of the FAQs on UT Code and Question 9 of the FAQs on Exchange Traded Funds and Listed Funds.

### 36. Performance fees

- 36.1 Where a performance fee is levied by a scheme, the scheme should comply with 6.17 of the UT Code. The SFC notes that various methodologies may be used for the charging and accrual of performance fees based on the basic principles in 6.17 of the UT Code.
- 36.2 Where a performance fee is levied by a scheme, the HKOD are expected to contain full and clear disclosure of the following:
- 36.2.1 the calculation methodology;
  - 36.2.2 illustrative examples to demonstrate the charging method;
  - 36.2.3 where the scheme intends to achieve equalisation for the calculation of performance fees, the mechanisms adopted to achieve equalisation; and
  - 36.2.4 where the scheme does not intend to achieve equalisation of performance fees, disclosure of such fact and how the absence of equalisation may affect the amount of performance fees to be borne by investors.
- 36.3 Where a performance fee is levied, the scheme should disclose in its KFS (i) an ongoing charges figure incorporating the performance fees; and (ii) another ongoing charges figure without incorporating the performance fees in accordance with paragraph 6(e) of the Ongoing Charges Guidelines.
- 36.4 Where a performance fee is levied by a FoHFs, the HKOD of the scheme should contain additional disclosure of the following matters as required under 8.7(i) of the UT Code:
- 36.4.1 whether a performance fee is levied at both the fund level and the underlying funds level;
  - 36.4.2 summarise the bases of how performance fees are calculated and paid by the underlying funds; and
  - 36.4.3 appropriate warnings about the possibility of charging performance fees at various levels within a FoHFs and the implications to investors.
- 36.5 Please note that 6.17 of the UT Code does not apply to the underlying funds of a FoHFs.

## Performance information

37. An applicant is required to disclose the past performance information in a scheme's KFS in accordance with the requirements set out in the Supplemental Circular. Such information should be calculated and presented in accordance with the methodologies set out in the Guidelines for the disclosure and calculation of past performance information set out in the Supplemental Circular.

### Tax-related disclosure

38. The HKOD of a scheme are expected to contain disclosure that investors should seek professional tax advice on the possible consequences for investing into the scheme.
39. The applicant must ensure that all the tax-related disclosure in the HKOD is at all times true and accurate by obtaining competent tax advice and opinion on the tax status of the scheme and on the tax-related disclosure.
40. US Foreign Account Tax Compliance Act ("FATCA")
  - 40.1 Information related to FATCA is generally expected to be disclosed in the HKOD. For the minimum disclosure requirements, please refer to the Circulars to issuers of SFC-authorized investment products concerning the US Foreign Account Tax Compliance Act dated 21 March 2014 and 13 November 2014 and Question 35 of the FAQs on UT Code for details.
  - 40.2 Competent tax advice and opinion should be obtained on the FATCA status of a scheme and on the FATCA disclosure in the HKOD being true and accurate. In addition, no indemnification on FATCA should be imposed on unitholders/shareholders.



## **Chapter 7 – Documentation requirements following SFC authorization and prior to the authorization becoming effective**

1. Under section 104(1) and section 105(1) of the SFO, the SFC may, where it considers appropriate, authorize a scheme and the issue of its HKOD respectively, subject to such conditions as the SFC considers appropriate. Please refer to Question 11 of the FAQs on Application Procedures for details.
2. The authorization conditions which the SFC may impose and as set out in an authorization letter (“Authorization Letter”) generally comprise of (i) conditions precedent to the authorization becoming effective; and (ii) conditions which must be complied with on an ongoing basis so far as the scheme and its HKOD remain authorized by the SFC.
3. For the authorization of a scheme and its HKOD to become effective, the applicant is required to fully comply with all such conditions precedent to the authorization becoming effective as may be imposed by the SFC and as set out in the Authorization Letter within two months from the date of such letter (or such extended period(s) as may be agreed by the SFC upon the submission of proper justifications by the applicant), including the following (where applicable):
  - 3.1 authorization fees and the annual fee must be paid (on cleared funds basis) for the scheme under application in the form of a cheque made payable to “Securities and Futures Commission” (Please consult the SFC in advance for other means of payment).
  - 3.2 the applicant must submit to the SFC a duly completed and properly executed Confirmation of Fulfilment of Authorization Conditions (contained in Annex 2 to this Guide) stating, amongst others, that all the authorization conditions imposed by the SFC in respect of the scheme and its HKOD and as set out in the Authorization Letter have been fulfilled and/or will be complied with (as the case may be), together with the documents referred to in paragraph 3.3 below. In particular, where applicable, the applicant must confirm / undertake (as the case may be) the following:
    - 3.2.1 in respect of schemes whose HKOD are subject to comments of the SFC as set out in the Authorization Letter, the finalised draft of the HKOD has properly addressed all such comments;
    - 3.2.2 in respect of overseas funds, the finalised draft of the HKOD is consistent with the overseas offering documents as approved / authorized by the home regulator of the scheme;
    - 3.2.3 in respect of QFII / RQFII schemes,
      - 3.2.3.1 QFII / RQFII quota has been obtained for use by the scheme and the relevant accounts (including securities account(s) and cash account(s)) have been opened in the PRC or such quota will be obtained and the said accounts will be opened in the PRC prior to the launch of the scheme; and/or
      - 3.2.3.2 where such schemes are single funds or sub-funds under a new umbrella fund or sub-funds under an existing umbrella fund of which PRC legal counsel’s opinion has not been obtained on the custody arrangement relating to any of its existing SFC-authorized sub-funds using RQFII/QFII quota, an opinion from the PRC legal counsel in the form as referred to in the HKOD will be obtained prior to the launch of the scheme.
    - 3.2.4 in respect of non-Hong Kong based schemes, a Hong Kong representative has been appointed in respect of the scheme in accordance with the requirements under Chapter 9 of the UT Code; and
    - 3.2.5 such other confirmations / undertakings that are required to be submitted pursuant to the Authorization Letter.

- 3.3 the applicant must submit to the SFC the following documents:
- 3.3.1 the finalised draft of the English HKOD, with (i) changes (shown in mark-ups against previously submitted version) properly addressing all the comments of the SFC on the HKOD (if any) as set out in the Authorization Letter; and (ii) annotations against Appendix C to the UT Code;
  - 3.3.2 Chinese HKOD and executed Chinese translation certificate(s);
  - 3.3.3 copy of duly executed constitutive documents for:
    - 3.3.3.1 all Hong Kong domiciled schemes and other non-UCITS schemes, with annotations against Appendix D to the UT Code and the key provisions as set out in Section 5 of the Minimum Disclosure Requirements (contained in Annex 1 to this Guide)<sup>9</sup>; and
    - 3.3.3.2 new UCITS umbrella funds, new UCITS single funds or UCITS schemes with changes to the version of the constitutive documents previously filed with the SFC;
  - 3.3.4 in respect of listed funds, listing approval granted to the scheme by The Stock Exchange of Hong Kong Limited; and
  - 3.3.5 such other documents which are required to be submitted pursuant to the Authorization Letter.

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<sup>9</sup> In the case of a mutual fund corporation, the key provisions as set out in Section 5 of the Minimum Disclosure Requirements (contained in Annex 1 to this Guide) may be set out in the custodian agreement and/or the management agreement, instead of the articles of association.

# Annex 1

## Minimum disclosure requirements

### Preamble

- The disclosure wordings and key provisions set out in this Annex form part of the Guide on Practices and Procedures for Application for Authorization of Unit Trusts and Mutual Funds (the “**Guide**”). They aim to provide general guidance to applicants with respect to the Commission’s expectations in relation to the minimum disclosures (in the case of the fund’s Product Key Facts Statement (the “**KFS**”) and the main Hong Kong offering documents) (the “**Minimum Disclosures**”) and the compliance requirements (in the case of the fund’s constitutive documents) (the “**Minimum Requirements**”) on the topics set out below.
- The Minimum Disclosures are for reference only and are neither intended, nor should they be construed, as exhaustive. The actual relevant disclosure required in each case may vary from fund to fund, depending on its specific features and risks. Management companies should ensure that, as a minimum, (i) disclosure in the Hong Kong offering documents (including the KFS) of their funds is in line with and is no less than the Minimum Disclosures; and (ii) the constitutive documents of the funds conform in substance with the provisions set out herein with no material deviation/dilution to the intended operative effect thereof.
- It is the management companies’ responsibility to ensure that at all times, the KFS and the main Hong Kong offering documents of a fund contain the information necessary for investors to make an informed judgment of the proposed investments and also meet all applicable disclosure requirements of the Commission (including the requirements pursuant to the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (the “**Handbook**”) and the Code on Unit Trusts and Mutual Funds (the “**UT Code**”)) from time to time, and that the KFS is consistent with the main Hong Kong offering document of the fund.
- As such, management companies are expected to take into account the specific features and risks of the fund and adapt the Minimum Disclosures to cater for their specific cases as appropriate. Management companies are reminded that they should exercise due care and professional judgment at all times in preparing the Hong Kong offering documents of their funds adhering to, among others, the following overarching principles: (i) the KFS must be clear, concise and not misleading and should be kept at a minimal length so as to enable investors to comprehend the key features and risks of the fund; and (ii) the main Hong Kong offering document of the fund must contain all information necessary for investors to appraise the position of the fund or an investment proposed in it . Hence, it is expected that the sections headed “Objectives and investment strategy” and “What are the key risks” in a KFS should not be more than 4 pages.
- The Minimum Disclosures and/or Minimum Requirements may be revised or updated from time to time by the Investment Products Division of the Commission.
- Applicants must ensure that all information that is necessary for the Commission’s assessment of their applications have been properly disclosed and provided at all times. When submitting the application, applicants are therefore expected to provide all necessary information relating to the application, including the information marked with “[x]” in the Minimum Disclosures and to ensure that the application is in compliance with all other applicable requirements, including, the Minimum Requirements. A lack of the required information/any non-compliance in/with respect to the application or any substantial changes during the course of an application may cause the application to be returned or refused.

## **Table of contents of minimum disclosure requirements**

### **Section 1: Objectives and Investment Strategy (for KFS)**

1.1 For equity funds / bond funds / mixed funds / unit portfolio management funds

1.2 For money market funds

1.3 For ETFs / unlisted index funds

Appendix A: Investment Strategy – Primary Investments

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## Section 1: Objectives and Investment Strategy (for KFS)

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This Section 1 sets out the Minimum Disclosures in the KFS of certain types of funds as listed below with respect to the fund's objectives and investment strategy.

- Equity funds / bond funds / mixed funds / unit portfolio management funds (see 1.1 below)
- Money market funds (see 1.2 below)
- ETFs / unlisted index funds (see 1.3 below)

For other types of funds (including any specialized schemes under Chapter 8 of the UT Code not covered above), applicants should refer to the UT Code and the Guide to ensure compliance with the relevant disclosure requirements with regard to the objectives and investment strategy of the fund.

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### 1.1 For equity funds / bond funds / mixed funds / unit portfolio management funds

#### **Objectives**

The fund seeks to / The investment objective of the fund is to [(*please specify the objective of the fund*) e.g. achieve long-term capital growth / provide income and capital growth / maximise total return etc.].

#### **Strategy**

**a) Primary investments**

Please refer to Appendix A

**b) Specific types of investments/activities (*To the extent applicable*)**

Please refer to Appendix B

**c) Use of financial derivative instruments ("FDI") (*For UCITS funds*)**

Please refer to Appendix C

## 1.2 For money market funds

### Objectives

The fund's sole objective is to invest in short-term deposits and debt securities. The fund seeks to [(please specify the objective of the fund) e.g. achieve a return in [currency of denomination of the fund] in line with prevailing money market].

### Strategy

#### **a) Primary investments**

[At least/ Not less than [x]% / [(insert a fraction number)] of the fund's net asset value ("NAV")] will be invested in [RMB-denominated and settled / (please specify the other currency)-denominated] short-term deposits and debt securities issued by [(please specify the types of issuers), e.g. governments, quasi-governments, international organisations, financial institutions, other corporations, etc.] [in/outside] [countries or regions].

*(This statement could be disclosed under the section headed "What is this product?" in the KFS)* The purchase of a [unit/share] in the fund is not the same as placing funds on deposit with a bank or deposit-taking company, that the [management company] has no obligation to redeem [units/shares] at the offer value and that the fund is not subject to the supervision of the Hong Kong Monetary Authority.

#### Average portfolio maturity

The fund will maintain an average portfolio maturity not exceeding 90 days and will not purchase an instrument with a remaining maturity of more than 397 days, or two years in the case of government and other public securities.

#### Credit rating (if applicable)

The fund will invest [all of its assets/ at least/not less than [x]% of its NAV] in debt securities rated investment grade or above by [(please specify the name of internationally recognised credit rating agencies as disclosed in the main Hong Kong offering document), e.g. Fitch, Moody's and/or Standard and Poor's].

#### **b) Specific types of investments/activities (To the extent applicable)**

Please refer to Appendix B.

## 1.3 For ETFs / unlisted index funds

### Objectives

The fund seeks to / The investment objective of the fund is [(please specify the objective of the fund) e.g. to provide investment results that, before fees and expenses, closely correspond to the performance of the index/benchmark].

### Strategy

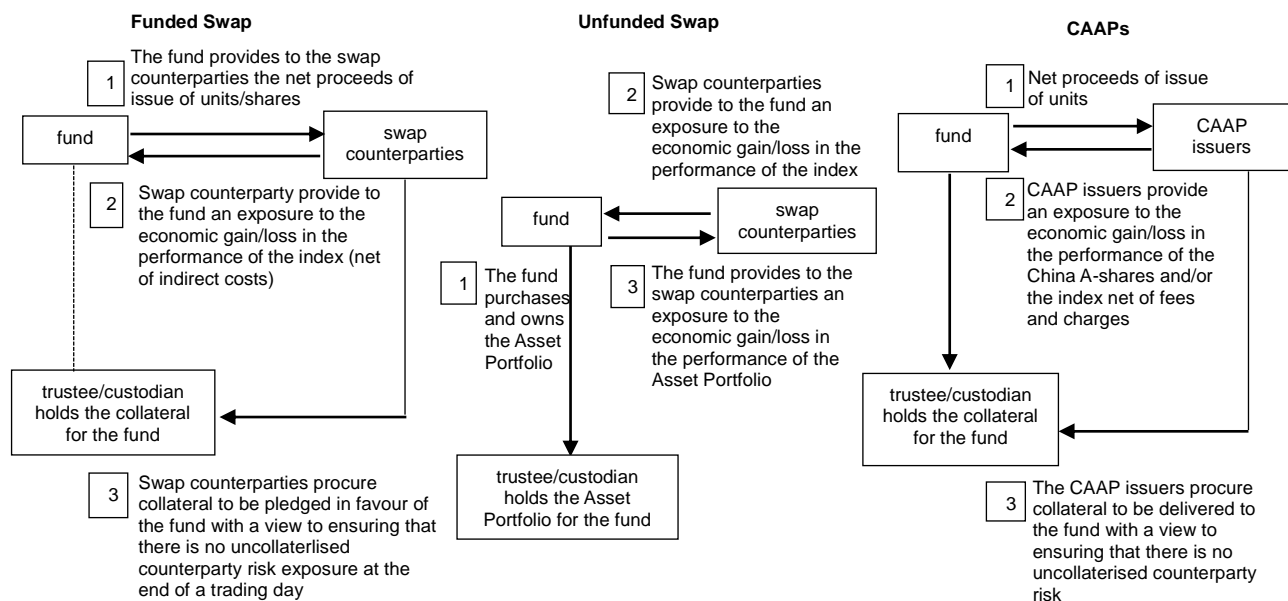
#### a) General investment strategy

In seeking to achieve the fund's investment objective, the [manager] will:-

- i) use a full replication strategy by investing all or substantially all of its assets in the constituents of the index, broadly in proportion to the respective weightings of the constituents<sup>1</sup>; and/or
- ii) use a representative sampling strategy by investing in a portfolio featuring high correlation with the index and the [manager] may invest in other securities that are not included in the index<sup>1</sup>; and/or
- iii) use a synthetic replication strategy through investing directly in the following:-
  - China A-share access products (“**CAAPs**”) issued by counterparties, which will provide the fund with an exposure to the economic gain/loss in the performance of the China A-shares and/or index net of fees and charges; or
  - funded swap transaction(s) whereby the fund will pass on substantially all of the net proceeds of any issue of its units/shares to the swap counterparties and in return the swap counterparties will provide the fund with an exposure to the economic gain/loss in the performance of the index (net of indirect costs); or
  - unfunded swap transaction(s) whereby the fund will receive from the swap counterparties, an exposure to the economic gain/loss in the performance of the index. In return the fund will provide the swap counterparties an exposure to the economic gain/loss in the performance of a portfolio of assets which the fund will purchase (“**Asset Portfolio**”) with the net proceeds of any issue of its units/shares. The fund will own the Asset Portfolio.

<sup>1</sup> In the case where an index fund invests in China-A shares as included in the index, it may invest through the RQFII investment quota granted to the manager and/or any other RQFII holder by the State Administration of Foreign Exchange of the People's Republic of China (“**SAFE**”) and/or the Shanghai-Hong Kong Stock Connect.

**b) Illustrative Examples on the diagrams of synthetic ETFs / unlisted index funds**



**c) Invested asset/collateral arrangements (for synthetic ETFs / unlisted index funds)**

For synthetic ETFs / unlisted index funds

A prudent haircut policy will be adopted. Each counterparty or its guarantors would be a substantial financial institution (as defined in the UT Code). The manager is independent of the counterparties (or means by which possible conflicts of interests will be addressed).

For synthetic ETFs / unlisted index funds using CAAP(s)

The manager will obtain collateral that represents at least 100% of the fund's gross total counterparty risk exposure so that there will be no uncollateralised counterparty risk. All investments in CAAPs will be fully collateralised. Collateral received will not consist of any structured products. Collateral received and held by the trustee will be held in a segregated account opened in the name of or to the order of the trustee. The value of the CAAPs and the collateral is marked to market on a daily basis by the manager.

For synthetic ETFs / unlisted index funds using unfunded swap transaction(s)<sup>2</sup>

The manager will manage the fund with the objective to reduce to nil its single counterparty net exposure on the basis that where the fund's net exposure to each swap counterparty exceeds 0% at the end of a trading day T, by the end of that trading day T, the manager will generally require that each swap counterparty should make cash payment to the fund so that the net exposure of the fund to each swap counterparty is limited to no more than 0% of its NAV. The settlement of such cash payment is expected to occur on trading day T+1. The management of single counterparty net exposure in this manner, however, is subject to market risk, price movements and settlement risk.

<sup>2</sup> For unfunded swap transaction(s), the collateral management timeline may be modified depending on the specific circumstances (such as the location of the relevant markets and/or the fund).



For synthetic ETFs / unlisted index funds using funded swap transaction(s)<sup>3</sup>

The manager will manage the fund to ensure that the collateral held by the fund will represent at least 100% of the fund's gross total counterparty risk exposure and be maintained, marked to market on a daily basis, with a view to ensuring that there is no uncollateralised counterparty risk exposure at the end of a trading day (subject to intra-day price movements, market risk and settlement risk). The valuation of the collateral and the calculation of counterparty risk exposure in respect of any trading day T generally occurs on the end of that trading day. If the collateral held by the fund is not at least 100% of the fund's gross total counterparty risk exposure in respect of any trading day T, by the end of that trading day T, the manager will generally require that each swap counterparty deliver additional collateral assets to make up for the difference in value, with the settlement of such delivery expected to occur on trading day T+1.

For synthetic ETFs domiciled in Hong Kong only

The manager will obtain collateral that represents at least 100% of the fund's gross total counterparty risk exposure so that there will be no uncollateralised counterparty risk. Where collateral is taken in the nature of equity securities, the market value of the equity collateral will represent at least 120% of the related gross counterparty exposure.

**d) Additional disclosure (where applicable)**

For physical ETFs

The fund may enter into securities lending transactions for up to [(please specify\*)] of its NAV at any one time and is able to recall the securities lent out at any time. As part of its securities lending transactions, the fund will receive collateral, the value of which, during the duration of the securities lending agreement, will be equal to at least 100% of the global valuation of the securities lent, marked to market on a daily basis. [The fund will not engage in any reinvestment of collateral received other than reinvestment of cash collateral in cash or cash equivalent instruments.]

\* Generally, this should not exceed around 30% of the ETF's NAV.

For fixed income ETFs / unlisted index funds

The investment in any below investment grade and unrated sector constituents may not exceed a weighting of 30% of the index at every month end and the manager will seek to limit the amount of overall holdings in below investment grade and unrated sector bonds to a maximum of 30% of the NAV of the fund within a reasonable period of time taking into account the interests of unitholders.

**e) Index**

The index/benchmark is denominated in [currency]. The index/benchmark was launched on [date]. As at [date], the composition and weightings of the 10 largest constituents of the index were [breakdown of details]. The manager and its connected persons are independent of the index/benchmark provider (or means by which possible conflicts of interests will be addressed).

For equity index

The index is a [total/price] return, [free float market capitalisation/equal] weighted index. As at [date], it comprised of [number] securities listed in [countries] with total market capitalisation of [amount]. The base date of the index is set out [date].

<sup>3</sup> For funded swap transaction(s), the collateral management timeline may be modified depending on the specific circumstances (such as the location of the relevant markets and/or the fund).

For fixed income index

The index is a [total/price] return, [market capitalisation/equal] weighted index. As at [date], it comprised of [number] securities with total market capitalisation of [amount]. It is currently designed to measure the performance of [description]. The base date of the index is set out [date].

**f) Specific types of investments/activities (*To the extent applicable*)**

Please refer to Appendix B.

## Appendix A: Investment Strategy – Primary Investments

### (i) For equity funds / bond funds

- The fund will invest [primarily/principally] (i.e. at least/not less than [x]% / *[(insert a fraction number)]*) of its NAV in *[(please specify and elaborate on the type(s) of primary investment(s) of the fund)]*.

For illustrative purposes, below are some examples of disclosures in describing the applicable type(s) of primary investment(s) (the “**Primary Investments Disclosure**”).

#### ➤ Geographic region

- Equities of companies that are listed, or have their registered offices in [region] or that generate a predominant share of their sales and/or their profits in [region].
- Fixed or floating rate securities issued or guaranteed by companies registered in [region] or with significant operations [in aforementioned region].

#### ➤ Industry/ sector

- Equities of worldwide companies [in [x] and related industry / in [x] sectors].

#### ➤ Market capitalisation

- *[(please specify the methodology to determine the market capitalisation focus of the fund)]* e.g. equities of companies that are included in the *[(please specify the names of the large-cap/small-cap indices)]* or that have a market capitalisation [below/above] the [highest/lowest] market capitalisation of companies in these indices].

#### ➤ Currency denomination

- *[(name of currency)]*-denominated and settled interest-bearing securities that are issued [inside/outside][name of country].

#### ➤ Categorisation of securities

- Securities issued by *[(please specify the types of issuers)]* e.g. government, sovereign, corporates, etc.].
- *[(Different types/nature of securities)]* e.g. listed equities, ADRs, GDRs, MLPs, listed debt securities, bonds, convertible bonds, REITs, ETFs, etc.].

#### ➤ Credit rating

- Debt securities rated below investment grade by *[(please specify the name of internationally recognised credit agency as disclosed in the main Hong Kong offering document)]* e.g. Standard & Poor’s, Moody’s, Fitch], or unrated debt securities.
- *[(name of currency)]*, e.g. USD]-denominated debt securities rated investment grade by *[(please specify the name of internationally recognised credit agency as disclosed in the main Hong Kong offering document)]* e.g. Fitch, Moody’s and/or Standard & Poor’s)].

**(ii) For mixed funds (including balanced funds and dynamic asset allocation funds)**

- The fund may invest [(please specify the relevant types of securities and the corresponding exposures) e.g. up to [x]% / [(insert a fraction number)] of its NAV in [each of the following:] equities and debt securities / [x% to x]% / [(insert a fraction number) to (insert a fraction number)] of its NAV in equities and the remaining assets in debt securities].
- [(please elaborate on the relevant types of securities) e.g. The fund does not have requirement on the credit rating of the underlying debt securities / may invest up to [x]% / [(insert a fraction number)] of its NAV in debt securities rated below investment grade by [(please specify the name of internationally recognised credit agency as disclosed in the main Hong Kong offering document) e.g. Standard & Poor's or the equivalent by Moody's or Fitch]) or unrated debt securities. The fund is not subject to any limitation on the portion of its NAV that may be invested in any one country or region. (please refer to the Primary Investments Disclosure in section (i) under this Appendix A above for other illustrative examples of disclosure regarding the fund's primary investments)].
- [(please describe the asset allocation strategy of the fund, including the criteria in determining the allocation to different asset classes and/or the selection criteria of underlying securities) e.g. The asset allocation of the fund will change according to the investment manager's views of fundamental economic and market conditions and investment trends across the globe, taking into consideration factors such as liquidity, costs, timing of execution, relative attractiveness of individual securities and issuers available in the market].

**(iii) For unit portfolio management funds**

- The fund will invest [all of its assets / primarily (i.e. at least/not less than [x]%) / [(insert a fraction number)] of its NAV] in other collective investment schemes.
- [(please elaborate on any particular focus of the underlying investments of the underlying funds) e.g. The underlying asset classes of the underlying funds include equities, fixed income and money market instruments. The fund invests with no prescribed regional, country, industry sector or market capitalisation limits for investment by its underlying funds. (please refer to the Primary Investments Disclosure in section (i) under this Appendix A above for other illustrative examples of disclosure regarding the fund's primary investments)].
- [(please state whether the underlying funds are authorized by the SFC and/or are recognized jurisdiction schemes) e.g. The fund will only invest in other funds authorized by the SFC or in recognised jurisdiction schemes domiciled in [(please specify the recognized jurisdiction(s)) e.g. Luxembourg, Ireland and/or the United Kingdom (whether authorized by the SFC or not)], except that not more than 10% of the fund's NAV may be invested in non-recognized jurisdiction schemes not authorized by the SFC.]
- [(please elaborate on the extent of use of FDI of the underlying funds for investment / non-hedging purposes) e.g. The fund may/will invest in underlying funds which may use FDI primarily/extensively for investment purposes].

## **Appendix B: Investment Strategy – Specific Types of Investments / Activities (to the extent applicable)**

### **I) General**

- In general, if the fund invests in 30% or more of its NAV in any particular type of investments (or engages in any particular type of activities attributing to 30% or more of the fund's NAV), such investment(s)(or activity(ies)) and the associated risk(s) are expected to be disclosed in the sections headed "Objectives and investment strategy" and "What are the key risks?" sections in the KFS respectively.
- Notwithstanding the above, depending on the specific circumstance of the fund, it is the management company's responsibility and obligation to exercise professional judgment at all times in determining the relevant key features and risks associated with the fund that in their view/opinion should be disclosed or highlighted in the fund's KFS (regardless of whether such investment or activity may or may not amount to 30% or more of the fund's NAV) in order to enable investors to appraise the position of the fund.
- In addition, disclosure in the Hong Kong offering documents of the fund (including the main Hong Kong offering document and the KFS) should be complete, accurate and fair. The management company must exercise professional judgment at all times to ensure compliance with the requirements and to avoid material omission of disclosure to investors, including, without limitations, to determine as to whether to include any negative statements with respect to the fund's non-investment/engagement in certain and/or any specific types of investment/activities taking into account the specific circumstance of the fund.

### **II) 30% or more exposure to certain types of investments/activities**

#### **a) For funds that may invest in 30% or more of its NAV in other collective investment schemes/funds**

- The fund may invest [up to 30%]/[more than 30% but up to [x]%] of its NAV in other [collective investment schemes/funds], which will have a similar [investment objectives and/or strategies] as the fund.

#### **b) For funds which may have 30% or more exposure to Mainland China**

- The fund may invest [up to 30%]/[more than 30% but up to [x]%] of its NAV in [China A-shares and China B-shares] [directly (e.g. through RQFII/Shanghai-Hong Kong Stock Connect) or indirectly by way of [e.g. access products or funds investing in China A-shares]].

#### **c) For funds which may have 30% or more exposure to any combination(s) of the following investments (on an aggregate basis or with respect to each of the 3 types of investments individually):**

- 1) **urban investment bonds (城投債); and/or**
- 2) **debt securities rated below investment grade (in the case where the credit rating is designated/assigned by an internationally recognised credit agency as disclosed in the main Hong Kong offering document) or rated BB+ or below (in the case the credit rating is designated/assigned by a PRC credit rating agency) or unrated; and/or**

**3) collateralised and/or securitised products (such as asset backed securities, mortgage backed securities and asset backed commercial papers)**

- The fund may invest [up to 30%]/[more than 30% but up to [x]%] of its NAV in (1) urban investment bonds (城投債), which are debt instruments issued by local government financing vehicles ("LGFVs") in the Mainland listed bond and interbank bond market; and/or (2) debt securities rated [below investment grade (*in the case where the credit rating is designated/assigned by an internationally recognised credit agency as disclosed in the main Hong Kong offering document*) / BB+ or below (*in the case the credit rating is designated/assigned by a PRC credit rating agency*)] or unrated; and/or (3) collateralised and/or securitised products such as asset backed securities, mortgage backed securities and asset backed commercial papers).
- (*for funds investing in urban investment bonds (城投債)*) These LGFVs are separate legal entities established by local governments and / or their affiliates to raise financing for public welfare investment or infrastructure projects.
- (*for funds investing in unrated debt securities*) For the purpose of the fund, "unrated bond" is defined as a bond which neither the bond itself nor its issuer has a credit rating.

**d) For funds which may have 30% or more exposure to stock lending, repurchase and/or reverse repurchase transactions and similar over-the-counter ("OTC") transactions on an aggregate basis**

- The fund may conduct [stock lending, repurchase and/or reverse repurchase (*for repurchase and/or reverse repurchase transactions, please disclose if they are listed on recognised exchanges or OTC based*)] transactions and similar OTC transactions in aggregate for [up to 30%]/[more than 30% but up to [x]%] of its NAV.

**e) For funds which may have substantial investment in cash under exceptional circumstances**

Under exceptional circumstances (e.g. market crash or major crisis), the fund may be invested temporarily up to [e.g. 100%] in liquid assets such as bank deposits, certificates of deposit, commercial paper and treasury bills for cash flow management.

**III) More than 10% exposure to debt securities issued and/or guaranteed by a single sovereign issuer**

**a) For funds which have more than 10% exposure to debt securities (e.g. for a bond fund, an equity fund with ancillary investments in debt securities, a mixed fund) that are issued and/or guaranteed by a single sovereign issuer**

- The fund may invest more than 10% and up to [x]% of its NAV in debt securities issued and/or guaranteed by a single sovereign issuer (including its government, public or local authority) which is below investment grade (i.e. [(*please disclose the identity(ies) of potential sovereign(s)*)]).
- [(*please disclose the reasons for such concentration*) e.g. Such investments are based on (i) the reference to a particular benchmark (*please name such benchmark*); and/or (ii) the professional judgment of the investment manager whose reasons for investment may include a favourable / positive outlook on the sovereign issuer, potential for ratings upgrade and the

expected changes in the value of such investments due to the ratings changes].

- [(if applicable) Please note the ratings of sovereign issuers may change from time to time and the abovementioned sovereign is named only for reference and is subject to change as its ratings changes.]

## Appendix C: Investment Strategy – Use of Financial Derivative Instruments (for UCITS funds)

### With respect to the Minimum Disclosures set out in this Section 1 above regarding equity funds / bond funds / mixed funds / unit portfolio management funds

#### a) Extent of use of FDI (for UCITS funds that use FDI for investment / non-hedging purposes<sup>4</sup>)

- The fund will not use FDI extensively or primarily for investment purposes; or
- The fund may use FDI [(please specify the type(s) of FDI to be used) e.g. options, futures, swaps, forward currency exchange contracts, etc.] extensively or primarily for investment purposes.

#### b) Additional disclosures (for UCITS funds that may use FDI extensively or primarily for investment purposes)

- FDI strategy

[(please disclose information relating to the strategy being employed in order to achieve the investment target, or in the absence of strategy, a negative statement) e.g. These FDI can be used with a view to adjusting the exposure of the portfolio in terms of interest rate, credit sector or single credit name, currency or volatility exposure. / Long/short strategy may be adopted with respect to the use of FDI. / The fund may use FDI at its absolute discretion.]

- Leverage level

[(please disclose the expected or maximum leverage as a result of the use of the FDI and a brief explanation as to the basis of such calculation) e.g.

- The maximum level of leverage of the fund calculated using the commitment approach<sup>5</sup> is [x]% of the NAV; or
- The expected level of leverage of the fund is [x]% of the NAV calculated using the sum of notional approach<sup>5,6</sup> (and in the range of [x% to x%] calculated using the commitment approach<sup>5,6</sup>.)

- FDI positions not correlated with underlying investments (where applicable)

The [long and short active currency positions] implemented by the fund may not be correlated with the underlying securities positions held by the fund<sup>7</sup>.

<sup>4</sup> If the fund is a UCITS fund and uses FDI for investment / non-hedging purposes, it should contain clear disclosure as to whether or not FDI may be so used extensively or primarily. Disclosure that FDI will be used for "investment" or "efficient portfolio management" purposes would not be sufficient and should be clarified / enhanced as to the purpose and extent of the use of FDI accordingly.

<sup>5</sup> The meaning of the commitment approach and/or sum of notional approach (as the case may be) should be properly disclosed and explained in the offering document of the fund, e.g. The level of leverage using the commitment approach is expressed as a ratio between the market value of the equivalent position in the underlying assets of the FDI (taking into account the possible netting and hedging arrangements) and its NAV. The level of leverage using the sum of notional approach is expressed as a ratio between the aggregate of the notional values of all FDI entered into by the fund (including FDI that are used for investment purposes and/or for hedging purposes) and its NAV.

<sup>6</sup> Please note that the maximum level of leverage under commitment approach must be disclosed for UCITS funds using FDI extensively for investment purposes, no matter whether the leverage level under sum of notionals approach has been disclosed.

<sup>7</sup> This disclosure is applicable to funds that may have significant exposure (i.e. more than 1/3 of the fund's NAV under commitment approach) to FDI of asset classes not correlated to the underlying investment of the fund.



## Section 2: Some Common Examples of Risk Disclosures (for KFS)

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This Section 2 sets out some illustrative examples of the Minimum Disclosures on risk disclosures in the fund's KFS.

For other risk disclosures not covered in this Section, applicants should refer to the Handbook, the UT Code and the Guide to ensure compliance with the relevant disclosure requirements with regard to the features and risks pertaining to the fund.

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### 2.1 Investment risk and Currency risk

#### 2.1.1 General investment risk

- The fund's investment portfolio may fall in value due to any of the key risk factors below and therefore your investment in the fund may suffer losses. There is no guarantee of the repayment of principal.

#### 2.1.2 Currency risk (*if applicable*)

- Underlying investments of the fund may be denominated in currencies other than the base currency of the fund. Also, a class of shares may be designated in a currency other than the base currency of the fund. The NAV of the fund may be affected unfavorably by fluctuations in the exchange rates between these currencies and the base currency and by changes in exchange rate controls.

### 2.2 Other risk disclosures (to the extent applicable)

#### 2.2.1 Risks associated with equities

- Equity market risk

The fund's investment in equity securities is subject to general market risks, whose value may fluctuate due to various factors, such as changes in investment sentiment, political and economic conditions and issuer-specific factors.

- Risk associated with small-capitalisation / mid-capitalisation companies (*if applicable*)

The stock of small-capitalisation/ mid-capitalisation companies may have lower liquidity and their prices are more volatile to adverse economic developments than those of larger capitalisation companies in general.

- Risk associated with high volatility of the [equity] market in [country/region] (*if applicable*)

High market volatility and potential settlement difficulties in the markets may also result in significant fluctuations in the prices of the securities traded on such markets and thereby may adversely affect the value of the fund.

- Risk associated with [regulatory/exchanges] [requirements/policies] of the [equity] market in [country/region] (*if applicable*)

Securities exchanges in [country/region] typically have the right to suspend or limit trading in any security traded on the relevant exchange. The government or the regulators may also implement policies that may affect the financial markets. All these may have a negative impact on the fund.

## 2.2.2 Risks associated with debt securities

- Credit / Counterparty risk

The fund is exposed to the credit/default risk of issuers of the debt securities that the fund may invest in.

- Interest rate risk

Investment in the fund is subject to interest rate risk. In general, the prices of debt securities rise when interest rates fall, whilst their prices fall when interest rates rise.

- Volatility and liquidity risk (if applicable)

The debt securities in [country/region] markets may be subject to higher volatility and lower liquidity compared to more developed markets. The prices of securities traded in such markets may be subject to fluctuations. [The bid and offer spreads of the price of such securities may be large and the fund may incur significant trading costs.]

- Downgrading risk (if applicable)

The credit rating of a debt instrument or its issuer may subsequently be downgraded. In the event of such downgrading, the value of the fund may be adversely affected. The manager may or may not be able to dispose of the debt instruments that are being downgraded.

- Risk associated with debt securities rated below investment grade (in the case where the credit rating is designated/assigned by an internationally recognised credit agency) or rated BB+ or below (in the case the credit rating is designated/assigned by a PRC credit rating agency) or unrated (if applicable)

The fund may invest in debt securities rated below investment grade (in the case where the credit rating is designated/assigned by an internationally recognised credit agency) or rated BB+ or below by a Mainland credit rating agency (in the case the credit rating is designated/assigned by a PRC credit rating agency) or unrated. Such securities are generally subject to lower liquidity, higher volatility and greater risk of loss of principal and interest than high-rated debt securities.

- Sovereign debt risk (if applicable)

The fund's investment in securities issued or guaranteed by governments may be exposed to political, social and economic risks. In adverse situations, the sovereign issuers may not be able or willing to repay the principal and/or interest when due or may request the fund to participate in restructuring such debts. The fund may suffer significant losses when there is a default of sovereign debt issuers.

- Risks associated with collateralised and/or securitised products (such as asset backed securities, mortgage backed securities and asset backed commercial papers) (if applicable)

The fund invests in [(please specify the collateralised and/or securitised products) e.g. asset backed securities] which may be highly illiquid and prone to substantial price volatility. These instruments may be subject to greater credit, liquidity and interest rate risk compared to [other debt securities]. They are often exposed to extension and prepayment risks and risks that the payment obligations relating to the underlying assets are not met, which may adversely impact the returns of the securities.

- Valuation risk (if applicable)

Valuation of the fund's investments may involve uncertainties and judgmental determinations. If such valuation turns out to be incorrect, this may affect the NAV calculation of the fund.

- Credit rating risk (if applicable)

Credit ratings assigned by rating agencies are subject to limitations and do not guarantee the creditworthiness of the security and/or issuer at all times.

- Credit rating agency risk (for funds invest in Mainland China onshore debt securities)

The credit appraisal system in the Mainland and the rating methodologies employed in the Mainland may be different from those employed in other markets. Credit ratings given by Mainland rating agencies may therefore not be directly comparable with those given by other international rating agencies.

### 2.2.3 Risks associated with specific investment strategy

- Concentration risk / [country/region] market risk

The fund's investments are concentrated in specific [industry sectors/ instruments/ geographical location etc.]. The value of the fund may be more volatile than that of a fund having a more diverse portfolio of investments.

*(For funds with geographical concentration)* The value of the fund may be more susceptible to adverse economic, political, policy, foreign exchange, liquidity, tax, legal or regulatory event affecting the [country/region] market.

- Eurozone risk

In light of ongoing concerns on the sovereign debt risk of certain countries within the Eurozone, the fund's investments in the region may be subject to higher volatility, liquidity, currency and default risks. Any adverse events, such as credit downgrade of a sovereign or exit of EU members from the Eurozone, may have a negative impact on the value of the fund.

- Emerging market risk

The fund invests in emerging markets which may involve increased risks and special considerations not typically associated with investment in more developed markets, such as liquidity risks, currency risks/control, political and economic uncertainties, legal and taxation risks, settlement risks, custody risk and the likelihood of a high degree of volatility.

- Risk of specific investment strategy

The [(please specify the investment strategy) e.g. dynamic asset allocation, downside risk management process] may not achieve the desired results under all circumstances and market conditions.

- Risk relating to dynamic asset allocation strategy

The investments of the fund may be periodically rebalanced and therefore the fund may incur greater transaction costs than a fund with static allocation strategy.

- Risk relating to downside protection strategy

While the downside risk management process aims at managing losses of the fund through [(please specify the way to manage losses) e.g. reducing exposure to equities], it may also [(please specify the trade-off of the downside protection) e.g. preclude the fund from fully capturing the upside in rising markets.] The fund may underperform funds not adopting the downside protection strategy in [(please specify the market circumstance which the fund may underperform and the reason) e.g. rising equity markets as the fund's exposure to equities may remain relatively low in early stages of market recovery].

## 2.2.4 Risks associated with certain types of investments

- Risks of investing convertible bonds

Convertible bonds are a hybrid between debt and equity, permitting holders to convert into shares in the company issuing the bond at a specified future date. As such, convertibles will be exposed to equity movement and greater volatility than straight bond investments. Investments in convertible bonds are subject to the same interest rate risk, credit risk, liquidity risk and prepayment risk associated with comparable straight bond investments.

- Risks of investing in other collective investment schemes/funds

*(if applicable)* The fund is a fund of funds and will be subject to the risks associated with the underlying funds. The fund does not have control of the investments of the underlying funds and there is no assurance that the investment objective and strategy of the underlying funds will be successfully achieved which may have a negative impact to the NAV of the fund.

The underlying [collective investment schemes/funds] in which the fund may invest may not be regulated by the SFC. There may be additional costs involved when investing into these underlying [collective investment schemes/funds]. There is also no guarantee that the underlying [collective investment schemes/funds] will always have sufficient liquidity to meet the fund's redemption requests as and when made.

## 2.2.5 Risks associated with investments in financial derivative instruments

- Risks associated with investment in FDI

Risks associated with FDI include counterparty/credit risk, liquidity risk, valuation risk, volatility risk and over-the-counter transaction risk. The leverage element/component of an FDI can result in a loss significantly greater than the amount invested in the FDI by the fund. Exposure to FDI may lead to a high risk of significant loss by the fund.

- High leverage risk<sup>8</sup> (if applicable)

The fund may have a net leveraged exposure of more than 100% of the NAV of the fund. This will further magnify any potential negative impact of any change in the value of the underlying asset on the fund and also increase the volatility of the fund's price and may lead to significant losses.

- Risks of implementing active [asset class(es) of FDI not correlated with underlying asset of the fund, e.g. currency] position<sup>9</sup> (if applicable)

As the active [currency] position implemented by the fund may not be correlated with the underlying securities positions held by the fund, the fund may suffer a significant or total loss even if there is no loss of the value of the underlying securities positions being [(please specify) e.g. equities, fixed income securities, etc.] held by the fund.

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<sup>8</sup> Applicable to funds with maximum leverage under commitment approach greater than 100% of NAV.

<sup>9</sup> Applicable to funds with significant exposure (i.e. more than 33% of NAV under commitment approach) to FDI of asset classes not correlated to the underlying assets of the fund.

### **2.2.6 Risks associated with stock lending, repurchase agreements, reverse repurchase agreements transactions and other similar over-the-counter transactions**

- Risks relating to securities lending transactions

Securities lending transactions may involve the risk that the borrower may fail to return the securities lent out in a timely manner and the value of the collateral may fall below the value of the securities lent out.

- Risks relating to repurchase agreements

In the event of the failure of the counterparty with which collateral has been placed, the fund may suffer loss as there may be delays in recovering collateral placed out or the cash originally received may be less than the collateral placed with the counterparty due to inaccurate pricing of the collateral or market movements.

- Risks relating to reverse repurchase agreements

In the event of the failure of the counterparty with which cash has been placed, the fund may suffer loss as there may be delay in recovering cash placed out or difficulty in realising collateral or proceeds from the sale of the collateral may be less than the cash placed with the counterparty due to inaccurate pricing of the collateral or market movements.

### **2.2.7 Risks associated with distribution out of/effectively out of the fund's capital**

- Payment of dividends [out of capital and/or effectively out of capital] amounts to a return or withdrawal of part of an investor's original investment or from any capital gains attributable to that original investments. Any such distributions may result in an immediate reduction of the NAV per share/ unit.
- (*Where applicable*) The distribution amount and NAV of the [hedged share class] may be adversely affected by differences in the interest rates of the reference currency of the [hedged share class] and the fund's base currency, resulting in an increase in the amount of distribution that is paid out of capital and hence a greater erosion of capital than other [non-hedged] share classes.

### **2.2.8 Risks associated with performance fee charged by the fund**

- Performance fees may encourage the manager of the fund to make riskier investments than would be the case in the absence of a performance-based incentive system.
- (*if applicable*) Given there is no equalisation arrangement for the calculation of the performance fee, a redeeming investor may still incur a performance fee in respect of his investments, even though he has suffered a loss of investment capital.
- In addition, performance fees may be paid on unrealised gains which may never be realised by the fund.

### **2.2.9 Risks associated with investments/exposure to RMB currency and/or Mainland China**

- RMB currency and conversion risks

RMB is currently not freely convertible and is subject to exchange controls and restrictions.

Non-RMB based investors are exposed to foreign exchange risk and there is no guarantee that the value of RMB against the investors' base currencies (for example HKD) will not depreciate.

Any depreciation of RMB could adversely affect the value of investor's investment in the fund.

Although offshore RMB (CNH) and onshore RMB (CNY) are the same currency, they trade at different rates. Any divergence between CNH and CNY may adversely impact investors.

Under exceptional circumstances, payment of redemptions and/or dividend payment in RMB may be delayed due to the exchange controls and restrictions applicable to RMB.

- Concentration risk / Mainland market risk

*[(please refer to 2.2.3 Risks associated with specific investment strategy above on concentration risks / [country/region] market risks)].*

- Risks relating to Mainland China A-shares risk (if applicable)

*[(please refer to 2.2.1 Risks associated with equities above, e.g. market risk, volatility risk, regulatory risk, risk associated with small-capitalisation / mid-capitalisation companies)].*

- Risks relating to investment in Mainland debt securities (if applicable)

*[(please refer to 2.2.2 Risks associated with debt securities above, e.g. credit / counterparty risk, interest rate risk, volatility and liquidity risks, downgrading risk, credit rating agency risk, risks associated with investments in asset backed securities, debt securities which are rated BB+ or below by a Mainland credit rating agency or unrated)].*

*[(applicable to funds investing in urban investment bonds (城投债)) Urban investment bonds are issued by local government financing vehicles ("LGFVs"), such bonds are typically not guaranteed by local governments or the central government of the Mainland. In the event that the LGFVs default on payment of principal or interest of the urban investment bonds, the fund could suffer substantial loss and the NAV of the fund could be adversely affected.]*

- "Dim Sum" bond (i.e. bonds issued outside of Mainland China but denominated in RMB) market risks (if applicable)

The "Dim Sum" bond market is still a relatively small market which is more susceptible to volatility and illiquidity. The operation of the "Dim Sum" bond market as well as new issuances could be disrupted causing a fall in the NAV of the fund should there be any promulgation of new rules which limit or restrict the ability of issuers to raise RMB by way of bond issuances and/or reversal or suspension of the liberalisation of the offshore RMB (CNH) market by the relevant regulator(s).

- Risks associated with investment made through [e.g. a QFII/RQFII] regime (if applicable)

The fund's ability to make the relevant investments or to fully implement or pursue its investment objective and strategy is subject to the applicable laws, rules and regulations (including restrictions on investments and repatriation of principal and profits) in the PRC, which are subject to change and such change may have potential retrospective effect.

The fund may suffer substantial losses if there is insufficient [QFII/RQFII] quota allocated for the fund to make investments, the approval of the [QFII/RQFII] is being revoked/terminated or otherwise invalidated as the fund may be prohibited from trading of relevant securities and repatriation of the fund's monies, or if any of the key operators or parties (including [QFII/RQFII] custodian/brokers) is bankrupt/in default and/or is disqualified from performing its obligations (including execution or settlement of any transaction or transfer of monies or securities).

- Risks associated with the Shanghai-Hong Kong Stock Connect (if applicable)

The relevant rules and regulations on Shanghai-Hong Kong Stock Connect are subject to change which may have potential retrospective effect. The Shanghai-Hong Kong Stock Connect is subject to quota limitations. Where a suspension in the trading through the programme is

effected, the fund's ability to invest in China A-shares or access the PRC market through the programme will be adversely affected. In such event, the fund's ability to achieve its investment objective could be negatively affected.

- PRC tax risk [with respect to capital gains (This may be relevant to an equity fund which is established before 17 November 2014 or a fund which substantially invests in debt securities) and/or, if applicable, other PRC tax]

There are risks and uncertainties associated with the current PRC tax laws, regulations and practice in respect of [capital gains realised] via [QFII/ RQFII] quota or [Shanghai-Hong Kong Stock Connect] or access products on the fund's investments in the PRC (which may have retrospective effect). Any increased tax liabilities on the fund may adversely affect the fund's value.

Based on professional and independent tax advice, the fund will/will not make the following tax provisions (i.e. [(please specify the tax provision) e.g. [x]% on [realised and/or unrealised capital gains] on [types of securities]]).

[(If tax provision has been made by the fund) Any shortfall between the provision and the actual tax liabilities, which will be debited from the fund's assets, will adversely affect the fund's NAV. The actual tax liabilities may be lower than the tax provision made. Depending on the timing of their subscriptions and/or redemptions, investors may be disadvantaged as a result of any shortfall of tax provision and will not have the right to claim any part of the overprovision (as the case may be).

#### **2.2.10 Risks relating to ETFs and unlisted index funds**

- Passive investment risk

The fund is passively managed and the manager will not have the discretion to adapt to market changes due to the inherent investment nature of the fund. Falls in the index are expected to result in corresponding falls in the value of the fund.

- Tracking error risk

The fund may be subject to tracking error risk, which is the risk that its performance may not track that of the index exactly. This tracking error may result from the investment strategy used, and fees and expenses. The manager will monitor and seek to manage such risk in minimising tracking error. There can be no assurance of exact or identical replication at any time of the performance of the index.

- Index-related risk

There may be errors in index data which may not be identified or corrected for a period of time. This may have an adverse impact on the fund and its unitholders. Index provider may change the securities which comprise the index from time to time and the securities may be delisted. The SFC may withdraw authorization of the fund if the index is no longer considered acceptable.

#### **2.2.11 Additional risks relating to ETFs**

- Trading risks

The trading price of the units on the SEHK is driven by market factors such as the demand and supply of the units. Therefore, the units may trade at a substantial premium or discount to the fund's NAV.

As investors will pay certain charges (e.g. trading fees and brokerage fees) to buy or sell units on the SEHK, investors may pay more than the NAV per unit when buying units on the SEHK, and may receive less than the NAV per unit when selling units on the SEHK.

*[(applicable to ETFs with RMB traded units)]* The units in the RMB counter are RMB denominated securities traded on the SEHK and settled in CCASS. Not all stockbrokers or custodians may be ready and able to carry out trading and settlement of the RMB traded units. The limited availability of RMB outside the PRC may also affect the liquidity and trading price of the RMB traded units.]

- Trading differences risks

As the [relevant stock exchanges] may be open when units in the fund are not priced, the value of the securities in the fund's portfolio may change on days when investors will not be able to purchase or sell the fund's units.

Differences in trading hours between [relevant stock exchanges] and the SEHK may also increase the level of premium or discount of the unit price to its NAV.

*[(applicable to China A-shares ETFs)]* China A-shares are subject to trading bands which restrict increase and decrease in the trading price. Units listed on the SEHK are not. This difference may also increase the level of premium or discount of the unit price to its NAV.]

- Termination risk

The fund may be terminated early under certain circumstances, for example, where the index is no longer available for benchmarking or if the size of the fund falls below [a pre-determined NAV threshold as set out in the constitutive documents and offering documents]/*[(please specify the NAV)]*. Investors may not be able to recover their investments and suffer a loss when the fund is terminated.

- Reliance on market maker risks

Although the manager will ensure that at least one market maker will maintain a market for the units [traded in each counter] and that at least one market maker [to each counter] gives not less than 3 months' notice prior to terminating market making arrangement under the relevant market maker agreement, liquidity in the market for the units may be adversely affected if there is no or only one market maker for the [RMB or HKD traded] units. There is also no guarantee that any market making activity will be effective.

*[(applicable to ETF with RMB traded units)]* There may be less interest by potential market makers making a market in units denominated and traded in RMB. Any disruption to the availability of RMB may adversely affect the capability of market makers in providing liquidity for the units.]

- Reliance on the same group risk (if applicable)

Although separate legal entities and operationally independent, each of the [relevant operators] are presently part of the same financial group. In the event of a financial catastrophe or the insolvency of any member of the group, the NAV and liquidity of the fund may be adversely affected and its operation may be disrupted.

Given that the [relevant operators] are all members of the group, conflicts of interest in respect of the fund may arise from time to time amongst any of them. The manager will vigorously manage any such conflict in the best interest of investors.

- Dual counter risks (if applicable)

If there is a suspension of the inter-counter transfer of units between the counters and/or any limitation on the level of services by brokers and CCASS participants, unitholders will only be able to trade their units in one counter only, which may inhibit or delay an investor dealing. The market price of units traded in each counter may deviate significantly. As such, investors may



pay more or receive less when buying or selling units traded in HKD on the SEHK than in respect of units traded in RMB and vice versa.

- General risks relating to synthetic ETFs (*for synthetic ETFs*)

Derivative instruments are susceptible to price fluctuations and higher volatility, which may result in large bid and offer spreads with no active secondary market. The fund may suffer losses potentially equal to the full value of the derivatives.

- Synthetic replication risks (*for synthetic ETFs*)

The manager seeks to mitigate the counterparty risks by fully collateralising all counterparty exposures. There is a risk that the value of the collateral may be substantially lower than the amount secured and so the fund may suffer significant losses. Any loss would result in a reduction in the NAV of the fund and impair the ability of the fund to achieve its investment objective to track the index.

The fund may suffer significant losses if the counterparty fails to perform its obligations under the funded swap/unfunded swap/CAAPs. The value of the [collateral assets (*for funded swap/CAAPs ETFs*) / asset portfolio (*for unfunded swap ETF*)] may be affected by market events and may diverge substantially from the performance of the index, which may cause the fund's exposure to the swap counterparty/CAAPs issuer to be [under-collateralised (*for funded swap/CAAPs ETFs*) / larger than zero (*for unfunded swap ETF*)] and therefore result in significant losses.

## Section 3: Performance fee

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The management company may adopt different parameters and methodologies to calculate performance fee. However, it is the management company's responsibility to ensure that appropriate disclosure is clearly and properly disclosed in the fund's Hong Kong offering document (including the KFS). This Section 3 only sets out one of the examples to calculate performance fee. If the management companies adopt other parameters and methodologies, they should ensure the level of disclosure is comparable to the example described below.

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### 3.1 Disclosure on performance fee (for KFS)<sup>10</sup>

|   |  |
|---|--|
| <b>What are the fees and charges?</b>   |  |
| <b>Ongoing fees payable by the fund</b> |  |
| <b>Performance fee</b>                  | <p>[10]% of the outperformance of the NAV per share during a performance period over the High Water Mark.</p> <p>Outperformance means the amount by which the increase in NAV per share during the relevant performance period exceeds the High Water Mark.</p> <p>High Water Mark is the higher of (i) the initial subscription price and (ii) the NAV per share as at the end of the performance period in respect of which a performance fee was last paid. Where a performance fee is payable for a performance period, the NAV per share on the last valuation day of that performance period will be set as the High Water Mark for the next performance period.</p> <p>Performance fee accrues on each valuation day if the NAV per share exceeds the High Water Mark. On each valuation day, the performance fee accrual made (if any) on the previous valuation day will be reversed and a new performance fee accrual will be calculated. If the NAV per share is lower than or equal to the High Water Mark, any performance fee accrual will be reversed and no performance fee will be accrued.</p> <p>For details and illustrative examples of the performance fee calculation, please refer to [x] of the prospectus.</p> |

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<sup>10</sup> As an illustration, this Section 3.1 sets out the Minimum Disclosures for the case where performance fee is calculated on a high-on-high basis without equalisation arrangement for a fund with a single share class for which daily valuation is performed.

## 3.2 Disclosure on performance fee (in the offering documents)<sup>11</sup>

### Performance fee

The manager is entitled to charge a performance fee for each performance period.

#### (i) *Performance fee calculation*

Performance fee is payable annually on a high-on-high basis (i.e. when the NAV per share as at the last valuation day of a performance period exceeds the High Water Mark (as defined below)) in accordance with the following formula:

$$(A-B) \times C \times D$$

where:

“A” is the NAV per share (before deduction of any provision for the performance fee [and any distribution declared or paid in respect of that performance period]) as at the last valuation day of a performance period.

“B” is the **High Water Mark**, which is the higher of:

- (i) the initial subscription price; and
- (ii) the NAV per share as at the end of any previous performance period in respect of which a performance fee was paid (after deduction of all fees including any performance fee [and any distribution declared or paid in respect of that performance period]).

Where a performance fee is payable for a performance period, the NAV per share on the last valuation day of that performance period will be set as the High Water Mark for the next performance period.

“A-B” means the outperformance of NAV per share, i.e. the amount by which the increase in NAV per share during the relevant performance period exceeds the High Water Mark.

“C” is the rate of performance fee payable (i.e. [10]%)

“D” is the average number of shares in issue in the relevant performance period, calculated by adding the total number of shares in issue as at a valuation point on each valuation day of the relevant performance period divided by the total number of valuation days in such performance period.

Each performance period corresponds to the financial year of the fund, except that the first performance period is from [the first valuation day following the close of the initial offer period] to [the last valuation day of the fund’s financial year].

Any performance fee payable shall be paid to the manager [as soon as practicable/within a specified period] after the end of the relevant performance period.

#### (ii) *Performance fee accrual*

The performance fee shall be accrued on each valuation day throughout a performance period. If the NAV per share exceeds the High Water Mark, a performance fee accrual will be made. If not, no performance fee accrual will be made. On each valuation day, the accrual made on the previous valuation day will be reversed and a new performance fee accrual will be calculated and made in accordance with the above. If the NAV per share on a valuation day is lower than or equal to the High

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<sup>11</sup> This is an illustration of disclosure for the case where performance fee is calculated on a high-on-high basis without equalisation arrangement for a fund with a single share class for which daily valuation is performed using the average number of shares in issue during the relevant performance period.

Water Mark, all provision previously accrued performance fee will be reversed and no performance fee will be accrued.

The price of shares subscribed for or redeemed during a performance period will be based on the NAV per share (after accrual of performance fee as calculated in accordance with the above). Depending upon the performance of the fund during the year, the price at which shareholders subscribe for or redeem shares at different times will be affected by performance of the fund and this could have a positive or negative effect on the performance fee borne by them.

There is no equalisation arrangement in respect of the calculation of performance fee. That means there is no adjustment of equalisation credit or equalisation losses on an individual shareholder basis based on the timing the relevant shareholder subscribes or redeems the relevant shares during a performance period. The shareholder may be advantaged or disadvantaged as a result of this calculation methodology.

For instance, a shareholder will be advantaged if he subscribes to the fund during a performance period when the NAV per share is below the High Water Mark, and redeems prior to the end of such performance period when the NAV per share has increased up to but does not exceed the High Water Mark at the time of his redemption, and thus, no performance fee is payable even though he has made a profit.

Likewise, a shareholder will be disadvantaged if he subscribes to the fund during a performance period when the NAV per share is above the High Water Mark and redeems prior to or at the end of such performance period when the NAV per share at the time of redemption has decreased but remains above High Water Mark. Under such circumstances, he has paid the performance fee despite of a loss as his subscription price of the shares has taken into account a provision for the performance fee.

*(iii) Illustrative examples*

The examples below are shown for illustration purposes only and may contain simplifications. Assumptions:

- The initial subscription price for the relevant share is HKD100.
- The performance fee payable is 10% of the increase in the NAV per share during a performance period above the High Water Mark (i.e. outperformance of NAV per share).

(I) First performance period (NAV per share above High Water Mark at the end of performance period – performance fee payable)

Investor A subscribes for one share during the initial offer period at the initial subscription price. Thereafter, investor B subscribes for one share within the first performance period at a subscription price of HKD110. High Water Mark is the initial subscription price, which is HKD100.

By the end of the first performance period, the NAV per share is HKD105. The outperformance of NAV per share is thus HKD5. The average number of shares in issue on this valuation day is 2 shares.

The total performance fee payable by the fund would be calculated as:  
 $(\text{HKD}105 - \text{HKD}100) \times 10\% \times 2 \text{ shares} = \text{HKD}1.$

At the end of the first performance period, the NAV per share will be reduced by HKD0.50. In effect, each of Investors A and B will have borne the HKD0.50 performance fee in respect of the first performance period.

- (II) Second performance period (NAV per share below High Water Mark on a particular valuation day – no performance fee accrual; NAV below High Water Mark at the end of performance period – no performance fee payable):

At the start of the second performance period, the High Water Mark is HKD104.50 (being the NAV per share at the end of the last performance period in respect of which a performance fee was paid (after deduction of performance fee)).

Mid-way through the second performance period, the NAV per share is HKD98.50. Investor A redeems his share. Investor C subscribes for one share. On this valuation day, the NAV per share is below the High Water Mark. Therefore, no performance fee is accrued in respect of the share redeemed by Investor A.

At the end of the second performance period, the NAV per share becomes HKD102.50. There has been no outperformance of NAV per share. No performance fee is therefore payable in the second performance period.

## Section 4: Legal opinion and trustee arrangements relating to RQFII / QFII funds (in the offering documents)

*The disclosure in this Section 4 sets out the minimum disclosure standards on the content of the legal opinion from PRC legal counsel and the trustee's arrangements for RQFII/QFII funds. The management company should make the following disclosure in the offering documents for its fund (in the case of a single fund) or the first sub-fund under an umbrella fund that invests 70% or more of its NAV using RQFII/QFII quota. For other sub-funds under the same umbrella fund that invest 70% or more of its NAV using RQFII/QFII quota, the management company and trustee may, in place of obtaining such PRC legal opinion, provide a confirmation to the effect that the arrangements for safe custody and segregation of the assets of the sub-funds are in compliance with the UT Code and are the same as the initial sub-fund, and that there are no material adverse changes to its operational conditions. For the avoidance of doubt, management companies are reminded that notwithstanding a fund investing less than 70% of its NAV using RQFII/QFII quota is not required to make the disclosure below, the management company and the trustee must always ensure that proper arrangements referred to below are being put in place for safe custody and segregation of the fund's assets.*

### 4.1 PRC legal opinion

The management company has obtained a legal opinion from PRC legal counsel to the effect that, as a matter of PRC law:

- (i) securities account(s) with the relevant depositories and maintained by the PRC Custodian and the RMB special deposit account(s) with the PRC Custodian (respectively, the "securities account(s)" and the "cash account(s)") have been opened in the joint names of the [{management company (as RQFII/QFII holder)}{RQFII/QFII Holder}<sup>12</sup>] {delete as appropriate} and the fund for the sole benefit and use of the fund in accordance with all applicable laws, rules and regulations of the PRC and with approval from all competent authorities in the PRC;
- (ii) the assets held/credited in the securities account(s) (i) belong solely to the fund, and (ii) are segregated and independent from the proprietary assets of the management company [(as RQFII/QFII holder){, RQFII/QFII Holder}<sup>12</sup>]{delete as appropriate}, the Custodian, the PRC Custodian and any broker appointed by the management company to execute transactions for the fund in the PRC ("PRC Broker") and from the assets of other clients of the management company [(as RQFII/QFII holder){, RQFII/QFII Holder}<sup>12</sup>] {delete as appropriate}, the Custodian, the PRC Custodian and any PRC Broker;
- (iii) the assets held/credited in the cash account(s) (i) become an unsecured debt owing from the PRC Custodian to the fund, and (ii) are segregated and independent from the proprietary assets of the management company [(as RQFII/QFII holder){, RQFII/QFII Holder}<sup>12</sup>]{delete as appropriate} and any PRC Broker, and from the assets of other clients of the management company [(as RQFII/QFII holder){, RQFII/QFII Holder}<sup>12</sup>] {delete as appropriate} and any PRC Broker;

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<sup>12</sup> In the case where the management company is not the RQFII/QFII holder, the PRC legal opinion would also need to cover the above arrangements for the relevant entity granted with the RQFII/QFII quota ("RQFII/QFII Holder"), which has been allocated for the benefit of the fund. Please also make corresponding changes to ensure that the management company is distinguished from the RQFII/QFII Holder.

- (iv) the [Trustee/Company (being the mutual fund corporation)] {delete as appropriate}, for and on behalf of the fund is the only entity which has a valid claim of ownership over the assets in the securities account(s) and the debt in the amount deposited in the cash account(s) of the fund;
- (v) if the management company [{(as RQFII/QFII holder)}{, RQFII/QFII Holder}<sup>12</sup>] {delete as appropriate} or any PRC Broker is liquidated, the assets contained in the securities account(s) and the cash account(s) of the fund will not form part of the liquidation assets of the management company [{(as RQFII/QFII holder)}{, RQFII/QFII Holder}<sup>12</sup>] {delete as appropriate} or such PRC Broker in liquidation in the PRC; and
- (vi) if the PRC Custodian is liquidated, (i) the assets contained in the securities account(s) of the fund will not form part of the liquidation assets of the PRC Custodian in liquidation in the PRC, and (ii) the assets contained in the cash account(s) of the fund will form part of the liquidation assets of the PRC Custodian in liquidation in the PRC and the fund will become an unsecured creditor for the amount deposited in the cash account(s).

## 4.2 Custody arrangements

The [Trustee/custodian] {delete as appropriate} has put in place proper arrangements to ensure that:

- (i) the [Trustee/custodian] {delete as appropriate} takes into its custody or under its control the assets of the fund, including onshore PRC assets which will be maintained by the PRC Custodian via the securities account(s) with the relevant depositories and any assets deposited in the cash account(s) with the PRC Custodian, and holds the same in trust for the [unitholders/shareholders] {delete as appropriate};
- (ii) cash and registrable assets of the fund, including assets deposited in the securities account(s) with the relevant depositories and cash of the fund deposited in the cash account(s) with or otherwise held by the PRC Custodian, are registered in the name of or held to the order of the [Trustee/custodian] {delete as appropriate}; and
- (iii) the PRC Custodian will look to the [Trustee/custodian] {delete as appropriate} (directly or indirectly) for instructions and solely act in accordance with the [Trustee's/custodian's] {delete as appropriate} instructions, save as otherwise required under applicable regulations.

## Section 5: Key provisions of constitutive documents for Hong Kong domiciled funds and other non-UCITS funds

The constitutive documents<sup>13</sup> of the scheme must conform in substance with the following provisions with no material deviation/dilution to the intended operative effect of the provision<sup>14</sup>:-

1. The management company and the trustee/custodian shall in the performance of their respective duties under the constitutive documents with respect to the scheme at all times comply with the applicable provisions of the UT Code and shall act at all times in compliance with and in a manner consistent with the UT Code (as may be modified by any applicable waivers or exemptions granted by the SFC).
2. Notwithstanding any other provisions in the constitutive documents, nothing in the constitutive documents may provide that the trustee/custodian, management company or directors of the scheme can be exempted from any liability to holders imposed under Hong Kong law or the law of the scheme's place of domicile or breaches of trust through fraud or negligence, nor may they be indemnified against such liability by holders or at holders' expense.
3. Nothing in the constitutive documents shall diminish or exempt any of the management company or the trustee/custodian from any of its duties and liabilities under the UT Code.
4. The trustee/custodian must take into its custody or under its control all the property of the scheme and hold it in trust for the holders (in the case of a unit trust) or the scheme (in the case of a mutual fund corporation) in accordance with the provisions of the constitutive documents.
5. The trustee/custodian must register cash and registrable assets in the name of or to the order of the trustee/custodian; where borrowing is undertaken for the account of the scheme, such assets may be registered in the lender's name or in that of a nominee appointed by the lender.
6. The trustee/custodian must be liable for the acts and omissions of its nominees and agents in relation to assets forming part of the property of the scheme. The trustee/custodian shall be liable for the acts and omissions of its nominees, agents and delegates which are connected persons of the trustee/custodian as if the same were the acts or omissions of the trustee/custodian. For the purpose of satisfying these obligations in respect of a nominee, agent or delegate that is not a connected person of the trustee/custodian, the trustee/custodian shall (i) exercise reasonable care and diligence in the selection, appointment and ongoing monitoring of its nominees, agents and delegates; and (ii) be satisfied that the nominees, agents and delegates retained remain suitably qualified and competent to provide the relevant service.

*[Note:- The trustee/custodian is not generally expected to be liable for any act, omission, insolvency, liquidation or bankruptcy of any central securities depository or clearing system.]*

7. The trustee/custodian may empower its appointed custodian/sub-custodian to further appoint its nominees, agents and/or delegates provided that such appointment is made:-
  - i. with the prior consent in writing of the trustee/custodian; or
  - ii. with the trustee/custodian's agreement in writing; or
  - iii. with no objection in writing by the trustee/custodian.

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<sup>13</sup> "Constitutive documents" means the principal documents governing the formation of the scheme, and includes the trust deed in the case of a unit trust and the articles of association in the case of a mutual fund corporation. In the case of a mutual fund corporation, these key provisions may also be set out in the custodian agreement and the management agreement instead of the articles of association, as appropriate.

<sup>14</sup> Any disclaimer of liability in the constitutive documents must be subject to the compliance with the provisions as set out in this Section.



*[Note: For the purposes of satisfying the above, the trustee/custodian may pre-clear such appointment or provide consent/no objection in advance to an agreed-upon process provided that it is satisfied that its appointed custodian/sub-custodian will exercise reasonable care and diligence in the selection, appointment and ongoing monitoring of its nominees, agents and/or delegates and has appropriate and adequate processes and procedures in place for doing so.*

*The trustee/custodian shall also exercise reasonable care and diligence:-*

- a) to ensure that the processes and procedures have been properly implemented by the custodian/sub-custodian; and*
  - b) to conduct regular reviews of such custodian/sub-custodian's processes and procedures to ensure that the trustee/custodian remains satisfied that such processes and procedures remain appropriate and adequate for the selection, appointment and ongoing monitoring of such nominees, agents and/or delegates.]*
8. Notwithstanding any other provisions in the constitutive documents, the management company may adjust the value of any cash, deposits and/or investments or permit some other method of valuation to be used if such adjustment is required to reflect the fair value provided that such adjustment may only be made:-
- i. upon consultation with the trustee/custodian; or
  - ii. with the prior consent in writing of the trustee/custodian.
9. For so long as the scheme is authorized by the SFC under section 104 of the Securities and Futures Ordinance, section 41O of the Trustee Ordinance shall not apply to the extent that is inconsistent with the clause in the constitutive documents reflecting 4.5(a)(iii) of the UT Code and/or with the trustee's duties and responsibilities under the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products, and shall not in any way operate to exempt or diminish any liability of the trustee as set out in the relevant clause in the constitutive documents reflecting 6.6 of the UT Code (where applicable).
10. Nothing in the constitutive documents may exclude the jurisdiction of the courts of Hong Kong to entertain an action concerning the scheme.

## Annex 2

### Confirmation of fulfilment of authorization conditions

Dated: \_\_\_\_\_ (Note)

To: Securities and Futures Commission (the "Commission")

Name of the scheme(s): \_\_\_\_\_ (the "Scheme(s)")

We refer to the letter from the Commission dated \_\_\_\_\_ (insert date) granting authorization of the Scheme(s) and the Hong Kong offering document (the "Authorization Letter").

#### **Confirmations/undertakings**

We hereby confirm and undertake that all the conditions for the authorization of the Scheme(s) as set out in the Authorization Letter ("Authorization Conditions") have been fulfilled and will be complied with in respect of the Scheme(s).

*(Please tick if applicable)* In particular:

- (Applicable only to schemes whose HKOD are subject to comments of the SFC)* We confirm that the finalised draft of the Hong Kong offering document of the Scheme(s) ("HKOD") has properly addressed all the comments of the SFC on the HKOD as set out in the Authorization Letter.
- (Applicable only to overseas scheme(s))* We confirm that the finalised draft of the HKOD is consistent with the overseas offering documents as approved / authorized by \_\_\_\_\_ (insert name of home regulator), the home regulator of the Scheme(s).
- (Applicable only to QFII/RQFII schemes)*
  - We confirm that QFII / RQFII quota has been obtained for use by the Scheme(s) and the relevant accounts (including securities account(s) and cash account(s)) have been opened in the PRC; or
  - We undertake to obtain QFII / RQFII quota for use by the Scheme(s) and open the relevant accounts (including securities account(s) and cash account(s)) in the PRC prior to the launch of the Scheme(s).
  - (Applicable only to QFII/RQFII schemes which are single funds or sub-funds under a new umbrella fund or sub-funds under an existing umbrella fund of which PRC legal counsel's opinion has not been obtained on the custody arrangement relating to any of its existing SFC-authorized sub-funds using RQFII/QFII quota)* We undertake to obtain an opinion from the PRC legal counsel in the form as referred to in the HKOD of the Scheme(s) prior to the launch of the Scheme(s).
- (Applicable only to non-Hong Kong based schemes)* We confirm that a Hong Kong representative which complies with 9.4 of the Code on Unit Trusts and Mutual Funds (the "UT Code") has been duly appointed in respect of the Scheme(s) in accordance with Chapter 9 of the UT Code.

Note: Please refer to "Chapter 7 – Documentation requirements following SFC authorization and prior to the authorization becoming effective" of the Guide on Practices and Procedures for Application for Authorization of Unit Trusts and Mutual Funds ("Guide"), including the timeframe within which the applicant is required to submit this Confirmation to the Commission.

- All other confirmations and/or undertakings that are required to be submitted in accordance with the Authorization Letter are set out below: *(use separate sheet(s) if necessary)*

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### **Supporting documentation**

We confirm that a copy of all the documents as required to be submitted pursuant to the Authorization Letter is enclosed and listed below:

- A cheque in the total sum of \_\_\_\_\_ *(insert amount)* made payable to the "Securities and Futures Commission" in payment of the authorization fees and annual fees in respect of the Scheme(s)
- Finalised draft of the English HKOD, with (i) changes (shown in mark-ups against previously submitted version) properly addressing all the comments of the SFC on the HKOD (if any) as set out in the Authorization Letter and (ii) annotations against Appendix C to the UT Code
- Chinese version of the HKOD and the executed Chinese translation certificate(s)
- (Applicable only to UCITS schemes whose constitutive documents had been submitted at the time of application)* Copy of duly executed constitutive documents
- (Applicable only to Hong Kong domiciled schemes and other non-UCITS schemes)* Copy of duly executed constitutive documents, with annotations against Appendix D to the UT Code and the key provisions for the constitutive documents of Hong Kong domiciled schemes and other non-UCITS schemes as set out in Section 5 of the Minimum Disclosure Requirements (contained in Annex 1 to the Guide)
- (Applicable only to listed funds)* listing approval granted to the Scheme(s) by The Stock Exchange of Hong Kong Limited
- Please list out such other documents that are required to be submitted pursuant to the Authorization Letter: (use separate sheet(s) if necessary)*

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Signed for and on behalf of:  
*(please tick relevant box(es))*

Name of Applicant : \_\_\_\_\_

- Applicant :  *(For self-managed scheme(s) only)*  
The board of directors of the Scheme(s)
- (For scheme(s) which is/are not self-managed scheme(s))*  
*(Please state the name of the management company of the Scheme(s))*

Name of authorized signatory :  (For self-managed scheme(s) only)

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*(Insert name of at least one executive director (or above) of the Scheme(s))*

:  (For non-self-managed scheme(s) with SFC-licensed management company)

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*(Insert name of the Responsible Officer (in respect of Type 9 Regulated Activity) of the management company)*

:  (For non-self-managed scheme(s) with management company which is not SFC-licensed)

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*(Insert name of at least one executive director (or above) of the management company of the Scheme(s))*

Signature :

Title / Position :

Date (date / month / year) :

## Annex 3

### Reference on annotations for the HKOD against Appendix C to the UT Code

1. As set out in Chapter 7 of the Guide, the Hong Kong offering documents (“HKOD”) of a scheme as annotated are required to be submitted to the Commission before the authorization of the scheme may become effective. This document aims to assist applicants of new fund applications in annotating the finalised draft of the HKOD of a scheme under application against Appendix C to the Code on Unit Trusts and Mutual Funds (“UT Code”).
2. The directors of the scheme or the management company are obliged to disclose any information which may be necessary for investors to make an informed judgment.

| <b>Appendix C to the UT Code</b>               |  |
|--|--|
| <b>TABLE 1 – Basic disclosure requirements</b> |  |
| <b>Constitution of the Scheme</b>              |  |
| Appendix C1                                    |  |
| <b>Investment Objectives and Restrictions</b>  |  |
| Appendix C2 <sup>1</sup>                       |  |
|  | <b>Core Requirements as set out in the UT Code</b> |
|  | UT Code - 7.1 <sup>2</sup>                         |
|  | UT Code - 7.2 <sup>2</sup>                         |
|  | UT Code - 7.3 <sup>2</sup>                         |
|  | UT Code - 7.3A (if applicable) <sup>2</sup>        |
|  | UT Code - 7.4 <sup>2</sup>                         |
|  | UT Code - 7.5 <sup>2</sup>                         |
|  | UT Code - 7.6(a) <sup>2</sup>                      |
|  | UT Code - 7.6(b) <sup>2</sup>                      |
|  | UT Code - 7.7 <sup>2</sup>                         |
|  | UT Code - 7.8 <sup>2</sup>                         |
|  | UT Code - 7.9 <sup>2</sup>                         |
|  | UT Code - 7.10 <sup>2</sup>                        |
|  | UT Code - 7.11 <sup>2</sup>                        |
|  | UT Code - 7.11A <sup>2,3</sup> (if applicable)     |

<sup>1</sup> Please note that according to Question 27A of the Frequently Asked Questions on the Code on Unit Trusts and Mutual Funds, any schemes which may use financial derivative instruments (“FDIs”) extensively for investment purposes, including UCITS scheme with expanded investment powers as well as schemes falling within 8.3, 8.4A, 8.7, 8.8 and 8.9 of the UT Code, are required to disclose the risk management policy in place in the HKOD.

<sup>2</sup> The disclosure requirements are deemed to have complied by UCITS funds domiciled in Luxembourg, Ireland and the United Kingdom.

<sup>3</sup> For the purposes of 7.11A of the UT Code, “recognized jurisdiction schemes” means those UCITS schemes domiciled in Luxembourg, Ireland and the United Kingdom which are currently covered under the Circular on “Interim measures on the disclosure and submission requirements for the authorization of UCITS III funds domiciled in Luxembourg, Ireland and the United Kingdom issued by the SFC” dated 31 March 2005, which is posted on SFC’s website:  
<http://www.sfc.hk/edistributionWeb/gateway/EN/circular/openFile?refNo=H372>.

| <b>Appendix C to the UT Code</b>             |   |
|--|---|
|  | UT Code - 7.11B <sup>2</sup> (if applicable)  |
|  | UT Code - 7.11C <sup>2</sup>  |
|  | UT Code - 7.11D   |
|  | UT Code - 7.12(a) (if applicable)   |
|  | UT Code - 7.12(b) (if applicable)   |
|  | UT Code - 7.12(c) (if applicable)   |
|  | UT Code - 7.12(d) (if applicable)   |
|  | UT Code - 7.14 <sup>2</sup>   |
|  | UT Code - 7.15 <sup>2</sup>   |
|  | UT Code - 7.16 <sup>2</sup>   |
|  | UT Code - 7.17 <sup>2</sup>   |
|  | UT Code - 7.18 <sup>2</sup>   |
|  | UT Code - 7.19 <sup>2</sup>   |
|  | UT Code - 7.20 <sup>2</sup>   |
|  | UT Code - 7.21 <sup>2</sup>   |
|  | UT Code - 7.22 <sup>2</sup>   |
|  | UT Code - 7.23 <sup>2</sup>   |
|  | UT Code - 7.24 <sup>2</sup>   |
|  | See <b>TABLE 2</b> for additional disclosure requirements for specialized and other schemes |
| <b>Operators and Principals</b>              |   |
|  | Appendix C3(a)  |
|  | Appendix C3 (b)   |
|  | Appendix C3 (c)   |
|  | Appendix C3 (d)   |
|  | Appendix C3 (e) (if different from C3(d))   |
|  | Appendix C3 (f)   |
|  | Appendix C3 (g)   |
| <b>Characteristics of Units / Shares</b>     |   |
|  | Appendix C4   |
|  | Appendix C5   |
|  | Appendix C6   |
|  | Appendix C7   |
| <b>Application and Redemption Procedures</b> |   |
|  | Appendix C8   |
|  | Appendix C9   |
|  | Appendix C10  |
|  | Appendix C11  |
|  | Appendix C12  |
| <b>Distribution Policy</b>                   |   |
|  | Appendix C13 (if applicable)  |

|                                       |
|---------------------------------------|
| <b>Appendix C to the UT Code</b>      |
| <b><i>Fees and Charges</i></b>        |
| Appendix C14(a)                       |
| Appendix C14(b)                       |
| Appendix C14(c)                       |
| Appendix C15                          |
| <b><i>Taxation</i></b>                |
| Appendix C16                          |
| <b><i>Reports and Accounts</i></b>    |
| Appendix C17                          |
| Appendix C18                          |
| Appendix C18A                         |
| <b><i>Warnings</i></b>                |
| Appendix C19(a)                       |
| Appendix C19(b)                       |
| <b><i>Product KFS</i></b>             |
| Appendix C19A                         |
| <b><i>General Information</i></b>     |
| Appendix C20                          |
| Appendix C21                          |
| Appendix C22 <sup>4</sup>             |
| Appendix C22A ( <i>if available</i> ) |
| Appendix C23                          |
| <b><i>Termination of Scheme</i></b>   |
| Appendix C24                          |

|   |
|---|
| <b>TABLE 2 – Additional Disclosure Requirements for Specialized and Other Schemes</b> |
| <b><i>Applicable only to Unit Portfolio Management Funds</i></b>                      |
| UT Code - 8.1(a) <sup>5</sup>   |
| UT Code - 8.1(b) <sup>6</sup>   |
| UT Code - 8.1(c) <sup>5</sup>   |
| UT Code - 8.1(d) <sup>5</sup>   |

<sup>4</sup> For those schemes which are domiciled in one of the “Recognized Jurisdictions” and the home regulator of such scheme has approved a responsibility statement set out in the HKOD of such scheme, the scheme is deemed to have complied with paragraph 22 of Appendix C to the UT Code. For the purposes of this document, “Recognized Jurisdictions” means those jurisdictions set out in the “List of Recognized Jurisdiction Schemes” available on the Commission’s website.

<sup>5</sup> The disclosure requirements are deemed to have complied by UCITS funds domiciled in Luxembourg, Ireland and the United Kingdom in accordance with the Circular on “Streamlined measures for processing UCITS III schemes with special features” dated 30 March 2007, which is posted on SFC website:  
<http://www.sfc.hk/edistributionWeb/gateway/EN/circular/openFile?refNo=H454>

<sup>6</sup> Please note that in accordance with 8.1(b) of the UT Code and the Circular dated 30 March 2007, a UPMF may only invest in units/shares of schemes authorized by the SFC or in recognized jurisdiction schemes domiciled in Luxembourg, Ireland and UK (whether authorized or not), except that not more than 10% of the UPMF’s total net asset value may be invested in non-recognized jurisdiction schemes not authorized by the SFC.

| <b>Appendix C to the UT Code</b>                               |                               |
|--|-------------------------------|
|  | UT Code - 8.1(e) <sup>5</sup> |
|  | UT Code - 8.1(f) <sup>5</sup> |
|  | UT Code - 8.1(g) <sup>5</sup> |
|  | UT Code - 8.1(h)              |
|  | UT Code - 8.1(i)              |
| <b>Applicable only to Money Market / Cash Management Funds</b> |                               |
|  | UT Code – 8.2(b)              |
|  | UT Code – 8.2(c)              |
|  | UT Code – 8.2(e)              |
|  | UT Code – 8.2(f)              |
|  | UT Code – 8.2(g)(i)           |
|  | UT Code – 8.2(g)(ii)          |
|  | UT Code – 8.2(g)(iii)         |
|  | UT Code – 8.2(h)              |
| <b>Applicable only to Warrant Funds</b>                        |                               |
|  | UT Code – 8.3(a)              |
|  | UT Code – 8.3(b)              |
|  | UT Code – 8.3(c)              |
|  | UT Code – 8.3(d)              |
|  | UT Code – 8.3(e)              |
|  | UT Code – 8.3(f)              |
|  | UT Code – 8.3(g)              |
|  | UT Code – 8.3(h)              |
|  | UT Code – 8.3(i)              |
| <b>Applicable only to Futures and Options Funds</b>            |                               |
|  | UT Code – 8.4A(a)             |
|  | UT Code – 8.4A(b)             |
|  | UT Code – 8.4A(c)             |
|  | UT Code – 8.4A(d)             |
|  | UT Code – 8.4A(e)             |
|  | UT Code – 8.4A(f)             |
|  | UT Code – 8.4A(g)             |
|  | UT Code – 8.4A(k)(i)          |
|  | UT Code – 8.4A(k)(ii)         |
|  | UT Code – 8.4A(k)(iii)        |
|  | UT Code – 8.4A(l)             |
|  | UT Code – 8.4A(m)             |
| <b>Applicable only to Guaranteed Funds</b>                     |                               |
|  | UT Code – 8.5(a) <sup>5</sup> |
|  | UT Code – 8.5(c)(i)           |
|  | UT Code – 8.5(c)(ii)          |
|  | UT Code – 8.5(c)(iii)         |



| <b>Appendix C to the UT Code</b>   |  |
|--|--|
| UT Code – 8.5(d)(i)  |  |
| UT Code – 8.5(d)(ii)   |  |
| UT Code – 8.5(e)(i)  |  |
| UT Code – 8.5(e)(ii)   |  |
| UT Code – 8.5(e)(iii)  |  |
| UT Code – 8.5(e)(iv)   |  |
| UT Code – 8.5(e)(v) <i>(if relevant)</i>   |  |
| UT Code – 8.5(f)(i)  |  |
| UT Code – 8.5(f)(ii)   |  |
| UT Code – 8.5(f)(iii)  |  |
| UT Code – 8.5(f)(iv)   |  |
| UT Code – 8.5(f)(v) <i>(if any)</i>  |  |
| UT Code – 8.5(f)(vi)   |  |
| UT Code – 8.5(f)(vii) <i>(if applicable)</i>                                       |  |
| UT Code – 8.5(g)   |  |
| UT Code – 8.5(h)   |  |
| <b>Applicable only to Index Funds (Including Exchange-traded Funds)</b>            |  |
| UT Code – 8.6(f)   |  |
| UT Code – 8.6(h)(i) <sup>5</sup>   |  |
| UT Code – 8.6(h)(ii) <sup>5</sup>  |  |
| UT Code – 8.6(i) <sup>5</sup>  |  |
| UT Code – 8.6(j)(i)  |  |
| UT Code – 8.6(j)(ii)   |  |
| UT Code – 8.6(j)(iii)  |  |
| UT Code – 8.6(j)(iv) <i>(if necessary)</i>   |  |
| UT Code – 8.6(j)(v)  |  |
| UT Code – 8.6(j)(vi)   |  |
| UT Code – 8.6(j)(vii)  |  |
| UT Code – 8.6(j)(viii)   |  |
| UT Code – 8.6(j)(ix)   |  |
| UT Code – 8.6(j)(x)  |  |
| UT Code – 8.6(j)(xi)   |  |
| UT Code – 8.6(j)(xii)  |  |
| UT Code – 8.6(j)(xiii)   |  |
| UT Code – 8.6(j)(xiv)  |  |
| UT Code – 8.6(j)(xv)   |  |
| UT Code – 8.6(k)   |  |
| UT Code – 8.6(m)   |  |
| <b>Applicable only to Hedge Funds</b>  |  |
| UT Code – 8.7(a)(iv)(Note (c))<br><i>(only applicable to funds of hedge funds)</i> |  |

| <b>Appendix C to the UT Code</b>   |  |
|--|--|
|  | UT Code – 8.7(b)(ii)(Note)<br><i>(if applicable)</i> |
|  | UT Code – 8.7(b)(iv) <i>(if applicable)</i>          |
|  | UT Code – 8.7(b)(iv)(Note) <i>(if applicable)</i>    |
|  | UT Code – 8.7(c)                                     |
|  | UT Code – 8.7(d)                                     |
|  | UT Code – 8.7(e) <i>(if applicable)</i>              |
|  | UT Code – 8.7(f)                                     |
|  | UT Code – 8.7(g)                                     |
|  | UT Code – 8.7(h)                                     |
|  | UT Code – 8.7(i) <i>(if applicable)</i>              |
|  | UT Code – 8.7(i)(Note)                               |
|  | UT Code – 8.7(l)                                     |
|  | UT Code – 8.7(m)                                     |
|  | UT Code – 8.7(m) (Note)                              |
|  | UT Code – 8.7(n)                                     |
|  | UT Code – 8.7(o)                                     |
|  | UT Code – 8.7(p)                                     |
|  | UT Code – 8.7(q)                                     |
|  | UT Code – 8.7(r)(i)                                  |
|  | UT Code – 8.7(r)(ii)                                 |
|  | UT Code – 8.7(r)(iii)                                |
|  | UT Code – 8.7(r)(iv)                                 |
|  | UT Code – 8.7(s)                                     |
|  | UT Code – 8.7(t)                                     |
| <b>Applicable only to Fund of Hedge Funds</b>  |  |
|  | UT Code – 8.7(j)(i)                                  |
|  | UT Code – 8.7(j)(ii)                                 |
|  | UT Code – 8.7(k)(iii)                                |
|  | UT Code – 8.7(k)(iv)                                 |
|  | UT Code – 8.7(k)(v)                                  |
|  | UT Code – 8.7(k)(vi) <i>(if applicable)</i>          |
| <b>Applicable only to Structured Funds (Including Index Funds That Adopt a Synthetic Replication Strategy)<sup>7</sup></b> |  |
| <b>Collateral Policy and Criteria</b>  |  |
|  | Appendix C2A(a)                                      |
|  | Appendix C2A(b)                                      |
|  | Appendix C2A(c)                                      |
|  | Appendix C2A(d)                                      |
|  | Appendix C2A(e) <i>(if any)</i>                      |

<sup>7</sup> Requirements in 8.8 (e) of the UT Code are also applicable to asset portfolio of a structured fund investing in unfunded swap.

| <b>Appendix C to the UT Code</b>  |                                    |
|---|------------------------------------|
| Appendix C2A(f) (if any)  |                                    |
| Appendix C2A(g)   |                                    |
| <b>Other Disclosure Requirements Applicable to Structure Funds</b>              |                                    |
|   | UT Code – 8.8(c)                   |
|   | UT Code – 8.8(d)                   |
|   | UT Code – 8.8(e)(i)                |
|   | UT Code – 8.8(e)(ii)               |
|   | UT Code – 8.8(e)(iii)              |
|   | UT Code – 8.8(e)(iv)               |
|   | UT Code – 8.8(e)(v)                |
|   | UT Code – 8.8(e)(vi)               |
|   | UT Code – 8.8(e)(vii)              |
|   | UT Code – 8.8(e)(viii)             |
|   | UT Code – 8.8(e)(ix)               |
|   | UT Code – 8.8(f)                   |
|   | UT Code – 8.8(h)(i)                |
|   | UT Code – 8.8(h)(ii)               |
|   | UT Code – 8.8(h)(iii)              |
| <b>Applicable only to Funds That Invest in Financial Derivative Instruments</b> |                                    |
|   | UT Code – 8.9(a) <sup>8</sup>      |
|   | UT Code – 8.9(b) <sup>8</sup>      |
|   | UT Code – 8.9(c) <sup>8</sup>      |
|   | UT Code – 8.9(f)(i) <sup>8</sup>   |
|   | UT Code – 8.9(f)(ii) <sup>8</sup>  |
|   | UT Code – 8.9(f)(iii) <sup>8</sup> |
|   | UT Code – 8.9(g) <sup>8</sup>      |
|   | UT Code – 8.9(h) <sup>8</sup>      |
|   | UT Code – 8.9(i) <sup>8</sup>      |
|   | UT Code – 8.9(j)(i)                |
|   | UT Code – 8.9(j)(ii)               |
|   | UT Code – 8.9(j)(iii)              |

<sup>8</sup> UCITS funds domiciled in Luxembourg, Ireland and the United Kingdom that use FDIs for investment purposes have already complied with the relevant UCITS requirements and thus are not required to comply with 8.9 except for the disclosure requirements set out in 8.9(j) and 8.9(k) of the UT Code.