



## Frequently Asked Questions on SFC Authorization of UCITS III Funds

This FAQ is prepared by the Investment Products Department and aims to provide basic information to market practitioners concerning the authorization of UCITS III funds by the SFC. Applicants are encouraged to contact the relevant case team in the Investment Products Department of the Securities and Futures Commission (the “SFC”) if in doubt on any specific issues arising from the application/interpretation of the relevant requirements. Please note that each application for authorization is considered on a case-by-case basis.

The information set out below is not meant to be exhaustive. This FAQ may be updated and revised from time to time. This FAQ is only for general reference. Compliance with all the requirements in this FAQ does not necessarily mean an application will be accepted or authorization will be granted. The SFC reserves the rights to exercise all powers conferred under the law.

*Note: For ease of reference, collective investment schemes that are generally known as unit trusts or mutual funds are referred to as “funds” in the following FAQ.*

	Question	Answer
1.	What does SFC authorization of a UCITS III fund involve?	<p>In addition to the general procedures and requirements as described under the Code on Unit Trusts and Mutual Funds (“UT Code”) and the FAQ on the UT Code, we have adopted interim measures, which include a fast track procedure, to facilitate the processing of UCITS III funds in Hong Kong. The interim measures set out the disclosure and submission requirements for the authorization of UCITS III funds domiciled in Luxembourg, Ireland and the UK, which are the main origins of the UCITS III funds in Hong Kong.</p> <p>Please refer to the interim measures, which is available with the Circular dated 31 March 2005, from the “Circulars” section of the “Intermediaries, Licensing &amp;</p>

	Question	Answer
		<p>Investment Products - Investment Products Related Matters” page at the SFC website.</p> <p>With the commencement on 25 June 2010 of the effectiveness of the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products, to which the UT Code forms a part, the risk management and control process (“RMP”) of the fund manager is no longer required to be submitted to the SFC in support of applications for authorization of UCITS III funds that use expanded investment powers, including those using financial derivative instruments (“FDI”) for investment purposes, under UCITS III regulations. Instead, an applicant is required to submit to us the following: (i) written confirmation from the fund or its management company that there are suitable risk management and control systems which are commensurate with the fund’s risk profile, and (ii) evidence of approval of the RMP by the home regulator of the fund or written confirmation that the RMP has been filed with the home regulator and the home regulator has no further comments on it.</p>
2.	<p>What specific information should I disclose in the offering document/advertisements for UCITS III funds utilising expanded investment powers in FDI, i.e. investing in FDI other than for hedging and efficient portfolio management purposes?</p>	<p>UCITS III funds using FDI for investment purposes should include the following information in their offering documents and any advertisements:</p> <ul style="list-style-type: none"> <li>i) a statement indicating that FDIs may be used for the purpose of meeting the investment objective of the fund; and</li> <li>ii) such investment policies or portfolio management techniques may lead to a higher volatility to the net asset value of the fund.</li> </ul>
3.	<p>Does the SFC require the distribution of the Simplified Prospectus (“SP”) to Hong Kong investors?</p>	<p>Whether the SP needs to be distributed to Hong Kong investors mainly depends on the relevant legal and regulatory requirements of the home jurisdiction of your UCITS III fund. Our interim measures have not mandated the distribution of the SP in Hong Kong so long as the Hong Kong offering document (“HKOD”) complies fully with the disclosure requirements of the UT Code and the interim measures.</p> <p>If, however, you intend to distribute the SP to the public in Hong Kong, you are required to prepare the SP in both English and Chinese and seek our authorization of the bilingual SP prior to issue.</p>

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		<p>On the other hand, if:</p> <ul style="list-style-type: none"> <li>i) you will only make the SP available upon the specific request of a Hong Kong investor following his or her receipt of the HKOD of the fund; and</li> <li>ii) the SP will be sent to that Hong Kong investor directly from the fund's administrator outside Hong Kong, together with another copy of the HKOD of the fund and a personalised cover letter;</li> </ul> <p>the SFC's authorization of the SP will not normally be required. Please consult the Investment Products Department if in doubt.</p>
4.	<p>What documents should I submit if I wish to seek SFC authorization of the SP?</p>	<p>You should submit the SP of your fund together with the following:</p> <ul style="list-style-type: none"> <li>• written confirmation that the SP is consistent with the HKOD and that the SP will be distributed in Hong Kong together with the HKOD; and</li> <li>• evidence of approval of the SP by the have regulator of your fund, or written confirmation that the SP has been filed with the have regulator and the home regulator has no further comments on it.</li> </ul> <p>We also expect the SPs that seek our prior authorization to disclose the following items (the list is not exhaustive):</p> <ul style="list-style-type: none"> <li>• direction to the HKOD for further details;</li> <li>• computation basis of performance figures;</li> <li>• where funds not authorized by the SFC are mentioned in the SP, a statement to the effect that such funds are not authorized by the SFC and are not available to Hong Kong investors; and</li> <li>• where a website not authorized by the SFC is quoted, a statement that the website is not authorized by the SFC and may contain information of unauthorized funds.</li> </ul>

	Question	Answer
5.	The home regulator of my UCITS funds requires that the fund performance figures in the offering document/SP be updated annually. What is the SFC's requirement on this aspect?	We consider that SFC-authorized UCITS funds should update the performance figures in their offering documents/SP at least on an annual basis to provide relevant and current information to investors.
6.	Has the SFC published any investor education materials on UCITS III funds?	Yes, we have prepared a set of Frequently Asked Questions ("UCITS III Q&A") to provide investors with some general information and address some basic queries regarding UCITS III. The UCITS III Q&A are available under "Funds – FAQs – Others" in the "Features and Dr Wise" section of the SFC-operated investor portal, the Electronic Investor Resources Centre (eIRC) at <a href="http://www.eirc.hk">www.eirc.hk</a> .
7.	Under C2A of Appendix C to the UT Code, a fund is required to disclose collateral policy and criteria in its offering document. Is this requirement applicable to UCITS funds that may engage in activities such as securities lending that involve the collection of collateral?	C2A is intended to apply to funds that fall within the category of Chapter 8.8 or 8.9 of the UT Code. In the case of UCITS funds (other than those that are structured funds and therefore fall within the category of Chapter 8.8 funds), they should have already complied with the relevant requirements in respect of collateral under the UCITS framework, therefore, such UCITS funds are not required to comply with the specific disclosure requirements as set out in C2A of Appendix C. Please however be reminded that SFC-authorized funds (including UCITS funds authorized by the SFC for public offering in Hong Kong) should comply with the requirements relating to stock lending as referred to in FAQ 21.
8	<p>In accordance with the Circular dated 30 March 2007 entitled "Streamlined Measures for Processing UCITS III Schemes with Special Features", a UCITS III fund that is named as a money market fund or marketed as such shall fully comply with 8.2 of the UT Code ("<b>UCITS III HK MMF</b>").</p> <p>It is noted that UCTIS III money market funds are required to comply with the European Securities and Markets Authority's guidelines on a common definition of European money market funds dated May 2010 ("<b>Overseas Guidelines</b>") by 1 July 2011 as provided under the Overseas</p>	<p>For an existing SFC-authorized UCITS III HK MMF (which is required to comply with 8.2 of the UT Code), changes that are required to be made or implemented by such fund which solely reflect the enhanced new regulatory disclosure requirements and additional restrictions/limitations governing money market funds in its home jurisdiction pursuant to the Overseas Guidelines ("<b>Home Regulatory Changes</b>") do not require the Commission's prior approval. The offering document incorporating Home Regulatory Changes must, nevertheless, be filed with the Commission within one week from the date of issuance in accordance with 11.1B of the UT Code.</p> <p>For better transparency, the management company should inform holders as soon as reasonably practicable of the Home Regulatory Changes to enable holders to appraise the position of the funds.</p>

	Question	Answer
	<p>Guidelines.</p> <p>Would changes that are required to be made or implemented by an existing SFC-authorized UCITS III HK MMF to comply with the Overseas Guidelines constitute changes to a scheme under 11.1 of the UT Code that require the Commission's prior approval?</p>	
9	<p>UCITS funds often operate with an umbrella fund structure, within which there may be many sub-funds. It may be that some of these sub-funds are offered to the public of Hong Kong, and some are not. If a fund manager of UCITS funds uses a global offering document which contains information of both SFC-authorized funds and non-SFC-authorized funds, what additional disclosures are expected to be made in the Hong Kong wrapper of the global offering document for the purposes of distribution to the public of Hong Kong?</p>	<p>Under the Securities and Futures Ordinance (SFO), documents offering investment products to the public in Hong Kong must be authorized by the SFC, unless otherwise exempted. In principle, authorization of offering documents under the SFO would normally be granted together with the authorization of the products. Given an unauthorized product is not required to comply with SFC's regulatory requirements, the SFC would not generally consider it appropriate to authorize any offering document in respect of such unauthorized product under the SFO. However, the SFC notes that it is not uncommon to see a UCITS umbrella fund, where some sub-funds are offered to the public (thus SFC-authorized), and some are not (non-SFC authorized). Such a UCITS umbrella fund may use a global offering document which contains information of both SFC-authorized funds and non-SFC authorized funds. In cases of such global offering documentation, the following statements must be disclosed in the Hong Kong wrapper of the global offering document in an upfront and prominent manner. In addition, the Hong Kong wrapper must precede the global offering document.</p> <p><b>“Warning:</b> In relation to the funds as set out in the [Prospectus], only the following funds are authorized by the SFC pursuant to section 104 of the Securities and Futures Ordinance and hence may be offered to the public of Hong Kong:</p> <p><i>[please list names of SFC-authorized funds]</i></p> <p>Please note that the [Prospectus] is a global offering document and therefore also contains information of the following funds which are not authorized by the SFC:</p> <p><i>[please list names of unauthorized funds disclosed in the global offering document]</i></p>

	Question	Answer
		<p>No offer shall be made to the public of Hong Kong in respect of the above unauthorized funds. The issue of the [Prospectus] was authorized by the SFC only in relation to the offer of the [above] SFC-authorized funds to the public of Hong Kong.</p> <p>Intermediaries should take note of this restriction.”</p>

*Last updated: 9 September 2011*