



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 &</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"> i) a statement indicating that FDIs may be used for the purpose of meeting the investment objective of the fund; and ii) such investment policies or portfolio management techniques may lead to a higher volatility to the net asset value of the fund.
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>

	Question	Answer
		<p>On the other hand, if:</p> <ul style="list-style-type: none"> 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 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; <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"> • 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 • 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. <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"> • direction to the HKOD for further details; • computation basis of performance figures; • 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 • 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.

	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 www.eirc.hk .
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.

Last updated: 21 February 2011