

COMPLIANCE CHECKLIST
APPLICATION OF MPF SCHEME

Name of Applicant : _____

Name of MPF Scheme : _____

The compliance checklist is to assist applicants in preparing an application of an MPF scheme. Applicants should provide information to the **relevant sections** of the checklist and submit to the Commission together with the other documents required for an application.

The checklist is divided into 3 parts as follows:

- Part I : Documents submitted to the SFC
- Part II : Information highlights
- Part III : Information to be disclosed in the Offering Document

Note : Applicants are not required to fill in shaded area.

Name of MPF Scheme: _____

(n) Other documents (please specify)

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Name of MPF Scheme: _____

Maximum %

Other Fees (Please Specify):

Current %

Maximum %

Performance Fee charged to the CF, if any
(Y/N and please provide details)

Capital / Return Guarantee offered, if any
(Y/N and please provide details)

Discretionary Benefits offered, if any
(Y/N and please provide details)

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Part III INFORMATION TO BE DISCLOSED IN THE OFFERING DOCUMENT (Chapter 5)

Where Found (Pg/Para)	SFC Use Only

English and Chinese Offering Documents

- The offering document must be provided in the English and Chinese languages. The Commission may waive this requirement for pooled investment funds on a case by case basis where the applicant satisfies the Commission that the offering document of the pooled investment fund will only be issued to persons (e.g. trustees and investment managers of master trust schemes) who are fully conversant in the languages in which the offering document is intended to be published. The applicant is required to provide an undertaking to the Commission in this regard.

Constitution of MPF scheme and Pooled Investment Fund

- The name and date of creation of the MPF scheme or pooled investment fund, with an indication of its duration if limited; and the status of registration of the MPF scheme or the status of approval of the pooled investment fund with the MPFA.

Note: The name and description of the MPF scheme or pooled investment fund must not be misleading and should be an accurate reflection of its nature and investment objectives (see 7.5 and 7.6).

Operators and Principals

- The names and registered addresses of the following parties (where applicable) for each MPF scheme or pooled investment fund:-
 - the trustee;
 - the custodian, if different from the trustee;
 - the investment manager;
 - the delegate(s) of the investment manager;

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- (e) *the insurer;*
- (f) *the auditors; and*
- (g) *any other service providers.*

Constituent Funds

4. The number of constituent funds within the MPF scheme and for each constituent fund:

- (a) *its name;*
- (b) *the type of fund; and*
- (c) *its structure.*

Note (1): A constituent fund may be of the following types:

bond/ equity/ money market/ balanced/ capital preservation/ guaranteed fund/ others.

(2): A constituent fund may be internally managed or structured to invest in one or more pooled investment funds.

Investment Policy and Restrictions

5. Statement of Investment Policy which includes:

- (a) *the fund's investment objectives;*
- (b) *the types of intended investments, and their relative proportions in the portfolio;*
- (c) *the balance between different kinds of securities and other assets such as geographical distribution of the intended investments;*
- (d) *the policy regarding the acquisition, holding and disposal of financial futures contracts and financial option contracts;*
- (e) *whether the fund will be engaged in security lending;*
- (f) *whether the fund will invest in one or more pooled investment funds. The criteria for selecting the specific pooled investment funds should be stated in the latter case; and*

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(g) *the risk inherent in implementing the investment policy and the return expected to result from giving effect to the policy.*

Note: No forecast of performance of the constituent fund or pooled investment fund may be made in the offering document. The expected return as mentioned in paragraph (g) only refers to a general description, for example, "The fund is expected to provide a return in excess of inflation rate."

6. A statement to the effect that the fund is subject to the investment and borrowing restrictions in Schedule 1 of the Regulation together with a summary of other restrictions, if any.

Valuation of Constituent Fund and Pooled Investment Fund

7. Frequency of valuation and dealing, including dealing days for each constituent fund or pooled investment fund.

8. The following matters should be disclosed:

(a) *method of valuation of assets and liabilities for each constituent fund or pooled investment fund;*

(b) *method of pricing and determination of investment return for each unitized constituent fund or pooled investment fund; and*

(c) *method of determination and declaration of investment return for each non-unitized constituent fund or pooled investment fund.*

9. Circumstances under which the method of valuation and pricing may change for each constituent fund or pooled investment fund.

Contributions and Withdrawals

10. Characteristics of contributions.

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20. Explanation of all fees and charges for each MPF scheme, constituent fund or pooled investment fund should be clearly identified in tabular form, to include:

- (a) *all fees and charges payable by participants of the MPF scheme, or by holders of the pooled investment fund, including all charges levied on subscription, withdrawal and transfer of accrued benefits to other MPF schemes;*
- (b) *all fees and charges payable, or can reasonably be expected to be payable, by the constituent fund or pooled investment fund, including investment management fees, performance fees, guarantee fees, trustee fees, custodian fees, start-up expenses, advertising or promotional expenses and any other selling expenses; and*
- (c) *details of whether charges are subject to change and the relevant notice period to participants of the MPF scheme or to holders of the pooled investment fund.*

In case of indeterminable fees and charges, the basis of calculation or the estimated ranges should be disclosed. Where complex calculations are required to disclose fees and charges, illustrative examples should be given for clarity.

Note (1): All fees and charges, if expressed as a percentage, must be disclosed on a per annum basis.

(2): Where performance fee is levied on unitized constituent funds and pooled investment funds:

- (i) the frequency at which performance fee is charged to the fund; and*
- (ii) the basis upon which performance fee is calculated (for example, whether the performance fee is calculated on a high-on-high basis) should be disclosed.*

(3): Where advertising, promotional for other selling expenses are expected to be charged to constituent funds or pooled investment funds, an estimate of the amount to be charged, whether as a percentage of the net asset value of the fund or otherwise should be disclosed.

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21. Where the investment manager or other service providers or their associates receive goods or services from a third party derived from the acquisition or disposal or lending of the assets of an MPF scheme or pooled investment fund, a summary of the terms under which such goods or services are received. In addition, a nil statement regarding retention of cash rebates by any of these persons.

Warnings

22. The following statement must be prominently displayed in the offering document as follows:

“Important - if you are in doubt about the meaning or effect of the contents of this document, you should seek independent professional advice.”

23. Except where the fund’s investment return is subject to a non-variable guarantee, a prominent warning should be stated to the effect that investment involves risks.

24. To the extent that the underlying investments involve risks, a detailed description of the risks should be given.

Governing Law

25. The offering document should specify that the MPF scheme or pooled investment fund is governed by the law of The Hong Kong Special Administrative Region.

Taxation

26. Details of Hong Kong and other taxes levied on the income and capital of the MPF scheme or pooled investment fund including tax, if any, deducted from benefits accrued to members of MPF schemes or on distribution to holders of pooled investment funds.

27. Where there are likely tax benefits to the participants of the MPF scheme or holders of the pooled investment fund, the offering document should briefly explain the tax implications for these scheme participants or fund holders, based on expert advice received by the applicant.

28. Participants of the MPF scheme or holders of the pooled investment fund should also be advised

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38. A statement indicating the notice period to be given to participants of the MPF scheme or fund holder of the pooled investment fund in the following circumstances:

- (a) *merger or division of schemes; and*
- (b) *merger, division or termination of constituent funds within a MPF scheme and pooled investment funds.*

Additional Disclosure Requirements for Specialized Constituent Funds and Pooled Investment Funds

Capital Preservation, Money Market and Cash Management Funds

39. The offering document must clearly highlight that an investment in capital preservation, money market or cash management funds is not the same as placing funds on deposit with a bank or deposit-taking company and that there is no obligation to redeem the investment at the offer value and that the constituent fund or pooled investment fund is not subject to the supervision of the Hong Kong Monetary Authority.

Guaranteed Funds

40. The offering document of the MPF scheme or pooled investment fund must contain:

- (a) *the name of the guarantor and the main features of the guarantee including a clear description of how the return is determined and the extent of any discretion that may be exercised in making such a determination;*
- (b) *the proposed percentage of the fund to be invested in fixed-interest securities and that in other investments;*
- (c) *a statement to the effect that there is a dilution of performance due to the guarantee structure in place;*
- (d) *a warning statement in relation to all material conditions that affect the scope or validity*

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of the guarantee including, where relevant, the condition that the guarantee only applies to scheme members or fund holders who hold their investment until the date specified in the guarantee and that dealings before such date are fully exposed to fluctuations in the value of the fund's assets; and

(e) *an illustration or description to clearly demonstrate the guarantee mechanism.*

Constituent Funds and Pooled Investment Funds with Discretionary Benefits

41. If it is stated that discretionary benefits will or may be paid to scheme members or fund holders in excess of the guaranteed amount, and the amounts of those benefits are determined at the discretion of the authorized insurer or other party, the following information must be disclosed for the constituent fund or pooled investment fund:

- (a) a statement, printed in bold type, to the effect that the [name of authorized insurer or other party], at its sole discretion, has the right to retain investment income of the fund in excess of that required to be set aside to meet the guaranteed benefits under the constituent fund or pooled investment fund;
- (b) a readily comprehensible description of the methods of determining the discretionary benefits, including the following information, to the extent applicable:
 - (i) the reporting date; and
 - (ii)(1) **for a participating insurance policy** where the scheme member or fund holder has a right to participate in profits from the long term fund of the policy issuer or any part of that fund:
 - details of the fund or part of the fund to which the right relates;
 - the principles on which the distribution of profits among policy holders and shareholders are based and whether these principles are derived from the constitution of the policy issuer or otherwise;
 - the bonus rates declared immediately prior to the reporting date and for the

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four years previous; *and*

- the proportion of total distributed profits that was distributed to shareholders immediately prior to the reporting date and for the four years previous;

(2) for an investment-linked product:

- a description of the method which will be used to calculate unit prices from time to time; *and*
- the percentage changes in unit prices for the five yearly intervals immediately preceding the reporting date;

(3) for a non-investment linked product:

- a description of the method which will be used to calculate the interest rate for each period; *and*
- the rate of interest declared immediately prior to the reporting date and for the four years previous; and

- (c) a statement that past performance should not be taken as an indication of future performance.

Note: For investment portfolios with a history of less than five years, figures for shorter periods may be shown, provided the date of commencement is shown.

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