

## **SFC CODE ON MPF PRODUCTS**

**Explanatory Notes:**

- (a) The Mandatory Provident Fund Schemes Authority (MPFA) is the primary regulator for the Mandatory Provident Fund (MPF) system established under the Mandatory Provident Fund Schemes Ordinance (MPFSO) and its subsidiary legislation. It is responsible for the overall administration of the MPF system including the regulation of master trust schemes, industry schemes and the underlying pooled investment funds. The Securities and Futures Commission (the Commission) is involved in the regulation of these products only to the extent that their offering documents and marketing materials are required to be authorized by the Commission prior to their issue or publication in Hong Kong. In addition, the investment managers of these products are also required to be approved by the Commission.**
- (b) This Code establishes guidelines which will be applied by the Commission for the authorization of:**

  - (i) master trust schemes and industry schemes (both of which include constituent funds) (collectively referred to as MPF schemes) pursuant to s.4(2)(g) of the Protection of Investors Ordinance (PIO); and**
  - (ii) pooled investment funds pursuant to s.4(2)(g) of the PIO or s.15(1) of the Securities Ordinance (SO), where appropriate.**
- (c) Applicants should note that, in reviewing applications for authorization, the Commission will not be responsible for vetting against the provisions of the MPFSO and its subsidiary legislation or the guidelines issued separately by the MPFA. Applicants are therefore advised to refer to the legislation and guidelines to ensure full compliance under the MPF system.**
- (d) The Commission may review its authorization at any time and may modify, add to or withdraw such authorization as it deems fit.**
- (e) The issue of an advertisement or invitation to the public in Hong Kong to participate or invest in unauthorized MPF schemes or pooled investment funds may amount to an offence under s.4 of the PIO.**
- (f) This Code does not have the force of law.**

## TABLE OF CONTENTS

		Page
<b>PART I</b>	<b>GENERAL MATTERS</b>	
Chapter 1	Authorization Matters	1
Chapter 2	Administrative Arrangements	3
Chapter 3	Interpretation	4
<b>PART II</b>	<b>AUTHORIZATION REQUIREMENTS</b>	
Chapter 4	Application Procedures	6
Chapter 5	Offering Document	8
Chapter 6	Investment Manager	18
Chapter 7	Operational Requirements	22
<b>PART III</b>	<b>POST-AUTHORIZATION REQUIREMENTS</b>	
Chapter 8	Post-Authorization Requirements	23
<b>APPENDICES</b>		
Appendix A	Profile of New Investment Manager or Investment Management Group	25
Appendix B	Compliance Checklist	26
Appendix C	Acceptable Inspection Regimes	27
Appendix D	Advertising Guidelines	28
Appendix E	Committee on Investment-Linked Assurance and Pooled Retirement Funds	34
Appendix F	Committee on Unit Trusts	36

## **PART I: GENERAL MATTERS**

### **Chapter 1: Authorization Matters**

#### **General**

- 1.1 All MPF schemes and pooled investment funds established for the purpose of the MPF system are expected to comply with the provisions of this Code in order to be authorized by the Commission in Hong Kong. Applications for authorization which seek waivers from any provisions of this Code must give detailed reasons why waivers are sought.
- 1.2 Applicants should also note that, pursuant to the MPFSO and its subsidiary legislation, MPF schemes are required to be registered, and constituent funds and pooled investment funds approved, by the MPFA.
- 1.3 Applications of MPF schemes and pooled investment funds should be made to both authorities concurrently under separate cover. Under the current arrangement, an application will first be reviewed by the MPFA. Upon clearance by the MPFA, the Commission will proceed to review the application in accordance with the provisions of this Code.

#### **Responsibilities of the Commission**

- 1.4 The Commission will consider the following matters in vetting the application for authorization of an MPF scheme and pooled investment fund:
  - (a) qualifications and experience of the investment manager and its delegates; and
  - (b) disclosure requirements of the offering document.
- 1.5 The Commission is also responsible for the authorization of advertisements and marketing materials of MPF schemes and pooled investment funds pursuant to s.4(2)(g) of the PIO on an ongoing basis.
- 1.6 All other aspects of the registration and approval of MPF schemes and pooled investment funds are regulated by the MPFA.

#### **Separate Authorization for MPF Schemes and Pooled Investment Funds**

- 1.7 An MPF scheme may consist of one or more constituent funds. Authorization of an MPF scheme will include all constituent funds within it. Subsequent additions to or deletions from an MPF scheme of constituent funds will be treated as modifications

to the initial authorization and must be submitted to the Commission for prior authorization (see 8.1 and 8.2).

- 1.8 Where a constituent fund invests in pooled investment funds, applicants are required to seek authorization from the Commission for each pooled investment fund intended to be offered to an MPF scheme as follows:
  - (a) pooled investment funds that are unit trusts or mutual funds must be authorized pursuant to s.15(1) of the SO; and
  - (b) pooled investment funds that are insurance policies must be authorized pursuant to s.4(2)(g) of the PIO.
- 1.9 Authorization requirements for both MPF schemes and pooled investment funds are set out in Part II of this Code.

## **Chapter 2: Administrative Arrangements**

### **Authorization Powers**

- 2.1 The Commission has delegated its powers to authorize MPF schemes and pooled investment funds under s.4(2)(g) of the PIO (or s.15(1) of SO where the pooled investment funds are unit trusts or mutual funds) to an Executive Director and the Director (Investment Products).
- 2.2 Powers are normally exercised by the Director (Investment Products). Where a new management group is involved in the investment management of an MPF scheme or pooled investment fund, it may be referred to the Committee on Investment-Linked Assurance and Pooled Retirement Funds (ILAC) or the Committee on Unit Trusts (CUT) for consideration and advice, as appropriate. For details of the responsibilities and constitution of ILAC and CUT, please refer to Appendices E and F respectively.

### **Exchange of Information with MPFA**

- 2.3 The Commission may, according to law, exchange with the MPFA information regarding an applicant and other operators of an MPF scheme or pooled investment fund in pursuance of their duties under the MPFSO, the Mandatory Provident Fund Schemes (General) Regulation and other relevant legislation.

### **Procedure for Amendments to this Code**

- 2.4 The Commission may make changes or amendments to this Code as and when required. Any such change or amendment will be made known to the industry and a transitional period for compliance will be allowed where necessary.

### **Data Privacy**

- 2.5 The information requested under the Code may result in the applicant providing the Commission with personal data as defined in the Personal Data (Privacy) Ordinance. The data supplied will only be used by the Commission to perform its functions, in the course of which it may match, compare, transfer or exchange personal data with data held or obtained by the Commission, government bodies, other regulatory authorities, corporations, organizations or individuals in Hong Kong or overseas for the purpose of verifying those data. Subject to the limits in s.59 and 59A of the Securities and Futures Commission Ordinance, the Commission may disclose personal data to other regulatory bodies. The applicant may be entitled under the Personal Data (Privacy) Ordinance to request access to or to request the correction of any data supplied to the Commission, in the manner and subject to the limitations prescribed. All enquiries should be directed to the Data Privacy Officer at the Commission.

### **Chapter 3: Interpretation**

*Unless otherwise defined, words and expressions used in this Code are as defined in the Securities Ordinance (SO), the Mandatory Provident Fund Schemes Ordinance (MPFSO) or the Mandatory Provident Fund Schemes (General) Regulation (the Regulation).*

- 3.1 “Applicant” means the company which applies to the Commission, directly or through an authorized representative, to have an MPF scheme or pooled investment fund authorized pursuant to the relevant legislation.
- 3.2 “Associate” in relation to a company has the same meaning as in Schedule 8 of the MPFSO.
- 3.3 “Authorized insurer” has the same meaning as defined in s.2 of the Regulation.
- 3.4 “Capital preservation fund” means a constituent fund of an MPF scheme or a pooled investment fund which complies with the requirements as described in s.37 of the Regulation.
- 3.5 “Cash management fund” or “Money market fund” means a unit trust, mutual fund or insurance policy with the sole objective of investing in short-term deposits and debt securities.
- 3.6 “Commission” means the Securities and Futures Commission established pursuant to the Securities and Futures Commission Ordinance (SFCO).
- 3.7 “Constituent fund” has the same meaning as defined in s.2 of the Regulation.
- 3.8 “Constitutive documents” means the principal documents governing the formation and operation of the MPF scheme or pooled investment fund, and include the trust deed in the case of an MPF scheme or unit trust; the articles of association in the case of mutual fund and the policy document in the case of an insurance policy.
- 3.9 “Custodian” has the same meaning as defined in s.2 of the Regulation and includes the custodian of a pooled investment fund.
- 3.10 “Delegate of the investment manager” means the person to whom the investment manager has delegated its investment management functions.
- 3.11 “Guaranteed fund” is a constituent fund or pooled investment fund which contains a structure whereby a guaranteed amount will be paid to members of an MPF scheme or holders of a pooled investment fund at a specific date in the future.
- 3.12 “Industry scheme” has the same meaning as defined in s.2 of the MPFSO.
- 3.13 “Master trust scheme” has the same meaning as defined in s.2 of the MPFSO.

- 3.14 “MPF schemes” means master trust schemes and industry schemes.
- 3.15 “Offering document” means that document containing information on an MPF scheme or pooled investment fund as stipulated in Chapter 5 of this Code.
- 3.16 “Pooled investment fund” means an investment fund which has approval or intends to seek approval from the MPFA as an approved pooled investment fund as defined in s.6 of the Regulation.
- 3.17 “Securities” has the same meaning as defined in s.2 of the SO.
- 3.18 “Substantial financial institution” has the same meaning as defined in s.7 of the Regulation.
- 3.19 “Trustee” has the same meaning as defined in s.2 of the MPFSO.



## PART II: AUTHORIZATION REQUIREMENTS

*This part provides guidance for applicants seeking authorization of MPF schemes or pooled investment funds.*

### Chapter 4: Application Procedures

#### Documents to be supplied to the Commission

- 4.1 An applicant for authorization of an MPF scheme or pooled investment fund must submit a *separate* application for each MPF scheme or pooled investment fund.
- 4.2 Each application must contain a copy of the completed Application Form as prescribed by the MPFA (MPFA Guidelines No. I.2, I.5 and I.6). The Application Form must be accompanied by the following:-
  - (a) offering document (see **Chapter 5**) and constitutive document(s) of the MPF scheme or pooled investment fund, whichever is applicable;
  - (b) copies of any material contracts, such as investment management contracts, etc.;
  - (c) profile of the new investment manager or investment management group, if it has not previously been approved by the Commission to manage pooled retirement funds, unit trusts or mutual funds (see **Appendix A**);
  - (d) sales literature and proposed advertisements intended to be issued, where applicable;
  - (e) checklist of compliance (see **Appendix B**). This checklist is available for download from the Commission's website <http://www.hksfc.org.hk>;
  - (f) copies of undertakings provided to the MPFA and original undertaking(s) as required by the Commission, where applicable (see 5.1);
  - (g) copy of trustee's written approval in respect of the delegation of investment functions, where applicable;
  - (h) copy of the letter of consent from the applicant in respect of information exchange between the MPFA and the Commission; and
  - (i) application fee in the form of a cheque payable to the "Securities & Futures Commission".
- 4.3 Where the MPF scheme or the underlying pooled investment fund(s) involves a complex structure, the applicant should supplement the application with a diagram

depicting clearly the relationship between the MPF scheme and the pooled investment fund(s).

## Chapter 5: Offering Document

*The offering document of an MPF scheme or pooled investment fund should contain the necessary information for prospective scheme participants or fund holders to make an informed judgement. The Commission encourages the use of a short, clearly written offering document.*

*Provided contents of this chapter have been incorporated in the offering document of the MPF scheme, the underlying pooled investment funds need not produce a separate offering document **unless** they are also intended to be offered to retail investors.*

*Unit trusts and mutual funds which are intended to be offered to both MPF schemes and retail investors must comply with the Code on Unit Trusts and Mutual Funds **and** the following provisions in this Code namely, 5.2; 5.5(d), (e) and (f); 5.6; 5.21; 5.25; 5.32; 5.36 to 5.39; 6.2(a), (c), (d), (e) and (g); 6.4 and 8.2.*

*The offering document of an MPF scheme or pooled investment fund should contain the information indicated in the following table. The ✓ sign under the MPS and PIF columns signifies that a particular disclosure is applicable to the MPF scheme or pooled investment fund respectively. In circumstances where there are mandatory provisions in the MPFSO, its subsidiary legislation or the guidelines issued by the MPFA, applicants may abbreviate the disclosure in the offering document and make references to the legislation and guidelines.*

	<i>MPS</i>	<i>PIF</i>
<p><b>English and Chinese Offering Documents</b></p> <p>5.1 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 language in which the offering document is intended to be published. The applicant is required to provide an undertaking to the Commission in this regard.</p>	✓	✓
<p><b>Core Disclosure Requirements</b></p> <p><i>Constitution of MPF scheme and Pooled Investment Fund</i></p> <p>5.2 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</p>	✓	✓

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*

5.3 The names and registered addresses of the following parties (where applicable) for each MPF scheme or pooled investment fund:-

- (a) the trustee;
- (b) the custodian, if different from the trustee;
- (c) the investment manager;
- (d) the delegate(s) of the investment manager;
- (e) the insurer;
- (f) the auditors; and
- (g) any other service providers.

✓

✓

*Constituent Funds*

5.4 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*

5.5 For each constituent fund or pooled investment fund, a 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	✓	✓
(g)	the risk inherent in implementing the investment policy and the return expected to result from giving effect to the policy.	✓	✓
	<i>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."</i>		
5.6	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.	✓	✓
	<i>Valuation of Constituent Fund and Pooled Investment Fund</i>		
5.7	Frequency of valuation and dealing, including dealing days for each constituent fund or pooled investment fund.	✓	✓
5.8	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.	✓	✓
5.9	Circumstances under which the method of valuation and pricing may change for each constituent fund or pooled investment fund.	✓	✓

*Contributions and Withdrawals*

5.10	Characteristics of contributions.	✓	
5.11	Provisions on voluntary contributions, including withdrawal of accrued benefits derived from voluntary contributions.	✓	
5.12	Procedures for applying to participate in, withdraw from an MPF scheme and transfer to other MPF schemes.	✓	
5.13	Procedures for making contributions, withdrawals and switching between constituent funds.	✓	
5.14	Minimum initial investment, subsequent holding, minimum switching amount and minimum redemption amount, if any, of each pooled investment fund.		✓
5.15	Circumstances under which switching between constituent funds may occur.	✓	
5.16	Circumstances affecting the portability and payment of members' benefits.	✓	
5.17	The maximum interval between:		
	(a) the request for transfer to other registered schemes and the transfer of funds to other schemes;	✓	
	(b) the request for withdrawal of voluntary contributions and the payment of voluntary benefits withdrawn;	✓	
	(c) the request for redemption and payment of accrued benefits for MPF schemes; and	✓	
	(d) the request for redemption and the payment of redemption proceeds for pooled investment funds.		✓
5.18	A summary of the circumstances in which dealing may be deferred or suspended for each constituent fund or pooled investment fund.	✓	✓
5.19	A statement that contributions to an MPF scheme should only be made to the trustee of the MPF scheme.	✓	
<i>Fees and Charges</i>			
5.20	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 or 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.*

5.21 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.	✓	✓
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<i>Warnings</i>			
5.22	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.”	✓	
5.23	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.	✓	✓
5.24	To the extent that the underlying investments involve risks, a detailed description of the risks should be given.	✓	✓
<i>Governing Law</i>			
5.25	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.	✓	✓
<i>Taxation</i>			
5.26	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.	✓	✓
5.27	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.	✓	✓
5.28	Participants of the MPF scheme or holders of the pooled investment fund should also be advised to seek professional advice regarding their own particular tax circumstances.	✓	✓
<i>Reports and Accounts</i>			
5.29	The date of the MPF scheme or pooled investment fund’s financial year end.	✓	✓
5.30	Particulars of what reports or statements will be sent by the trustee to scheme participants and when.	✓	
<i>General Information</i>			
5.31	A list of constitutive documents of the MPF scheme or pooled	✓	✓



	investment fund and an address in Hong Kong where they can be inspected free of charge or purchased at a reasonable price.		
5.32	The telephone number of an enquiry hotline for participants of the MPF scheme.	✓	
5.33	The date of publication of the offering document.	✓	✓
5.34	A statement that [name of applicant] accepts responsibility for the information contained in the offering document as being accurate at the date of publication.	✓	✓
5.35	If an MPF scheme or pooled investment fund is described as having been authorized by the Commission, the offering document must state that authorization does not imply official recommendation.	✓	✓
5.36	If an MPF scheme, constituent fund or pooled investment fund is described as having been registered or approved by the MPFA, the offering document must state that registration or approval does not imply official recommendation.	✓	✓
<i>Notification to Scheme Participants and Fund Holders</i>			
5.37	A statement that participants of the MPF scheme or holders of the pooled investment fund will be notified of changes to the Statement of Investment Policy.	✓	✓
5.38	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.	✓	✓
<b>Additional Disclosure Requirements for Specialized Constituent Funds and Pooled Investment Funds</b>			
<i>Capital Preservation, Money Market and Cash Management Funds</i>			
5.39	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*

5.40 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 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*

5.41 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:

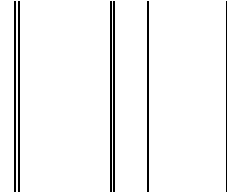
- |     |   |   |   |
|-----|---|---|---|
| (a) | a statement, printed in bold type, to the effect that the [name of authorized insurer or other party], at its sole discretion, has the right to retain investment income of the fund in excess of that required to be set aside to meet the guaranteed benefits 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	✓	✓
<b>(ii)(1) for a participating insurance policy</b>	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:		
	<ul style="list-style-type: none"> <li>• details of the fund or part of the fund to which the right relates;</li> </ul>	✓	✓
	<ul style="list-style-type: none"> <li>• 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;</li> </ul>	✓	✓
	<ul style="list-style-type: none"> <li>• the bonus rates declared immediately prior to the reporting date and for the four years previous; <i>and</i></li> </ul>	✓	✓
	<ul style="list-style-type: none"> <li>• the proportion of total distributed profits that was distributed to shareholders immediately prior to the reporting date and for the four years previous;</li> </ul>	✓	✓
<b>(2) for an investment-linked product:</b>			
	<ul style="list-style-type: none"> <li>• a description of the method which will be used to calculate unit prices from time to time; <i>and</i></li> </ul>	✓	✓
	<ul style="list-style-type: none"> <li>• the percentage changes in unit prices for the five yearly intervals immediately preceding the reporting date;</li> </ul>	✓	✓
<b>(3) for a non-investment linked product:</b>			
	<ul style="list-style-type: none"> <li>• a description of the method which will be used to calculate the interest rate for each period; <i>and</i></li> </ul>	✓	✓
	<ul style="list-style-type: none"> <li>• the rate of interest declared immediately prior to the reporting date and for the four years previous; and</li> </ul>	✓	✓
(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.*



## Chapter 6: Investment Manager

*This Chapter sets out the Commission's requirements on the experience and qualifications of investment managers and their delegates (if any) for MPF schemes or pooled investment funds which are offered to MPF schemes only. While the Commission considers the issue of independence between the investment manager and trustee/ custodian to be of paramount importance, it has been omitted in this Code to avoid duplication of regulatory efforts. Applicants should note that both the Regulation and the MPFA have prescribed specific requirements for the investment managers and their delegates (if any) of MPF schemes and pooled investment funds with respect to their independence from the trustee/ custodian and the delegation of investment management functions.*

*Investment managers and their delegates (if any) of unit trusts and mutual funds which are intended to be offered to both MPF schemes and retail investors must comply with the relevant provisions of the Code on Unit Trusts and Mutual Funds.*

### Appointment of Investment Manager

- 6.1 An investment manager appointed for an MPF scheme or pooled investment fund must comply with the following requirements.
- 6.2 An investment manager must -
  - (a) be a company incorporated in Hong Kong;
  - (b) be primarily involved in the business of fund management;
  - (c) be registered as an investment adviser under the SO;
  - (d) be registered as a commodity trading adviser under the Commodity Trading Ordinance if the portfolio under its management includes financial futures contracts;
  - (e) have sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities; in particular, it must have a minimum paid-up capital of HK\$10 million;
  - (f) not lend to a material extent; and
  - (g) maintain at all times net assets of not less than HK\$10 million.
- 6.3 Notwithstanding 6.2(a) and (b), an authorized insurer not incorporated in Hong Kong may act as the investment manager for pooled investment funds that are insurance policies.
- 6.4 The investment manager must comply with the Fund Manager Code of Conduct

issued by the Commission.

#### *Qualifications of Directors*

- 6.5 The directors of the investment manager or its delegate (if any) must be of good repute and in the opinion of the Commission possess the necessary experience for the performance of their duties. In determining the acceptability of the investment manager, the Commission may consider the qualifications and experience of persons employed by the investment manager and its delegate.

#### *Criteria for Acceptability of Investment Manager*

- 6.6 The acceptability of the investment manager will be assessed on the following criteria:
- (a) The key personnel of the investment manager or its delegate (if any) are expected to possess at least five years investment experience managing pooled retirement funds or other public funds with reputable institutions. The expertise gained should be in the same type of investments as those proposed for the pooled investment fund or constituent fund(s) of the MPF scheme seeking authorization.
  - (b) Key personnel must be dedicated full-time staff with a demonstrable track record in the management of pooled retirement funds, unit trusts or mutual funds. In assessing the qualifications of the personnel of the investment manager, the Commission may request resumes of the directors of the investment manager and its delegates (if any). (see 2.5)
  - (c) Sufficient human and technical resources must be at the disposal of the investment manager, which should not rely solely on a single individual's expertise.
  - (d) The Commission must be satisfied with the overall integrity of the investment manager. Reasonable assurance must be given of the adequacy of internal controls and the existence of written procedures, which should be regularly monitored by its senior management for updatedness and compliance. Conflicts of interests must be properly addressed to safeguard interests of scheme participants or fund holders.
  - (e) Applicants should refer to 6.8 to 6.9 for requirements on the delegation of investment management functions to third parties.
- 6.7 Prior approval must be obtained from the Commission for any change of investment manager for the MPF scheme or pooled investment fund.

#### **Delegation of Investment Management Functions**

- 6.8 Where the investment management functions are delegated to third parties, there should be on-going supervision and regular monitoring of the competence of the

delegates by the investment manager to ensure that investor protection and the investment manager's accountability to scheme participants or fund holders is not diminished. Although the investment management role of the investment manager may be sub-contracted to third parties, the responsibilities and obligations of the investment manager may not be delegated.

*Note : The investment management operations of an investment manager's delegate(s) should be based in a jurisdiction with an inspection regime acceptable to the Commission. A list of acceptable inspection regimes is set out in Appendix C. The Commission will consider other jurisdictions on their merits.*

- 6.9 Delegation of investment management functions of any MPF scheme or pooled investment fund to any person, or any changes thereof, must be approved by the Commission in advance.

### **General Obligations of an Investment Manager**

- 6.10 An investment manager must manage the MPF scheme or pooled investment fund in accordance with its constitutive documents in the exclusive interests of the scheme participants or fund holders. It is also expected to fulfill the duties imposed on it by the general law.

### **Retirement of Investment Manager**

- 6.11 The investment manager must be subject to removal by notice in writing from the trustee of an MPF scheme or unit trust (or from the insurer, in the case of an insurance policy where an investment manager is appointed) in any of the following events:-
- (a) the investment manager is commenced to be wound up or is dissolved without being wound up; or
  - (b) for good and sufficient reason, the trustee of the MPF scheme or unit trust (or the insurer, in the case of an insurance policy where an investment manager is appointed) states in writing that a change in investment manager is desirable in the interests of scheme participants or fund holders; or
  - (c) the Commission withdraws its approval of the investment manager; or
  - (d) in all other cases as provided for in the constitutive documents.
- 6.12 Upon the retirement or dismissal of the investment manager or its delegate, a new investment manager or delegate must be appointed as soon as possible, subject to the approval of the Commission.

## **Chapter 7: Operational Requirements**

### **Scheme Documentation**

#### *Offering Document*

- 7.1 Up-to-date offering document(s) must be issued by MPF schemes or pooled investment funds in accordance with the requirements in Chapter 5.

#### *Application Form*

- 7.2 No application form (by whatever name called) of an MPF scheme or pooled investment fund may be provided to any prospective scheme participants or fund holders unless it is accompanied by the offering document. To that end the application form should include a statement to the effect that it should only be issued in conjunction with the offering document.

#### *Inclusion of Performance Data*

- 7.3 If performance data or estimated yield is quoted, the Commission may require supporting documentation. No forecast of performance may be made except where an investment return at a certain rate is guaranteed.

#### *Contents of Constitutive Documents*

- 7.4 Applicants should ensure that information disclosed in the offering document is consistent with that disclosed in the constitutive documents.

### **Name of Constituent Fund and Pooled Investment Fund**

- 7.5 If the name of the constituent fund or pooled investment fund indicates a particular objective, geographic region or market, the constituent fund or pooled investment fund should invest at least 70% of its non-cash assets in securities and other investments to reflect the particular objective or geographic region or market which the constituent fund or pooled investment fund represents.
- 7.6 Where a constituent fund or pooled investment fund is, or invests in a capital preservation fund, a money market or cash management fund, the name of the constituent fund or pooled investment fund must not suggest or imply that the investment is equivalent to the placement of cash on deposit with a bank or deposit-taking company.



## **PART III POST-AUTHORIZATION REQUIREMENTS**

*This part discusses the post-authorization requirements of an MPF scheme or pooled investment fund.*

### **Chapter 8: Post-Authorization Requirements**

#### **Changes to Documentation**

- 8.1 The applicant should notify the Commission as soon as possible of any change to the data provided to the Commission upon submission of the application for authorization.
- 8.2 All proposed alterations or additions to the offering document of an MPF scheme or pooled investment fund must be submitted to the Commission for prior approval. Where the change in the offering document results from changes in the constitutive documents, the revised offering document should be submitted to the Commission and be accompanied by a copy of the approval notice for the change in constitutive documents issued by the MPFA. The Commission will determine whether the scheme participants or fund holders should be notified and the period of notice (if any) that should be applied before the changes are to take effect. Such notice period would not normally exceed three months, but individual cases will be considered on their merits.

#### **Notices to Scheme Participants and Fund Holders**

- 8.3 Except where a waiver is granted under 5.1 of this Code, notification to participants of an MPF scheme or holders of a pooled investment fund must be made in both the English and Chinese languages in respect of any changes or proposed changes to the offering documents of the MPF scheme or pooled investment fund.

#### **Increase in Fees**

- 8.4 In respect of any increase in fees and charges of an MPF scheme or pooled investment fund from the current level as stated in the offering document, at least three months prior notice must be given to all participants of the MPF scheme or holders of the pooled investment fund.

#### **Withdrawal of Authorization**

- 8.5 Following the authorization of an MPF scheme or pooled investment fund, the applicant should notify the Commission of any intention not to maintain such authorization. The Commission will determine on a case by case basis whether scheme participants or fund holders should be notified and the period of notice (if

any) that should be applied before the withdrawal of authorization is to take effect.

### **Advertising and Public Announcements**

- 8.6 Advertisements, including marketing brochures, leaflets and public announcements, etc., must be submitted for authorization prior to their issue or publication in Hong Kong. Any advertisement or announcement which concerns the trustee must be accompanied by its written consent. The criteria for authorization are set out in Appendix D.

## Appendix A

### PROFILE OF NEW INVESTMENT MANAGER OR INVESTMENT MANAGEMENT GROUP

#### A1 Organization

1. Brief corporate history and ownership
2. Management & organizational structure (*include organization chart*)

#### A2 Global Investment Management Activity

1. Assets under management (Global/ Hong Kong)
2. Types of assets under management/ Client base (Global/ Hong Kong)
3. List of public authorized funds (where authorized/ domiciled)

#### A3 Hong Kong Investment Management Activity

1. No. of fund managers/ description of size of fund management operation/ research - in house/ third party?
2. Investment approach (main asset classes/ markets/use of derivatives)
3. Administration (where/ how are administrative arrangements carried out)

#### A4 Compliance Arrangements

1. Summary of compliance arrangements, including (if applicable) procedures for compliance with Fund Manager Code of Conduct
2. Connected transactions:
  - (a) Percentage of business placed with connected brokers?
  - (b) Any connected corporate finance house? Please specify.
  - (c) Any deposits placed with connected bank? Please specify.

## Appendix B

### COMPLIANCE CHECKLIST

#### Compliance Checklist

The compliance checklist is to assist applicants in preparing an application. It should be completed and submitted to the Commission together with the other documents required for an application (see 4.2). Where separate offering documents are prepared for an MPF scheme and its underlying pooled investment funds, a checklist should be completed for each offering document submitted. The checklist, in full form, may be retrieved from the Commission's website <http://www.hksfc.org.hk>. References to the offering document submitted should be noted in the right-hand column.

#### Information to be disclosed in the Offering Document (See Chapter 5)

#### Where Found (Page/Para.)

B1 *Constitution of the MPF scheme/ Pooled Investment Fund*

B2 *Operators and Principals*

For each scheme and fund, the names and registered addresses of :

(a) *the trustee;*

(b) *.... etc.*

B3 *Constituent Funds*

For each constituent fund:

(a) *its name;*

(b) *.... etc.*

B4 *Investment Policy and Restrictions*

Statement of Investment Policy which includes:

(a) *the fund's objectives;*

(b) *.... etc.*

*.... etc.*


## Appendix C

### ACCEPTABLE INSPECTION REGIMES

The following jurisdictions for investment managers or groups are regarded as subject to an acceptable inspection regime for the purposes of 6.8 of this Code. Applicants should note that **this list is not exhaustive** and does not imply that other jurisdictions are necessarily unacceptable. As a general guide, the Commission looks to the following matters in determining the acceptability of an overseas supervisory authority:

- (a) the overseas regulatory authority or its delegate carries out inspections of investment management firms within its jurisdiction in a manner generally consistent with the Commission; and
- (b) the Commission and the overseas regulatory authority have satisfactory procedures for the timely exchange of information regarding investment management firms.

<b>Jurisdiction</b>	<b>Regulatory Authority</b>	<b>Notes</b>
France	Commission des Opérations de Bourse (COB)	Authorized asset management firms
Germany	Bundesaufsichtsamt für das Kreditwesen	Registered investment management companies
Ireland	Central Bank of Ireland (CBI)	Subject to additional procedures as agreed with the CBI
Hong Kong	Securities and Futures Commission	Registered investment advisers
Luxembourg	The Commission du Surveillance du Secteur Financier (CSSF)	Subject to additional audit review as agreed with the CSSF and advised to the Commission
United Kingdom	Investment Management Regulatory Organization	Member firms
United States of America	Securities and Exchange Commission	Registered investment advisers

## Appendix D

### ADVERTISING GUIDELINES

***Note: In this Appendix, “fund” means a constituent fund of an MPF scheme or a pooled investment fund.***

As a general principle, every advertisement for an MPF scheme and the underlying pooled investment funds must have the prior authorization of the Commission. This requirement is derived from the Protection of Investors Ordinance (PIO), and is a provision of this Code. The issue of an unauthorized advertisement may be an offence under s.4 of the PIO. These guidelines should be interpreted as guidance rather than rigid rules, and issuers are expected to be guided by their spirit, as well as the content.

These guidelines are intended to apply to all forms of advertising, including print media, brochures, direct marketing, “fax on demand” services, posters in public places and advertising on the Internet. In the latter case, a hard copy of the relevant pages of the Internet website should be submitted to the Commission.

To facilitate efficient processing of advertisements, it is recommended that the applicant nominates **a person** to liaise with the Commission.

Authorization may be varied or withdrawn by the Commission as it deems fit. Once authorized, the advertisement may be used for as long as the information it contains remains current.

#### **Corporate Advertisements**

A corporate advertisement, which only advertises the expertise of or services offered by the investment manager without referring to any particular MPF scheme, constituent fund or pooled investment fund, does not generally require authorization, unless it can be construed as a product advertisement.

Example: Where an advertisement refers to specific characteristics when products with such characteristics are being offered by the company, it would be considered as a product advertisement.

#### **Newsletters & Updates**

Newsletters, monthly updates or fact sheets may be sent to participants of an MPF scheme or holders of a pooled investment fund on a regular basis. Where such materials are issued in a standard format, there is no need to submit every issue once the standard format has been approved. Any subsequent changes in the format should be submitted.

## Press Releases

Press releases need not be submitted, but issuers should ensure that they are not likely to result in the publication of incorrect or misleading information about the MPF scheme or pooled investment fund.

## CONTENT OF ADVERTISEMENTS

1. **The general principle is that no advertisement can be made that is false, biased, misleading or deceptive.** The following statements are designed to illustrate this general principle.
2. Advertisements may not refer to any unauthorized MPF scheme or pooled investment fund, except as permitted in paragraph 15.

## Language & Graphics.

3. A statement of opinion regarding performance levels must be reasonable.

*Example: “Our XYZ Fund is one of the best performing constituent funds among all MPF schemes” is a misleading statement if XYZ Fund is not placed in the top quartile among constituent funds of MPF schemes in any independent performance report.*

4. An advertisement should not contain words or phrases that may give holders of the fund the impression that they cannot lose money or that profits are guaranteed, unless they actually are guaranteed.

*Example: safe, secure, protected, no risk, guarantee, promise etc..*

5. An advertisement should not focus on the potential return of a fund without some balancing reference to the risks involved. An advertisement should not give the impression that the holder of the fund could profit without risk.

6. An advertisement should not contain language, artwork or graphics that is inaccurate or inconsistent with the information disclosed in the offering and other documents of an MPF scheme or pooled investment fund.

*Example: An advertisement for a fund which indicates that its capital is guaranteed would be misleading if the fund is not a guaranteed fund.*

7. An advertisement should not seek to denigrate competitors in such a way as might lower the reputation of the industry, or use language or artwork that would be considered by a reasonable person to be in poor taste.

## Statistics/ Performance Figures

8. If performance data (including charts, graphs, tables, and reference to awards and rankings) or estimated yield is quoted in an offering document or advertisement, supporting documents should be submitted to the Commission to substantiate the data or the calculation. The computation basis should be stated e.g. offer-to-offer or NAV-to-NAV.
9. Where performance data are quoted for discretionary benefits funds, a statement should appear to the effect that the rates of return of the fund are declared at the discretion of [name of authorized insurer or other party] which may not be the same as the actual returns of the fund's underlying assets.
10. Performance statistics can be quoted from any internationally recognized statistical source. For peer group comparisons, only one source should be used, although companies may quote award winnings from any statistical source. No forecast of performance of the fund (if applicable) can be made, although a substantiated prospective yield is acceptable for the capital preservation, money market or cash management funds.
  - (a) In the case of **newly launched** funds, figures "since inception" may be given only after at least a 6-months' track record, with the launch date clearly stated.
  - (b) Except as permitted in (c), for funds which have been **in existence for 1 year or more**, less-than-one year's past performance can only be shown if:-
    - (i) only one less-than-one-year's figure is quoted in the advertisement;
    - (ii) it is of at least 3 months in duration;
    - (iii) it is accompanied by the most recent 1-year or 3-year figure (as available); and
    - (iv) it is presented in the same format as and no more prominently than the longer term figure.
  - (c) Regular publication such as a quarterly performance report may contain the latest one-month or year-to-date figure, provided such figures are clearly for information purposes and are not displayed more prominently than other figures.
11. Performance data should be up to date and **no more than 6 months** old except for print media advertisements, which should be **no more than 2 months old**. In either case data should be updated if more recent data are significantly different.

*Example: A variation of 10% or more from the last published statistics to the current performance figure would be considered significant.*
12. Performance figures shown must be actual rather than simulated results.



Hypothetical figures may be permitted for funds with complicated mechanisms for the purpose of explaining those mechanisms to holders of the funds, in which case such figures must be conservative, and it must be clearly stated to the effect that the figures used are for illustrative purposes only and not indicative of the actual return likely to be achieved by the fund holder. Annualized returns are generally only acceptable if the actual returns for all the individual years are shown in addition.

13. A comparison of performance figures should be fair, accurate and relevant, comparing “like with like”.

*Examples: Performance of a Hong Kong equity fund against a global index or money market fund would be misleading. However, a performance comparison of different indices, such as a Hong Kong index against a global index, used in an appropriate context, would not be misleading.*

14. If graphs are shown, they should be clearly presented without distortion. If different sets of data are plotted on the same graph, the same axis should be used.
15. If the advertisement of a pooled investment fund indicates any non-US\$/HK\$ returns, it should also show the returns in US\$/HK\$ terms. Alternatively, the advertisement should include a statement to alert current and prospective fund holders to the effect that “*The investment returns are denominated in [foreign currency]. US/HK dollar-based investors are therefore exposed to fluctuations in the US/HK dollar/[foreign currency] exchange rate*”. If performance is quoted in another currency for comparison with other funds, the performance in the pooled investment fund’s base currency should be given as well.
16. Reference to past performance of an unauthorized fund to indicate the investment manager’s past track record can only be used in the following circumstances:
  - (a) the fund is newly launched with short or no past track record;
  - (b) the unauthorized fund’s investment objectives are substantially the same as the authorized fund and is managed by the same management team with similar investment policies and strategies; and
  - (c) the advertisement makes clear that the performance figures quoted are not those of the authorized fund and that the unauthorized fund is clearly marked as not authorized in Hong Kong and not available to Hong Kong residents.

### **Warning Statements**

17. Warning statements are required on all advertisements:
  - (a) to the effect that investment involves risks, and that the offering document should be read for further details; and
  - (b) (where past performance is quoted) the past performance figures shown are not indicative of future performance.

18. The text may be varied but the message should be clear and not disguised. If an MPF scheme or pooled investment fund is described as having been authorized by the Commission, it must be stated that authorization does not imply official recommendation. Similarly, if an MPF scheme, constituent fund or pooled investment fund is described as having been registered or approved by the MPFA, it must be stated that registration or approval does not imply official recommendation.
19. Warning statements should if possible be printed in type of the same size as the rest of the text in the advertisement, and in any event must be capable of being read with reasonable ease by anyone scanning the advertisement.
20. The advertisement for guaranteed funds must disclose the following:
  - (a) all material conditions which affect the scope or validity of the guarantee, including, the warning, where relevant, that the guarantee only applies when holders of the fund hold their investment until the date specified in the guarantee and that termination or withdrawal before such date are fully exposed to fluctuations in the value of the assets comprising the fund and/ or subject to penalties; and
  - (b) the name of the guarantor and refer holders of the fund to the offering document for more information.

## **MISCELLANEOUS PROVISIONS**

### **Rules applicable to Radio, Television or Cinema Advertisements**

21. The script of a radio, television or cinema advertisement should be submitted for the Commission's advance clearance, followed by the tape for formal authorization.
22. As a general rule, the use of performance figures is discouraged. However, they will be reviewed in context on a case-by-case basis. Action statements such as "invest today" or "get in now" may be considered inappropriate.
23. Warning statements should be audibly read out at the end of each broadcast. Warning statements only in printed form are not acceptable. For television and cinema advertisements, a visual display directing the audience to the offering document for further information together with the contact telephone number of a Hong Kong distributor should be shown for at least five seconds. For radio advertisements this information must be contained in a voice-over.
24. The advertisement should not be disguised as an authoritative report, and should be presented with courtesy and good taste. Disturbing or annoying materials such as blatant sound effects, persistent repetition, or words and phrases implying emergency should be avoided.

## **Appendix E**

### **COMMITTEE ON INVESTMENT-LINKED ASSURANCE AND POOLED RETIREMENT FUNDS**

#### **Responsibilities of the Committee on Investment-Linked Assurance and Pooled Retirement Funds (ILAC)**

- E1 The Commission has established the ILAC under s.6(1) of the SFCO for the purposes of:-
- (a) assisting the Commission in the performance of its functions to ensure the effective regulation of the marketing of investment-linked assurance schemes and pooled retirement funds;
  - (b) authorizing investment-linked assurance schemes and pooled retirement funds pursuant to s.4(2)(g) of the PIO;
  - (c) imposing conditions on the authorization of investment-linked assurance schemes and pooled retirement funds pursuant to s.4(7) of the PIO;
  - (d) granting waivers from the Code on Pooled Retirement Funds (PRF Code) and the Code on Investment-Linked Assurance Schemes (ILAS Code); and
  - (e) considering whether there should be any amendments to the legislation relating to investment-linked assurance schemes, pooled retirement funds, and the PRF and ILAS Codes and making recommendations to the Commission accordingly.

#### **Constitution of Committee**

- E2 The constitution of the ILAC is:-

*Chairman*

- (a) Any Executive Director of the Commission;

*Members (11)*

- (b) Non-executive Director of the Commission;
- (c) Director (Investment Products) of the Commission (ex-officio and deputises as Chairman in the absence of the Chairman);
- (d) Representative of the Commissioner of Insurance;
- (e) Representative of the MPFA;

- (f) Chairman of Life Insurance Council (ex-officio);
- (g) Life assurance company member;
- (h) Retirement fund company member;
- (i) Person nominated by the Commission;
- (j) Actuary member;
- (k) Trustee member; and
- (l) Appointment (I) ad personam.

*Alternate Members (4)*

- (m) Alternate life assurance company member;
- (n) Alternate retirement fund company member;
- (o) Alternate actuary member; and
- (p) Alternate trustee member.

**Quorum and Meetings**

- E3 The quorum for any meeting of the ILAC is four members, one of whom must be an Executive Director or Director of the Commission and one of whom must be employed by a life assurance or retirement fund company.
- E4 The Committee has appointed a Senior Manager (Investment Products) of the Commission as Secretary. The Secretary attends the ILAC's discussions but has no vote.
- E5 On request, the Commission will give reasons for decisions reached.
- E6 Under s.9(2)(a) of the SFCO, the Commission may concurrently perform any function, power or duty which it has delegated but the Commission does not intend to exercise this right by reviewing a decision of the ILAC except where there has been:-
  - (a) a manifest error; or
  - (b) an application of defective procedures; or
  - (c) a manifest misinterpretation of the PRF Code or ILAS Code.

## Appendix F

### COMMITTEE ON UNIT TRUSTS

#### Responsibilities of the Committee on Unit Trusts (CUT)

- F1 The Commission has established the CUT under s.6(1) of the SFCO for the purposes of:-
- (a) approving prospectuses of unit trusts and mutual fund corporations under s.3(2) of the SO;
  - (b) imposing conditions on approval of a prospectus (s.3(3) of the SO);
  - (c) authorizing mutual fund corporations and unit trusts under s.15(1) of the SO;
  - (d) imposing conditions when authorizing mutual fund corporations and unit trusts (s.15(2) of the SO);
  - (e) granting waivers from the Code on Unit Trusts and Mutual Funds (the UT Code); and
  - (f) considering whether there should be any amendments to the legislation relating to unit trusts and mutual fund corporations and to the UT Code and making recommendations to the Commission accordingly.

#### Constitution of the Committee

- F2 The constitution of the Committee is:-

##### *Chairman*

- (a) Any Executive Director of the Commission;

##### *Members (10)*

- (b) Non-executive Director of the Commission;
- (c) Director (Investment Products) of the Commission (ex-officio and deputises as Chairman in the absence of the Chairman);
- (d) Representative of the Secretary for Financial Services;
- (e) Chairman of the Hong Kong Investment Funds Association (ex-officio);
- (f) Two persons from fund management companies;
- (g) Two persons from trustee companies;
- (h) Person nominated by the Commission; and
- (i) Actuary member.

*Alternate Members (6)*

- (j) Three persons from fund management companies;
- (k) Two persons from trustee companies; and
- (l) Alternate actuary member.

**Quorum and Meetings**

- F3 The quorum for any meeting of the Committee is five members, one of whom must be an Executive Director or Director of the Commission and one of whom must be employed by a fund management company.
- F4 The Committee has appointed a Senior Manager (Investment Products) of the Commission as Secretary. The Secretary attends the Committee's discussions but has no vote.
- F5 On request, the Commission will give reasons for decisions reached.
- F6 Under s.9(2)(a) of the SFCO, the Commission may concurrently perform any function, power or duty which it has delegated but the Commission does not intend to exercise this right by reviewing a decision of the Committee except where there has been:-
  - (a) a manifest error; or
  - (b) an application of defective procedures; or
  - (c) a manifest misinterpretation of the UT Code.