

## Inspection Regimes

The following jurisdictions for investment management firms are regarded as subject to an acceptable inspection regime for the purposes of 5.1 of the Code on Unit Trusts and Mutual Funds (“UT 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 SFC 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 SFC; and
- (b) the SFC and the overseas regulatory authority have satisfactory procedures for the timely exchange of information regarding investment management firms.

This list of acceptable inspection regimes is subject to review and update by the SFC from time to time in view of the legal, regulatory and other developments in each acceptable inspection regime and internationally, as well as the level of regulatory oversight, supervision, co-operation and assistance of the primary regulator and reciprocity accorded to the SFC with respect to the investment management firms it regulates.

Jurisdiction	Regulatory Authority	Notes
Australia	Australian Securities and Investments Commission (ASIC)	The Fund Manager has to hold an Australian Financial Services license authorizing it to operate a registered managed investment scheme (MIS) that invests in financial assets (Note 1).
France	Autorité des Marchés Financiers (AMF)	Authorized asset management firms
Germany	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) (German Federal Financial Supervisory Authority)	German management companies (Kapitalverwaltungsgesellschaft) authorized in accordance with the German Investment Code to manage investment funds; and/or authorized credit institutions (banks) with the licence to conduct “financial portfolio management” within the meaning of sec.1 para 1a sent.2 no.3 of the German Banking Act (as delegates only) (Note 2)
Ireland	Financial Regulator	Authorised to act as an investment manager of Irish domiciled collective investment schemes
Hong Kong	Securities and Futures Commission	Persons licensed by or registered with the SFC for carrying on regulated activities, including asset management

Luxembourg	The Commission de Surveillance de Secteur Financier (CSSF)	Subject to additional audit review as agreed with the CSSF and advised to the SFC
Malaysia	Securities Commission (SC)	Investment management entities or persons that are approved and supervised primarily by the SC to operate, manage or offer to the public one or more collective investment schemes (Note 3)
Switzerland	Swiss Financial Market Supervisory Authority (FINMA)	Swiss asset managers authorized by FINMA to manage collective investment schemes assets in accordance with the Swiss Federal Act on Collective Investment Schemes of 23 June 2006 (CISA) and the Swiss Ordinance on Collective Investment Schemes of 22 November 2006 (CISO) (Note 4)
Taiwan	Financial Supervisory Commission (FSC)	Investment managers permitted and licensed under Article 63 of the Securities Investment Trust and Consulting Act (Note 5)
United Kingdom	Financial Conduct Authority (FCA)	Persons with appropriate permissions from the FCA to carry out regulated activities including managing a UCITS, establishing and operating a collective investment scheme, and/or managing investments (for delegates only) (Note 6)
United States of America	Securities and Exchange Commission (SEC)	Investment Advisers registered under the Investment Advisers Act of 1940, as amended

## Notes

1. The licence should be free of any conditions or constraints that are not generally applied by ASIC on licensees authorizing a fund manager to operate MIS. In addition, ASIC licensed fund managers should meet the following specific conditions:
  - (a) the fund manager must be managing the registered MIS immediately before it applies to the SFC for recognition under the Code, and shall remain as such during the life of any SFC authorized fund that is managed by the fund manager; and
  - (b) the fund manager has to supply to the SFC a compliance plan and any related supplements for the proposed SFC authorized fund and its related fund management activities. The compliance plan should follow the requirements as set out by the Australian Corporations Act 2001 with respect to MIS.

2. The licence to conduct “financial portfolio management” within the meaning of sec.1 para 1a sent.2 no.3 of the German Banking Act by an authorized credit institution (bank) is applicable to persons who act as the delegated fund managers of the collective investment schemes. A person acting as the management company of the collective investment scheme must have the appropriate permission(s) such as German management companies (Kapitalverwaltungsgesellschaft) authorized in accordance with the German Investment Code to manage investment funds.
3. Malaysia is regarded as an acceptable inspection regime in respect of Islamic collective investment schemes recognized under the Declaration on Mutual Cooperation on Development of Islamic Capital Market and Islamic Collective Investment Schemes entered into between the SFC and the SC on 9 November 2009.
4. Switzerland is regarded as an acceptable inspection regime in respect of
  - (a) management companies and delegates of Switzerland domiciled collective investment schemes recognized under the Memorandum of Understanding on Switzerland-Hong Kong Mutual Recognition of Funds and Asset Managers entered into between the SFC and the FINMA on 2 December 2016;
  - (b) delegates of management companies of SFC-authorized Hong Kong domiciled funds in accordance with Chapter 7, 8.1, 8.2, 8.6, 8.8, 8.9 and Appendix I of the UT Code; and
  - (c) delegates of management companies of SFC-authorized recognised jurisdiction schemes, including but not limited to UCITS (provided that the home authority of such recognised jurisdiction scheme recognises Swiss Asset Managers also as eligible)

The following Swiss asset managers authorised by FINMA in accordance with the CISA and the CISO may act as delegates as mentioned above:

- (i) fund management companies in accordance with Art. 13 para. 2 let. a and Art. 28 ff. CISA (FMC);
- (ii) asset managers of collective investment schemes in accordance with Art. 13 para. 2 let f. and Art. 18 ff. CISA;
- (iii) banks pursuant to the Federal Act on Banks and Savings Institutions;
- (iv) securities traders pursuant to the Stock Exchange Act; and
- (v) insurance institutions pursuant to the Federal Act on the Supervision of Insurance Companies.

Only FMC may act as management companies as mentioned above.

5. Taiwan is regarded as an acceptable inspection regime in respect of exchange-traded index tracking funds recognized under the side letter to the bilateral memorandum of understanding signed and exchanged between the SFC and the FSC on 22 May 2009.
6. The permissions should be free of any conditions, constraints or limitations that are not generally applied by FCA on the relevant permissions. The permission “managing investments” is only applicable to persons who act as the delegated fund managers of the CIS. A person acting as the management company of the CIS must have the

appropriate permission(s) such as “managing a UCITS” or “establishing, operating and winding up of a collective investment scheme” depending on the type of CIS involved.