

## G.N. 7082

### SECURITIES AND FUTURES ORDINANCE (Chapter 571) (“Ordinance”)

Pursuant to section 399 of the Ordinance, the Securities and Futures Commission publishes the following amendments to the Code on Real Estate Investment Trusts (the ‘REIT Code’). These amendments shall become effective on 4 December 2020.

1. Replace Chapter 2 of the REIT Code with the following:-

#### **“Chapter 2: Interpretation**

- 2.1 “associate” bears the meaning as defined in Chapter 14A of the Listing Rules (modified as appropriate pursuant to 2.26).
- 2.2 [deleted]
- 2.2A “chief executive” shall bear the meaning as defined in 8.1 of this Code.
- 2.3 “Code” means Code on Real Estate Investment Trusts issued by the Securities and Futures Commission.
- 2.4 “collective investment scheme” bears the meaning as stated in Schedule 1 of the SFO.
- 2.5 “Commission” or “SFC” refers to the Securities and Futures Commission as stated in section 3 of the SFO.
- 2.6 “Committee” means the Committee on REITs.
- 2.7 “connected persons” shall bear the meaning as defined in Chapter 8 of this Code.
- 2.8 “constitutive documents” means the principal documents governing the formation of the scheme, and includes the trust deed and all material agreements.
- 2.9 “controlling unitholder” shall have the same meaning as “controlling shareholder” as defined under the Listing Rules (modified as appropriate pursuant to 2.26).
- 2.10 “dividend reinvestment plan” means an automatic reinvestment of holders’ dividends in more units of a scheme.
- 2.11 “Exchange” means The Stock Exchange of Hong Kong Limited.
- 2.12 “holder” in relation to a unit in a scheme means the person who is entered in the register as the holder of that unit.
- 2.13 “Institute” means The Hong Kong Institute of Surveyors.
- 2.13A “joint venture entity” means an entity or any partnership or other arrangement in which or through which a scheme invests in any jointly owned property as contemplated under 7.7A of this Code and it may be majority-owned or minority-owned by the scheme.

- 2.13B “JV valuer” shall bear the meaning as defined in Note (2) to 6.2 of this Code.
- 2.13C “Listing Rules” shall mean the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (as amended from time to time).
- 2.14 “management company” means the entity appointed for a scheme pursuant to Chapter 5 of this Code and includes its delegates where applicable.
- 2.14A “Maximum Cap” shall bear the meaning as defined in 7.2C of this Code.
- 2.14B “Minority-owned Properties” shall bear the meaning as defined in 7.7B of this Code.
- 2.14C “Non-qualified Minority-owned Properties” shall bear the meaning as defined in 7.2C(b) of this Code.
- 2.14D “notifiable transaction” shall bear the meaning as defined in the Listing Rules (modified as appropriate pursuant to 2.26).
- 2.15 “offering document” means the document, or documents issued together, containing information on a scheme to invite the public to buy units in the scheme.
- 2.16 “ordinary resolution” by holders of a scheme means a resolution passed by a simple majority of the votes of those present and entitled to vote in person or by proxy at a duly convened meeting and the votes shall be taken by way of a poll.
- 2.16A “Property Development and Related Activities” refers to the acquisition of uncompleted units in a building by the scheme and property developments (including both new development projects and re-development of existing properties) undertaken in accordance with Chapter 7 in this Code.
- 2.16B “Property Development Cap” shall bear the meaning as defined in 7.2A of this Code.
- 2.17 “property valuer” or “Principal Valuer” refers to the property valuer appointed to a scheme pursuant to Chapter 6 of this Code.
- 2.17A “Qualified Minority-owned Property” shall bear the meaning as defined in 7.7C of this Code.
- 2.18 “real estate” or “property” refers to land or buildings, whether the interest is a freehold or leasehold interest, and includes car parks and assets incidental to the ownership of real estate (e.g. fittings, fixtures, etc).
- 2.18A “Relevant Investments” shall bear the meaning as defined in 7.2B of this Code.
- 2.19 “REIT” shall be a scheme authorised by the Commission under this Code.

- 2.20 “scheme” means a REIT authorised under this Code.
- 2.20AA “scheme’s group” means the scheme and its subsidiaries, or any of them.
- 2.20A “SFO” means the Securities and Futures Ordinance (Cap. 571).
- 2.21 [deleted]
- 2.22 “special purpose vehicles” or “SPVs” means the special purpose vehicles that are owned and controlled by a scheme in accordance with this Code and for the avoidance of doubt, does not include a joint venture entity minority-owned by the scheme.
- 2.23 “special resolution” by holders of a scheme may only be passed by 75% or more of the votes of those present and entitled to vote in person or by proxy at a duly convened meeting and the votes shall be taken by way of a poll.
- 2.23A “subsidiary” shall bear the meaning as defined in the Listing Rules (modified as appropriate pursuant to 2.26).
- 2.24 “substantial financial institution” means an authorized institution as defined in section 2(1) of the Banking Ordinance (Chapter 155 of the Laws of Hong Kong) or a financial institution which is subject to prudential regulation and supervision on an ongoing basis, with a minimum net asset value of HK\$2 billion or its equivalent in foreign currency.
- 2.24AA “substantial holder” bears the meaning as defined under 8.1 of this Code.
- 2.24A “Takeovers Code” means The Codes on Takeovers and Mergers and Share Buy-backs issued by the Commission (as amended from time to time).
- 2.25 “trustee” means the entity appointed pursuant to Chapter 4 of this Code.
- 2.26 Where references are made to the requirements under the Listing Rules, unless the context otherwise requires, the following modifications shall apply in the context of a scheme:
- (a) references to the “listed issuer” shall be construed as references to the scheme;
  - (b) references to the “directors” of the listed issuer shall be construed as references to the directors of the management company;
  - (c) references to the “board of directors” shall be construed as references to the board of directors of the management company;
  - (d) references to “controlling shareholders” shall be construed as references to “controlling unitholders”;
  - (e) references to “general mandate” shall be construed as references to the 20% general mandate contemplated under 12.2 of this Code;

- (f) references to “listed public companies” shall be construed to include REITs;
- (g) references to “listed issuer’s group” shall be construed as references to the scheme’s group;
- (h) references to “shares” in relation to a listed issuer, shall be construed as references to units of a scheme;
- (i) references to “shareholders” shall be construed as references holders of the units of a scheme;
- (j) references to “substantial shareholder” shall be construed as references to “substantial holder” as defined in 8.1 of this Code;
- (k) “close associates” shall bear the same meaning as defined in the Listing Rules (modified as appropriate pursuant to this 2.26);
- (l) save in relation to matters pertaining to the listing or trading of the units of a scheme on the Exchange, the Commission shall replace the Exchange in exercising the various discretion and powers in administering the requirements, including but not limited to those in relation to granting waivers, relaxing the application of any requirement, making determinations (such as classification of transactions, application of certain requirements, whether transactions shall be aggregated, whether to deem certain persons as connected persons, whether to accept a written holders’ approval and whether a group of holders shall be regarded as a “closely allied group of holders”), requiring any holder and his close associates to abstain from voting and imposing additional requirements;
- (m) in view of (l) above, the Commission shall replace the Exchange as the party with whom the management company of the scheme shall contact and consult to, for example, provide notifications, seek guidance, obtain prior consent or approval, provide relevant information and document to demonstrate compliance and make relevant applications; and
- (n) if there is any inconsistency between the requirements in this Code or any guidelines issued by the Commission from time to time on one hand and the requirements in the Listing Rules on the other hand, the former shall prevail.

*Note: The management company should consult the Commission at an early stage if it is in any doubt as to the application of the relevant requirements.”*

2. Add the following note to 3.1 of the REIT Code:-

*“Note: A REIT may adopt a stapled structure by stapling its units with securities of another listed entity so long as similar governance and investor protection measures are in place and requirements in this Code are complied with in substance. Potential applicants may consult the Commission on their product proposals.”*

3. Add the following paragraph as the new 3.7 of the REIT Code after 3.6 of the REIT Code:-

“3.7 There shall be an open market in the units of a REIT. This will normally mean that at least 25% of the total issued and outstanding units of the scheme must at all times be held by the public.

*Notes: (1) The management company shall promptly inform the Commission when it becomes aware that such percentage has fallen below 25% and use its best efforts to restore it to such minimum level as soon as practicable. Where a scheme is the subject of a general offer under the Takeovers Code (including a privatisation offer), the Commission may consider allowing such percentage to fall below 25% temporarily for a reasonable period after the close of the general offer. The scheme must restore the minimum percentage of units in public hands immediately after the expiration of such temporary period.*

*(2) In considering who will be regarded as a member of “the public”, reference should be made to the requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time.”*

4. Replace 4.1 of the REIT Code with the following:-

“4.1 Every scheme for which authorisation is requested shall appoint a trustee acceptable to the Commission.

*Note: This chapter lists the general obligations of the trustees. Trustees also have to fulfill the duties imposed on them by the general law of trusts.”*

5. Replace 4.2(c) and 4.2(o) of the REIT Code with the following:-

“(c) appoint from time to time a Principal Valuer or another qualified valuer to value the real estate of the scheme and to produce valuation reports with respect to the real estate of the scheme in accordance with Chapter 6;

(o) be responsible for the appointment of the directors of all special purpose vehicles and joint venture entities to be appointed by the scheme.”

6. Replace 4.3, 4.4, and 4.5 of the REIT Code with the following:-

“4.3 A trustee shall be:

- (a) a bank licensed under section 16 of the Banking Ordinance (Chapter 155 of Laws of Hong Kong); or
- (b) a trust company registered under Part VIII of the Trustee Ordinance (Chapter 29 of the Laws of Hong Kong) which is a

subsidiary of such a bank or a banking institution falling under 4.3(c) below; or

*Note: In determining the acceptability of a subsidiary of a banking institution falling under 4.3(c), the Commission will take into account factors including the level of oversight and supervision from such banking institution.*

- (c) a banking institution incorporated outside Hong Kong which is subject to prudential regulation and supervision on an ongoing basis, or an entity which is authorized to act as trustee/custodian of a scheme and prudentially regulated and supervised by an overseas supervisory authority acceptable to the Commission.
- 4.4 A trustee shall be independently audited and shall have minimum paid-up share capital and non-distributable capital reserves of HK\$10 million or its equivalent in foreign currency.
- 4.5 Notwithstanding 4.4 above, the trustee's paid-up share capital and non-distributable capital reserves may be less than HK\$10 million if the trustee is a wholly-owned subsidiary of a substantial financial institution (the "holding company") acceptable to the Commission; and
- (a) the holding company issues a standing commitment to subscribe sufficient additional capital in the trustee up to the required amount, if so required by the Commission; or
  - (b) the holding company undertakes that it will not let its wholly-owned subsidiary default and will not, without prior approval of the Commission, voluntarily dispose of, or permit the disposal or issue of any share capital of the trustee such that the trustee ceases to be a wholly-owned subsidiary of the holding company."
7. Repeal 4.9(a) of the REIT Code.
8. Add the following note to 4.9(d) of the REIT Code:-
- "Note: Among other things, there should be systems and controls in place to ensure that persons fulfilling the custodial function/safekeeping of the scheme's assets are functionally independent from persons fulfilling the scheme's management functions, for example, with an independent board, separate governance structure/lines of reporting to the management of the trustee and separate operational teams within the same corporate group."*
9. Replace 5.2(f) of the REIT Code with the following:-
- (f) ensure that all documents in relation to the scheme, (including those in relation to its listing but excluding such documents containing commercially sensitive information) are made available for inspection by the public in Hong Kong, free of charge at all times on the scheme's website or at the place of business of the management company and that of the approved person during normal office hours; and ensure that copies of such documents are available upon request by any person upon the payment of a reasonable fee;"

10. Replace 5.7A of the REIT Code with the following:-

“5.7A The management company shall ensure that in managing a scheme, it has sufficient oversight of the daily operations and financial conditions of the scheme and its underlying properties (other than Non-qualified Minority-owned Properties). The management company shall remain the key decision-maker of all material matters relating to the management of such properties.”

11. Replace 5.13 of the REIT Code with the following:-

“5.13 The management company shall disclose to holders of the scheme the name of any substantial holder with which it has a relationship, and the nature of such relationship.”

12. Replace Chapter 6 of the REIT Code with the following:-

## **Chapter 6: Property Valuer**

### **Appointment of a Principal Valuer**

6.1 Every scheme for which authorisation is requested shall appoint an independent property valuer (the “Principal Valuer”), in accordance with 6.4.

*Note: The agreement for such appointment shall clearly list the obligations and length of tenure of the Principal Valuer as set out in this Chapter.*

### **General Obligations of a Principal Valuer**

6.2 The Principal Valuer shall value all the real estate held under the scheme, on the basis of a full valuation with physical inspection in respect of the site of the real estate and an inspection of the building(s) and facilities erected thereon once a year. The Principal Valuer shall also produce a valuation report on real estate to be acquired or sold by the scheme or in any other circumstances prescribed by the Code. The contents of the valuation report shall comply with 6.8.

*Notes: (1) The Principal Valuer may appoint a competent business valuer or other qualified valuer to assist in preparing the valuation of a Minority-owned Property taking into account any impact or implications the specific ownership structure or any relevant divestment or other restrictions may have on the value of the property.*

*(2) Valuation of a Minority-owned Property is often conducted by a property valuer engaged by the joint venture entity holding the property (the “JV valuer”). In the case of annual valuation, the management company may adopt the valuation issued by the JV valuer provided that it is reasonably satisfied with the JV valuer’s competence and independence having regard to its duties under this Code. In such case, the obligations on the Principal Valuer under 6.2 above would not apply to such*

*Minority-owned Properties.*

- (3) *Where a scheme proposes to invest in other listed real estate investment trusts, strict compliance with the valuation requirements in this Chapter may not be required, in particular where the other real estate investment trust is listed and traded on an internationally recognised stock exchange and its financial reports are prepared in accordance with comparable accounting standards. The management company should consult the Commission at an early stage on any such proposal.*

- 6.3 The valuation methodology shall follow the HKIS Valuation Standards published from time to time by the Hong Kong Institute of Surveyors or the International Valuation Standards issued from time to time by the International Valuation Standards Council. Once adopted, the same valuation standards shall be applied consistently to all valuations of properties of the same REIT.

**Criteria for Acceptability of the Principal Valuer**

- 6.4 The Principal Valuer shall be a company that:
- (a) provides property valuation services on a regular basis;
  - (b) carries on the business of valuing real estate in Hong Kong;
  - (c) has key personnel who are fellows or members of the Hong Kong Institute of Surveyors or the Royal Institution of Chartered Surveyors (Hong Kong Branch) and who are qualified to perform property valuations;
  - (d) has sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities; in particular, it shall have a minimum issued and paid-up capital and capital reserves of HK\$1 million or its equivalent in foreign currency, and its assets shall exceed its liabilities by HK\$1 million or more as shown in the company's last audited balance sheet;
  - (e) has robust internal controls and checks and balances to ensure the integrity of valuation reports and that these reports are properly and professionally prepared in accordance with international best practice; and
  - (f) has adequate professional insurance to cover its usual risks.
- 6.5 The Principal Valuer shall be independent of the scheme, the trustee, the management company and each of the substantial holders of the scheme. The Principal Valuer is not considered independent if:
- (a) it is the subsidiary or holding company of:
    - (i) the management company of the scheme;
    - (ii) the trustee of the scheme;
    - (iii) any of the substantial holders of the scheme; or



- (iv) an associate of the scheme's management company, the scheme's trustee, or any of the substantial holders of the scheme; or
- (b) any of its partners, directors or officers is an officer, servant, director or an associate of:
  - (i) the management company of the scheme;
  - (ii) the trustee of the scheme;
  - (iii) any of the substantial holders of the scheme; or
  - (iv) an associate of the scheme's management company, trustee or any of its substantial holders; or
- (c) any of its directors or officers holds or controls 10% or more of the beneficial interest in, or the right to vote in the governing bodies of, any of the entities in (b)(i), (b)(ii), (b)(iii) or (b)(iv); or
- (d) in the case where the scheme intends to acquire or dispose of a property (the "subject property"), the valuer or its associate:
  - (i) is engaged whether as principal or agent by the scheme's counterparty that intends or has agreed to sell to or purchase from the scheme the subject property, in relation to the introduction or referral of the scheme to the subject property or vice versa;
  - (ii) is engaged whether as principal or agent by the scheme in relation to the acquisition of the subject property;
  - (iii) acts as a broker for the property transaction for a fee; or
  - (iv) had, at any time during the one year immediately before the date of the agreement for such intended purchase or disposal, been retained to provide valuation of the subject property to the scheme's counterparty (or its associates).

*Notes: (1) In the circumstances described in 6.5(d), another qualified valuer may be appointed to conduct valuation of the subject property provided that such valuer satisfies the acceptability criteria under 6.4 to 6.7 and the valuation report complies with the relevant requirements under 6.8 to 6.9. The management company should consult the Commission at the earliest opportunity should the appointment of another qualified valuer be necessary for any reasons.*

*(2) In determining its independence or whether there is any actual or potential conflict of interests, the Principal Valuer and other qualified valuers should ensure compliance with all applicable ethical requirements under the valuation standards published from time to time by the Hong Kong Institute of Surveyors or the International Valuation Standards Council. The Principal Valuer and other qualified valuers are also expected to put in place proper safeguards and measures to manage or minimise any actual or potential conflict of interests that may arise. In particular, there shall be full disclosure to the scheme of all financial benefits received or receivable by the Principal Valuer or its associates for the relevant engagement.*

independent of and unaffected by its business or commercial relationship with other persons.

#### *Qualifications of Directors*

- 6.7 The directors of the Principal Valuer shall be persons of good repute who possess the necessary experience for the performance of their duties.

#### **Valuation Report**

- 6.8 The Principal Valuer shall produce a valuation report which shall include as a minimum:
- (a) all material details in relation to the basis of valuation and the assumptions used;
  - (b) describe and explain the valuation methodologies adopted;
  - (ba) overall structure and condition of the relevant market including an analysis of the supply/demand situation, the market trend and investment activities;
  - (c) the following particulars in respect of each property, such as:
    - (i) an address sufficient to identify the property, which shall generally include postal address, lot number and such further designation as is registered with the appropriate government authorities;
    - (ii) the nature of the interest the scheme holds in the property (e.g. if it is a freehold or leasehold, and the remainder of the term if it is a leasehold);
    - (iii) the existing use (e.g. shops, offices, factories, residential, etc.);
    - (iv) a brief description of the property, such as the age of the building, the site area, gross floor area, net lettable floor area, and the current zoning use;
    - (v) the options or rights of pre-emption and other incumbrances concerning or affecting the property;
    - (vi) the occupancy rate;
    - (vii) lease cycle duration;
    - (viii) lease expiry profile;
    - (ix) a summary of the terms of any sub-leases or tenancies, including repair obligation, granted to the tenants of the property;
    - (x) the capital value in existing state at the date the valuation was performed;
    - (xi) the existing monthly rental before profits tax if the property is wholly or partly let together with the amount and a description of any outgoings or disbursements from the rent, and, if materially different, the estimated current monthly market rental obtainable, on the basis that the property was available to let on the effective date as at which the property was valued;
    - (xii) the estimated current net yield;
    - (xiii) a summary of any rent review provisions, where material;

- (xiv) the amount of vacant space, where material;
  - (xv) material information regarding the title of the subject property as contained in the relevant legal opinion, and a discussion as to whether any and how the legal opinions have been taken into consideration in the valuation of the relevant property; and
  - (xvi) any other matters which may affect the property or its value;
- (d) particulars (as set out in (c)) of any real estate for which the scheme has an option to purchase;
  - (e) a letter stating the independent status of the valuer and that the valuation report is prepared on a fair and unbiased basis;
  - (f) a discussion of the valuation methodology and assumptions used, and justification of the assumptions; and
  - (g) an explanation of the rationale for choosing the particular valuation method if more than one method is adopted.

*Notes: (1) Where a valuation report is allowed by the Commission or under this Code to be published in summary form, the full valuation report shall be made available for inspection at an address in Hong Kong or on the scheme's website. A statement has to be made in the published report to this effect.*

*(2) Where a legal opinion is required, such opinion together with copies of any document referred to therein shall be made available to the Principal Valuer and the relevant overseas valuer, if any, engaged in the valuation of the relevant property prior to the completion of the valuation report.*

6.9 Whenever a valuation report is prepared for the scheme, the date of the valuation report shall be:

- (a) the date the scheme is valued, if such report is prepared for the purpose of calculating the net asset value of the scheme; or
- (b) a date which is not more than three months before the date on which:
  - (i) an offering document is issued; or
  - (ii) a circular is issued, if the circular relates to a transaction that requires holders' approval; or
  - (iii) a sale and purchase agreement (or other agreement to transfer legal title) is signed, if the transaction does not require holders' approval.

*Note: Where the date of the valuation report precedes the end of the last period reported on by the auditor, it will be necessary for the offering document or circular to include a statement reconciling the valuation figure with the figure included in the balance sheet as at the end of the period in the event the two figures are different.*

## Retirement of the Principal Valuer

- 6.10 The Principal Valuer shall retire after it has conducted valuations of the real estate of the scheme for three consecutive years. Furthermore, the same valuer may only be re- appointed after another three years.
- 6.11 The Principal Valuer shall be subject to removal by notice in writing from the trustee in any of the following events:
- (a) the Principal Valuer goes into liquidation, becomes bankrupt or has a receiver appointed over its assets; or
  - (b) for good and sufficient reason, the trustee states in writing that a change in the Principal Valuer is desirable in the interests of the holders; or
  - (c) an ordinary resolution is passed by the holders to dismiss the Principal Valuer.

*Notes: The following persons shall abstain from voting:*

- (i) the Principal Valuer;*
- (ii) directors and chief executive of the Principal Valuer;*
- (iii) associates of the persons in (ii); and*
- (iv) associates of the Principal Valuer.*

- 6.12 In addition, the Principal Valuer shall retire in all other cases provided for in the constitutive documents.
- 6.13 Upon the retirement or dismissal of the Principal Valuer, the trustee shall appoint a new Principal Valuer that meets the qualification requirements of this Chapter."

13. Replace Chapter 7 of the REIT Code with the following:-

## **“Chapter 7: Investment Limitations and Dividend Policy**

### **Core Requirements**

- 7.1 The scheme shall primarily invest in real estate.

*Notes: (1) The real estate shall generally be income-generating. At least 75% of the gross asset value of the scheme shall be invested in real estate that generates recurrent rental income at all times.*

- (2) The scheme may acquire uncompleted units in a building which is unoccupied and non-income producing or in the course of substantial development, redevelopment or refurbishment, but subject to 7.2AA and 7.2C (a) the aggregate contract value of such real estate together with (b) the Property Development Costs described in 7.2A below shall not exceed 25% of the gross asset value of the scheme at any time. The aggregate contract value referred to under*

*(a) above shall comprise all costs associated with the acquisition pursuant to the contracts entered into for such purpose.*

*(3) The offering document shall clearly disclose if the scheme intends to acquire further properties during the first 12 months from listing.*

7.2 The scheme is prohibited from investing in vacant land unless the management company has demonstrated that such investment is part-and-parcel of the property development which may be undertaken pursuant to 7.2A below and within the investment objective or policy of the scheme.

7.2A A scheme shall not engage or participate in Property Development and Related Activities unless the aggregate investments in all property developments undertaken by the scheme ("Property Development Costs"), together with the aggregate contract value of the uncompleted units of real estate acquired pursuant to Note (2) to 7.1 above, shall not exceed 10% of the gross asset value of the scheme at any time. This cap may be increased provided that the conditions in 7.2AA below are satisfied ("Property Development Cap"). For this purpose, investment in Property Development and Related Activities do not include refurbishment, retrofitting and renovations.

*Notes: (1) Property Development Costs refers to the total project costs borne and to be borne by the scheme, inclusive of the costs for the acquisition of land (if any), and the development or construction costs and financing costs. The upfront calculation of Property Development Costs and where necessary any subsequent increase should be based on a fair estimate made by the management company in good faith and supported by the opinion of an independent expert acceptable to the Commission.*

*(2) The management company is expected to include a prudent buffer in line with best industry standards and practice to cater for cost overruns that may arise during the course of development.*

*(3) Any decision made by the management company to invest in Property Development and Related Activities must be made solely in the best interests of unitholders.*

*(4) The investments in Property Development and Related Activities should not result in a material change in the overall risk profile of the scheme.*

*(5) To invest in Property Development and Related Activities, the management company must have the requisite resources, competence, expertise, effective internal controls and risk management system for conducting such investments or activities.*

*(6) Generally, the management company is expected to consult*

*the trustee and issue an announcement to inform unitholders upon the scheme entering into a contract to invest in Property Development and Related Activities and to provide periodic updates in the interim and annual reports of the scheme. The management company shall ensure that all material information concerning these property development investments and related activities is set out in such announcements and periodic updates. The periodic updates shall also include the extent, in percentage terms, to which the Property Development Cap has been applied. Such disclosure in the annual reports shall be reviewed by the audit committee of the management company.*

7.2AA Subject to 7.2C below, the Property Development Cap may be increased to not more than 25% of the gross asset value of the scheme at any time provided that:

- (a) holders' have given their consent to such increase by way of resolution at a general meeting;
- (b) the increase is permitted and effected pursuant to the constitutive documents of the scheme; and
- (c) no objection from the trustee has been obtained.

*Note: Subject to 7.2C below, the Property Development Cap applicable to a REIT seeking authorization from the Commission may be up to 25% of the gross asset value of the REIT provided that it is permissible under its constitutive documents and there is clear disclosure in the offering document.*

7.2B The scheme may, subject to 7.2C below and the provisions in its constitutive documents, invest in the following financial instruments ("Relevant Investments"):

- a. securities listed on the Exchange or other internationally recognized stock exchanges;
- b. unlisted debt securities;
- c. government and other public securities; and
- d. local or overseas property funds;

provided that:

- (i) the value of a scheme's holding of the Relevant Investments issued by any single group of companies would not exceed 10% of the gross asset value of the scheme;
- (ii) the Relevant Investments should be sufficiently liquid, could be readily acquired/disposed of under normal market conditions and in the absence of trading restrictions, and has transparent pricing; and

- (iii) at least 75% of the gross asset value of a scheme shall be invested in real estate that generates recurrent rental income at all times.

Notes: (1) *[Deleted]*

(2) *To provide transparency on the Relevant Investments which may be made by a scheme, the management company shall publish the full investment portfolio of the Relevant Investments of the scheme with key information relevant to such Relevant Investments (e.g. credit ratings of the instruments invested, if applicable) on its website on an ongoing basis which shall be updated monthly within five business days of each calendar month end. The annual and interim reports of the schemes shall also include such information together with the extent, in percentage terms, to which the Maximum Cap has been applied. Such disclosure in the annual reports shall be reviewed by the audit committee of the management company.*

(3) *Investments in the Relevant Investments should not result in any material change in the overall risk profile of the scheme. Accordingly, it is generally expected that management companies should not invest in any high risk, speculative, or complex financial instruments, structured products or enter into any securities lending, repurchase transactions or other similar over-the-counter transactions. In assessing the risks involved, the management company should take into account all relevant factors including but not limited to the creditworthiness of the issuer of the Relevant Investments. The management company should also monitor these investments on an ongoing basis to ensure compliance with all applicable requirements.*

(4) *The Relevant Investments of the scheme must be independently and fairly valued on a regular basis in accordance with the scheme's constitutive documents, in consultation with the trustee. In particular, valuation of the Relevant Investments should be made in accordance with applicable accounting standards adopted for preparing the scheme's financial statements as well as best industry standards and practice.*

7.2C The combined value of:

- (a) all Relevant Investments under 7.2B;
- (b) all Minority-owned Properties other than Qualified Minority-owned Properties under 7.7C ("Non-qualified Minority-owned Properties");
- (c) other ancillary investments of the scheme; and
- (d) all of the Property Development Costs pursuant to 7.2A and 7.2AA together with the aggregate contract value of the uncompleted

units of real estate acquired pursuant to Note (2) to 7.1,

shall not exceed 25% of the gross asset value ("Maximum Cap") of the scheme at any time. The management company shall manage these investments on an on-going basis to ensure that the Maximum Cap should be observed.

- Notes:*
- (1) *Real estate related assets (e.g. plant and equipment) included as part of the real estate of the scheme in its valuation and financial statements may be disregarded as "other ancillary investments" above and may be included as part and parcel of the scheme's recurrent rental income-generating real estate.*
  - (2) *The aggregate value of a scheme's holding in all other ancillary investments (other than financial instruments for genuine hedging purposes and cash) shall not exceed 10% of the gross asset value of the scheme at any time.*
  - (3) *The value of a scheme's holding of any Non-qualified Minority-owned Property must not exceed 10% of the gross asset value of the scheme at all times.*
  - (4) *Where a scheme undertakes a property development project and the relevant property would be a Non-qualified Minority-owned Property after completion, the 10% diversification limit applicable to each Non-qualified Minority-owned Property under Note (3) above will apply.*
  - (5) *In general, a scheme would not be considered in breach of 7.2C where the Maximum Cap is exceeded on a short term basis as a result of its holding financial instruments for genuine hedging purposes or cash. For example, a scheme's cash holding may increase significantly resulting in the Maximum Cap exceeding the 25% limit on a temporary basis following the disposition of a property pending distribution or further acquisitions.*

7.3 A scheme shall not lend, assume, guarantee, endorse or otherwise become directly or contingently liable for or in connection with any obligation or indebtedness of any person nor shall it use any assets of the scheme to secure the indebtedness of any person nor shall it use any assets of the scheme to secure any obligations, liabilities or indebtedness without the prior written consent of the trustee.

7.4 A scheme shall not acquire any asset which involves the assumption of any liability that is unlimited.

### **Use of Special Purpose Vehicles**

7.5 The scheme may hold real estate through special purpose vehicles only if:

- (a) the special purpose vehicles are legally and beneficially owned by the scheme;



- (aa) the scheme has majority ownership and control of the special purpose vehicles;

*Note: The Commission expects the special purpose vehicles to be wholly owned by the scheme, except in special and limited circumstances, such as the need to comply with regulatory requirements in an overseas jurisdiction where such requirements are relevant to the scheme and/or its portfolio.*

- (b) the special purpose vehicles are incorporated in jurisdictions which have established laws and corporate governance standards which are commensurate with those observed by companies incorporated in Hong Kong;
- (c) the special purpose vehicles are established for the sole purpose of holding real estate for the scheme and/or arranging financing for the scheme;

*Note: Notwithstanding the above, special purpose vehicles may be used for other purposes incidental to a scheme's investments subject to prior consultation with the Commission. These may include, for example, engagement of employees in the case of a hotel REIT or providing services incidental to managing the scheme and its assets in the case of an internally managed scheme.*

- (d) [deleted]
- (e) neither the memorandum or articles of association or equivalent constitutional documents of the special purpose vehicles nor the organization, transactions or activities of such vehicles shall under any circumstance contravene any requirements of this Code;
- (f) the directors of each of the special purpose vehicle and joint venture entity to be appointed by the scheme shall be appointed by the trustee of the scheme; and
- (g) both the scheme and the special purpose vehicles shall appoint the same auditor and adopt the same accounting principles and policies.

*Note: Where the scheme invests in hotels, recreation parks or serviced apartments, such investments shall be held by special purpose vehicles or joint venture entities.*

7.6 If the scheme acquires real estate through the acquisition of a special purpose vehicle, the following shall be complied with for the purpose of the purchase:

- (a) a report made by accountants (who shall be named in the offering document or circular) shall be prepared on:
  - (i) the profit and loss of the special purpose vehicle in respect of each of the three financial years (or such other shorter

- period as appropriate) immediately preceding the transaction; and
- (ii) the assets and liabilities of the special purpose vehicle as at the last date (which cannot be more than 6 months old from the date of the report) to which the accounts of the special purpose vehicle were made up;

*Note: The accountant shall be qualified under the Professional Accountants Ordinance for appointment as auditor of a company and shall not be an officer or servant, or a partner of or in the employment of an officer or servant, of the special purpose vehicle or of the vehicle's subsidiary or holding company or of a subsidiary of the vehicle's holding company; and the expression "officer" shall include a proposed director but not an auditor.*

- (b) the report required under (a) shall:
  - (i) indicate how the profits and losses of the special purpose vehicle would, in respect of the shares to be acquired, have concerned the scheme, if the scheme had at all material times held the shares to be acquired; and
  - (ii) where the special purpose vehicle has subsidiaries, deal with the profits or losses and the assets and liabilities of the special purpose vehicle and its subsidiaries, either as a whole, or separately; and
- (c) a valuation report in respect of the special purpose vehicle's interest in real estate shall be prepared, and such report shall comply with the requirements set out in Chapter 6.

7.7 The scheme shall hold good marketable legal and beneficial title in all its real estate, whether directly, via a special purpose vehicles controlled by the scheme or via a joint venture entity. The scheme may hold such title whether as joint tenants or tenants-in-common with one or more third parties.

### **Joint Ownership Arrangement**

7.7A The scheme may invest in jointly owned properties via a joint venture entity. In making such an investment, the management company shall comply with the following conditions:

- (a) the management company shall be able to demonstrate that such joint ownership arrangement (including the decision of owning less than a 100% interest in the property) is in the best interests of the holders;
- (b) a legal opinion stating that the scheme will have a good and marketable legal and beneficial interest in the property;
- (c) the legal opinion on the arrangement shall include:
  - (i) [deleted]
  - (ii) [deleted]

- (iii) a legal opinion that the relevant contract and joint ownership arrangements are legal, valid, binding and enforceable under applicable law; and
- (iv) a statement that all necessary licences and consents required in the location where the subject property is located have been obtained by the scheme or the joint venture entity.
- (v) [deleted]

Notes: (1) [deleted]

- (2) *The liability of or assumed by a scheme shall not exceed the percentage of its interest in the joint ownership arrangement and there shall be no assumption of unlimited liability by the scheme.*
- (3) *Where disclosure to investors is required (whether in the offering document, circular or announcements to investors/holders, as the case may be, and except in respect of Non-qualified Minority-owned Properties), the management company shall disclose to investors:*
  - (a) *the ownership structure of the property interest and the material terms of the joint ownership arrangement, including the equity and profit sharing arrangements, any restrictions on divestment by the scheme of its interest (in whole or in part) in the property (including matters such as right of first refusal and lock-up periods) and the impact or implication of such restrictions on the divestment value of the interest in the property;*
  - (b) *the identity, background and ownership of the remaining owners in the property, transactional history of these owners with the scheme in relation to the property and their relationship with any connected persons to the scheme of the joint ownership arrangement;*
  - (c) *financial, remuneration, fee-sharing or other material arrangements that have been or will be entered into between the scheme and the other owners of that property or their associates;*
  - (d) *the management company's analysis of the advantages and disadvantages of investing in that property via this type of ownership structure;*
  - (e) *a summary of the contents of the legal opinion in relation to the property;*
  - (f) *management company's analysis of the financial impact of such acquisition arrangement;*

(g) *the source of funding of the property investment;*

(h) *where appropriate:*

(i) *the nature of restrictions on foreign ownership and the duration of them, and the impact of such restrictions on the operations and financial position of the scheme as a whole;*

(ii) *the relevant legal opinion on the application of the overseas rules and regulations that are prohibitive on a scheme to obtain full ownership in the property; and*

(iii) *the valuer's opinion and evaluation of the impact of such prohibitions on the value of the property; and*

(i) *any other information which may be material for holders to appraise the property investment.*

(4) *Despite the disclosure requirements in Note (3) above not applying to Non-qualified Minority-owned Properties, the management company should note and where applicable comply with the general disclosure requirements under Chapter 10.*

7.7B The scheme may invest in jointly owned properties in which the scheme will not have majority (more than 50%) ownership and control ("Minority-owned Properties").

Notes: (1) *For the avoidance of doubt, wholly or majority-owned car parks, units or floors in a building or complex would not be regarded as Minority-owned Properties.*

(2) *While it is generally expected that there is alignment between ownership and control, a substance over form approach would be adopted in considering whether the scheme has majority ownership and control in a property.*

(3) *The management company and the trustee shall, in respect of Non-qualified Minority-owned Properties, exercise due care and skill to comply with the general requirements under this Code unless such matters are not within their control.*

7.7C Where a Minority-owned Property can satisfy the following overarching principles and specific conditions (a "Qualified Minority-owned Property"), it may be excluded from the calculation of the Maximum Cap under 7.2C subject to the Commission's approval.

#### *Overarching principles*

(a) Investment in such property is in line with the scheme's investment strategy and objectives and in the best interests of the holders of the scheme.

- (b) There must be prominent disclosures and warnings in the relevant documents about the risks and potential impact on the scheme of the ownership structure in the property. For instance, proper disclosure has to be made about the characteristics or potential risks regarding the lack of majority ownership and control.
- (c) The scheme should have freedom to dispose of such investment subject to any customary pre-emptive rights and the holding period under 7.8 below.
- (d) At least 75% of the gross asset value of the underlying assets shall be invested in real estate that generates recurrent rental income at all times.
- (e) There must be proper safeguards or measures in place to increase the autonomy and influence of the management company over matters relating to the management of such property to the extent allowed under applicable laws or regulations.

*Note: For example, over key operating matters such as asset enhancement and capital expenditure plans.*

#### *Specific conditions*

- (f) The scheme shall have right to receive and obtain the financial and operational information of the jointly owned property.
- (g) Where applicable, the scheme shall have no less than proportionate board representation.
- (h) The joint ownership agreement, memorandum and articles of association and/or constitutive documents should include:
  - (i) a specified minimum percentage of annual distributable income will be distributed and the scheme should be entitled to receive at least its pro rata share of such distributions;
 

*Note: It is generally expected that the specified minimum percentage shall not be less than majority of the annual distributable income.*
  - (ii) veto rights over key matters, including:
    - (a) amendment of the joint ownership agreement, memorandum and articles of association or other constitutive documents;
    - (b) winding up or dissolution;
    - (c) cessation or change of the business;
    - (d) entering into any material transactions that are not in the ordinary and usual course of business or mergers;
    - (e) changes to dividend distribution policy;
    - (f) changes to equity capital structure;
    - (g) incurring of borrowings;
    - (h) creation of security over the assets;

- (i) issue of securities or financial derivative instruments; and
  - (j) major acquisition, transfer or disposal of the assets; and
- (iii) a dispute resolution mechanism between the scheme and the other joint owner(s).
- (i) There are good governance and adequate measures in place to avoid conflicts of interests as well as to ensure all transactions entered shall be at arm's length and on normal commercial terms. Where practicable, veto rights should be obtained.

*Notes: (1) The above overarching principles and specific conditions also apply to "tenants-in-common structures" and such other arrangements as may be acceptable to the Commission where proper and effective contractual arrangements have to be put in place.*

*(2) To provide transparency on the scheme's investments in Minority-owned Properties, the management company shall include at least the following information in respect of Qualified Minority-owned Properties in the annual and interim reports of the scheme:*

- (i) details of each Qualified Minority-owned Property, including its name, location, usage and (for annual report only) valuation;*
- (ii) the proportion of ownership interest or participating share held by the scheme and if different, the proportion of voting rights held (if applicable);*
- (iii) dividends received from the investment; and*
- (iv) where the size of the joint venture entity holding the Qualified Minority-owned Property or Properties is 5% or more, financial information for such entity including, but not necessary limited to, current and non-current assets, cash and cash equivalents, current and non-current liabilities, current financial liabilities, non-current financial liabilities, revenue, profit or loss from continuing operations, depreciation and amortisation, interest income, interest expense, income tax expense or income, post-tax profits or loss from discontinued operations, other comprehensive income and total comprehensive income.*

*(3) Whether investment in another listed real estate investment trust may be regarded as a Qualified Minority-owned Property would depend on its structure, underlying investments and whether its regulatory regime is comparable. In general, where the regulatory regime governing the target real estate investment trust is substantially similar to that in Hong Kong, such investments may be regarded as Qualified Minority-owned Properties and may not be required to strictly comply with all requirements in this Code. The Commission will review each case holistically and management companies are encouraged to consult the Commission at an early stage on any such proposal.*

## Holding Period

- 7.8 The scheme shall hold each property within the scheme (other than a Non-qualified Minority-owned Property) for a period of at least two years, unless the scheme has clearly communicated to its holders the rationale for disposal prior to this minimum holding period and its holders have given their consent to such sale by way of a special resolution at a general meeting.

*Notes: (1) In the case where a property is held through a special purpose vehicle or joint venture entity, this provision applies as well to the disposal of any interest in such special purpose vehicle or joint venture entity.*

*(2) In the case of investments in properties under the scheme's property developments undertaken pursuant to 7.2A, this provision applies as well to the holding and disposal of such properties for a period of at least two years from the completion of the properties. For the avoidance of doubt, 7.8 does not apply to the scheme's holding of Relevant Investments and other ancillary investments.*

## Limitations on Borrowing

- 7.9 A scheme may borrow (either directly or through its SPVs) for financing investment or operating purposes but aggregate borrowings shall not at any time exceed 50% of the total gross asset value of the scheme. The scheme may pledge its assets to secure such borrowings. The scheme shall disclose in its offering document its borrowing policy, including its maximum borrowing limit, and the basis for calculating such limit.

*Notes: (1) In the event that the limit is exceeded, holders and the Commission shall be informed of the magnitude of the breach, the cause of the breach, and the proposed method of rectification. Generally, where the borrowing limit is exceeded, solely as a result of a decline in property values or other reasons beyond the control of the management company, the scheme would not be required to dispose of assets to pay off part of the borrowings where such disposal is prejudicial to the interest of the holders. However, no further borrowing is permitted. For avoidance of doubt, refinancing existing borrowing for the purpose of repaying maturing borrowing would not generally be regarded as incurring further borrowing. The management company shall use its best endeavours to reduce the excess borrowings as soon as practicable. Furthermore, holders and the Commission shall be informed on a regular basis as to the progress of the rectification.*

*(2) All borrowings shall be conducted at arm's length and the terms shall be commensurate with those of transactions of similar size and nature.*

*(3) The borrowings of the scheme's group shall be aggregated for the purpose of calculating borrowing*

limits.

- (4) *The Commission has the power to require a scheme to aggregate particular liabilities for the purposes of calculating its aggregate borrowing limit. The management company should consult the Commission if it is in any doubt as to the application of the requirements.*

7.10 The scheme shall disclose at least the following data on its borrowings and liabilities in its semi-annual report, annual report and such circulars pertaining to either a breach in borrowing limits or a real estate transaction:

- (a) total borrowings as a percentage of gross assets; and
- (b) gross liabilities as a percentage of gross assets.

*Note: Such data shall reflect the aggregate borrowings and liabilities of the scheme's group.*

### **Name of Scheme**

7.11 If the name of the scheme indicates a particular type of real estate, the scheme shall invest at least 70% of its non-cash assets in such type of real estate.

### **Dividend Policy**

7.12 The scheme shall distribute to unitholders as dividends each year an amount not less than 90% of its audited annual net income after tax.

*Notes: (1) The trustee shall determine if any (i) revaluation surplus credited to income, or (ii) gains on disposal of real estate, shall form part of net income for distribution to holders.*

*(2) Where the scheme holds real estate via special purpose vehicles, each special purpose vehicle shall distribute to the scheme all of its income as permitted by the laws and regulations of the relevant jurisdictions.*

*(3) All distributions received and receivable from Minority-owned Properties shall form part of net income for distribution to holders pursuant to the scheme's distribution policy."*

14. Replace Chapter 8 of the REIT Code with the following:-

## **“Chapter 8: Transactions with Connected Persons**

### **Connected Persons**

8.1 Connected persons to the scheme include:

- (a) the management company of the scheme;
- (b) [deleted]



- (c) the trustee of the scheme;
- (d) a substantial holder;

*Notes: (1) A holder is a substantial holder if it is entitled to exercise, or control the exercise of, 10% or more of the voting power at any general meeting of the scheme or any of its subsidiaries.*

*(2) [Deleted]*

- (e) a director or chief executive of (i) the management company of the scheme; (ii) the trustee of the scheme; or (iii) any subsidiaries of the scheme;

*Notes: (1) "Chief executive" is a person who either alone or together with one or more other persons is or will be responsible under the immediate authority of the board of directors for the conduct of the business of the relevant entity.*

*(2) "Director" of the management company or any of subsidiaries of the scheme also includes a person who was a director of the management company or any subsidiaries of the scheme in the last 12 months.*

- (f) an associate of the persons or entities in 8.1(a), 8.1(c), 8.1(d) or 8.1(e);
- (g) a "connected subsidiary" as defined in Chapter 14A of the Listing Rules (modified as appropriate pursuant to 2.26); and
- (h) a person deemed to be connected by the Commission.

*Notes: (1) The Commission has the power to deem any person to be a connected person.*

*(2) In general, a "deemed connected person" under Chapter 14A of the Listing Rules (modified as appropriate pursuant to 2.26) would be deemed as a connected person under this paragraph.*

8.1A In determining whether a person is a connected person of the scheme, reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time.

*Note: In general, persons who will not normally be treated as connected persons under the Listing Rules will not be treated as connected persons of the scheme.*

- 8.2 The following shall be disclosed in the scheme's offering document, semi-annual reports, annual reports and circulars in relation to connected party transactions:
- (a) beneficial interests, and any changes thereof, of the connected persons in the scheme; and
  - (b) any potential conflicts of interests involving the connected persons and the measures implemented to address such conflicts.
- 8.3 Where any of the connected persons as described in 8.1 has an interest in a business ("related business") which competes or is likely to compete, either directly or indirectly, with the scheme's activities, the offering document shall prominently disclose the following:
- (a) a description of the related business of the connected person and its management, to enable investors to assess the nature, scope and size of such business, with an explanation as to how such business may compete with the scheme;
  - (b) where applicable, a statement from the relevant connected person that it is capable of performing, and shall perform, its duty in relation to the scheme independently of its related business and in the best interests of the scheme and its holders; and
  - (c) a statement as to whether the scheme may acquire any of the related business or assets of the connected person in the future, together with the time frame during which such acquisition will take place or no such acquisition is intended. If there is any change in such information after the scheme is authorised, the management company shall announce it by way of an announcement as soon as the management company or the trustee becomes aware of such change.
- Note: Where the management company manages any schemes other than the scheme, the management company shall prominently disclose in the offering document and in the next published semi-annual or annual report, the same matters as set out in (a), (b) and (c) as if each of the other schemes were a related business of the management company.*
- 8.4 Where any of the connected persons as described in 8.1 has for the purpose of the establishment of the scheme, agreed to sell real estate to the scheme, the offering document shall prominently disclose the following:
- (a) a valuation report of the real estate that the connected person has agreed to sell; and
  - (b) the price to be paid by the scheme for the subject real estate and other terms of the transaction.

## Connected Party Transactions

- 8.5 For the purpose of this Code, a connected party transaction is any transaction between the scheme's group and a connected person or any transaction falling within 8.6, and includes also those transactions that would constitute connected transactions for listed companies contemplated under 8.7A of this Code.
- 8.6 If the management company manages more than one scheme and a transaction involves two or more of the schemes managed by the management company, transactions between these schemes shall be deemed connected party transactions for each of the schemes involved in the transactions.
- 8.7 All transactions carried out by or on behalf of the scheme shall be:
- (a) carried out at arm's length and on normal commercial terms;
- Note: The management company shall ensure that all transactions are carried out in an open and transparent manner. Where circumstances permit, transactions shall be carried out by way of open tender or competitive bidding by auction. In particular, connected party transactions in the nature of services provided relating to the real estate of the scheme in the ordinary and usual course of estate management, such as renovation and maintenance work, shall be contracted on normal commercial terms subject to the prior approval of the trustee.*
- (b) valued, in relation to a property transaction, by an independent valuer that meets the requirements of Chapter 6;
  - (c) consistent with the investment objectives and strategy of the scheme;
  - (d) on terms that are fair and reasonable and in the best interests of holders; and
  - (e) properly disclosed to holders.
- 8.7A Save as otherwise provided in this Code or the guidelines issued by the Commission from time to time, all connected party transactions will be regulated with reference to requirements applicable to listed companies under Chapter 14A of the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable, including but not limited to:
- (a) whether a transaction is a connected party transaction;
  - (b) whether certain connected party transactions are continuing connected party transactions;
  - (c) whether an exemption is available for the type of connected party transaction and the conditions for any such exemption;

- (d) the holders' approval, disclosure, reporting and other requirements for a connected party transaction;
- (e) the content requirements applicable to the announcements, circulars and annual reports to be issued in relation to connected party transactions; and
- (f) where a transaction is a continuing connected party transaction, the annual review and other additional requirements applicable.

A scheme entering into any connected party transaction shall comply with all applicable requirements. The management company should consult the Commission at an early stage if it is in any doubt as to the application of the requirements.

- 8.7B The Commission has the power to specify that an exemption will not apply to a particular transaction.
- 8.7C The Commission may waive any requirements under this Chapter on a case-by-case basis, subject to any conditions that it may impose.
- 8.7D Announcements and circulars relating to connected party transactions of the scheme must set out the trustee's view on the transaction, including the following:
  - (a) whether the trustee has any objection to the entering into of the transaction;
  - (b) whether the transaction is consistent with the scheme's investment policy and in compliance with this Code and the scheme's constitutive documents;
  - (c) whether the transaction is on normal commercial terms, fair and reasonable and in the interests of the holders as a whole; and
  - (d) where holders' approval of the transaction is not being sought, the trustee's confirmation that such approval is not required under this Code or the scheme's constitutive documents.

*Note: Under 4.2(h) of this Code, the trustee shall take all reasonable care to ensure that connected party transactions are carried out in accordance with this Chapter.*

- 8.7E Services provided by the management company and the trustee of the scheme as contemplated under the constitutive documents shall not be treated as connected party transactions but particulars of such services (except where any services transaction has a value of not more than HK\$1 million), such as terms and remuneration, shall be disclosed in the next published interim or annual report.
- 8.7F Where holders' approval is required, a connected party transaction may be approved by an ordinary resolution passed in a general meeting in accordance with 9.9(g). Any holder who has a material interest in the transaction tabled for approval and that interest is different from that of all other holders, shall abstain from voting at the general meeting.

- 8.8 If cash forming part of the scheme's assets is deposited with the trustee, the management company, or with any other connected persons (being an institution licensed to accept deposits), interest shall be paid on the deposit at a rate not lower than the prevailing commercial rate for a deposit of that size and term. The same principle applies to the scheme's borrowings from the trustee, the management company, or any other connected persons (being an institution licensed to lend money).
- 8.9 [Deleted]
- 8.10 [Deleted]
- 8.11 [Deleted]
- 8.12 Neither the management company, its delegates nor any other connected persons to the scheme may retain cash or other rebates from a property agent in consideration of referring transactions in scheme property to the property agent. All such amounts received shall be paid to the trustee for the benefit of the scheme.
- 8.13 Except for the management company in discharging their functions under Chapter 5, the scheme shall not engage connected persons as property agents for rendering services to the scheme, including advisory or agency services in property transactions.
- 8.14 [Deleted]
- 8.15 [Deleted]
- 8.16 [Deleted]
- 8.17 The following transactions with the trustee's banking group will not generally be regarded as a connected party transaction of the scheme:
- (a) where it provides services in its ordinary course of business to a third party and conducts "agency transactions" with the scheme's group; and
  - (b) where it acquires, purchases, subscribes, sells or disposes of units of the scheme on terms which are the same as available to the public or other unitholders of the scheme as a whole.
- Notes: (1) For example, where a member of the trustee's banking group acts for a third party as nominee, custodian, agent or trustee or in the capacity of the manager or trustee of another collective investment scheme and the transaction is not a proprietary transaction of the trustee's banking group.*
- (2) In general, the "trustee's banking group" should not include the trustee and the trustee's proprietary subsidiaries (being the subsidiaries of the trustee but excluding those subsidiaries formed in its capacity as the trustee of the scheme).*

- (3) *The Commission may provide further details on the types of transactions which may be covered under this paragraph. The management company should consult the Commission at an early stage where it seeks to exclude any transactions as connected party transactions under this paragraph.*

8.18 Subject to compliance with 8.7 and provided that there are (i) sufficient safeguards in place to ensure the independence of the trustee from the trustee's banking group; (ii) adequate internal controls in place to ensure the transactions are monitored and undertaken on terms in compliance with this Code; and (iii) proper disclosure to investors, the following transactions with the trustee's banking group will be exempted from strict compliance with the announcement and unitholders' approval requirements under this Chapter, and the disclosure and reporting requirements under this Chapter with respect to such transactions may be modified:

- (a) ordinary banking and financial services;
- (b) corporate finance transactions; and
- (c) leasing or licensing transactions.

*Notes: (1) The above exemption will only apply to transactions with members of the trustee's banking group that are connected persons of the scheme solely because of their relationship with the trustee. The exemption in relation to 8.18(c) may also apply to leasing or licensing transactions with a director or chief executive of the trustee.*

- (2) *It is generally expected that safeguards for the trustee's independence should include: (i) each of the trustee and the trustee's banking group acting independently of one another in their dealings with the scheme; (ii) the trustee not being involved in the making of any decisions on behalf of the scheme to enter into any transactions with the connected persons of the trustee; (iii) the management company being satisfied with the trustee's internal controls and compliance procedures, such as implementing Chinese walls, to ensure the operational independence of the trustee from the trustee's banking group; and (iv) there are provisions in the constitutive documents of the scheme that require the trustee to take action or commence proceedings on behalf of the scheme, as the management company deems necessary to protect the interest of unitholders, against the connected persons of the trustee or the trustee's banking group.*

- (3) *It is generally expected that internal controls should include: (i) the management company implementing internal controls and compliance procedures to ensure that the transactions between the scheme and the trustee's banking group are monitored and undertaken on terms in compliance with this*

*Code; (ii) review by the scheme's auditor, audit committee and independent non-executive directors of the management company; and (iii) (where applicable) independent valuation for each of the leasing or licensing transactions except where they are conducted on standard or published rates.*

- (4) *The Commission may impose other conditions and requirements including an annual transaction cap where appropriate. Proper disclosure should also be made in the offering document, circular or announcement, as the case may be, to inform investors of the details of any such exemption and the relevant conditions and requirements. The management company should consult the Commission at an early stage."*

15. Add the following paragraph as the new 9.8A of the REIT Code after 9.8 of the REIT Code:-

"9.8A Holders shall have the rights to hold and register units of the scheme in their own names."

16. Replace Chapter 10 of the REIT Code with the following:-

## **Chapter 10: Reporting and Documentation**

10.1 The management shall keep holders informed of any material information pertaining to the scheme in a timely and transparent manner. The reporting requirements set out in this Code shall not prejudice or affect the application of any listing rules of an exchange on which the scheme is listed, in relation to dissemination of information to investors mandated by such rules.

10.2 All announcements, circulars and notices shall be submitted to the Commission for prior approval. Upon such approval, they shall be disseminated to holders as soon as reasonably practicable.

*Notes: (1) Announcements shall be published on the Exchange's website in accordance with the Listing Rules.*

*(2) The Commission may from time to time issue guidance on the types of announcements that will not be required to be submitted for pre-vetting before their publication.*

### **Announcements**

10.3 The management company shall inform holders as soon as reasonably practicable of any information or transaction concerning the scheme which:

- (a) is necessary to enable holders to appraise the position of the scheme; or
- (b) is necessary to avoid a false market in the units of the scheme; or

- (c) might be reasonably expected to materially affect market activity in the scheme or affect the price of the units of the scheme, or
- (d) requires holders' approval.

*Note: In considering whether an announcement has to be made under this 10.3, reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) and the Guidelines on Disclosure of Inside Information issued by the Commission to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time. Accordingly, it is generally expected that the transactions and financing arrangements contemplated under Chapter 13 of the Listing Rules, such as pledging of units by controlling unitholder or breach of loan agreement by the scheme, should be announced.*

10.4 The following are examples of information that would require disclosure under 10.3. These examples do not constitute a complete list:

- (a) a material change in the scheme's financial forecast;
- (b) a valuation of the real estate of the scheme, conducted upon request by the trustee under 4.2(d);
- (c) issuance of semi-annual or annual report;
- (d) [deleted]
- (e) [deleted]
- (f) [deleted]
- (g) a proposed disposal of real estate within a period of less than two years since acquisition;
- (ga) any proposed acquisition or disposal of real estate (including any Minority-owned Property) (unless the size of which is less than 1% of the gross asset value of the scheme);
- (h) a proposed change in the management company of the scheme;
- (i) a proposed change in the general character or nature of the scheme, such as the investment objective and/or policy of the scheme;
- (j) a recommendation or declaration or cancellation of a dividend or distribution;
- (k) issuance of new units (other than units issued pursuant to a dividend reinvestment plan);
- (l) a copy of a document containing market sensitive information or



any financial documents that the scheme lodges with an overseas stock exchange (where applicable) or other regulator which is available to the public;

- (m) giving or receiving a notice of intention to undertake a merger or takeover;
- (n) a merger or takeover;
- (o) a breach of the borrowing limit;
- (p) material litigation;
- (q) a significant dispute or disputes with contractors or with any parties;
- (r) a valuation of the scheme's real estate that has a material impact on the scheme's financial position or performance;
- (s) a major change in accounting policy adopted by the scheme;
- (t) a proposal to change the scheme's auditor;
- (u) a proposal to change the scheme's trustee;
- (v) a proposal to alter the level or structure of fees and charges only if such alteration requires holders' approval;
- (w) a decision or recommendation to request de-authorisation or delisting of the scheme;
- (x) a proposal to terminate the scheme;
- (y) a proposal to vary the intention stated regarding acquisition of properties within the first 12 months of listing (see Note (3) to 7.1); or
- (z) a scheme enters into a contract to invest in Property Development and Related Activities pursuant to 7.2A.

10.5 The content of an announcement should contain sufficient quantitative information to enable investors to fully understand the nature and ascertain the implications of the announcement. Information disclosed in the announcement shall be factual, clear, succinct and unbiased.

- Notes:*
- (1) *Reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time.*
  - (2) *In view of the oversight role of the trustee, it is generally expected that an announcement of transactional or significant matters should set out the trustee's view on the relevant*

*transaction or subject matter, including (where applicable) (i) whether it has any objection to the relevant transaction or matter; (ii) whether the transaction is consistent with the scheme's investment policy and in compliance with this Code and the scheme's constitutive documents; and (iii) where holders' approval is not being sought, the trustee's confirmation that such approval is not required under this Code or the scheme's constitutive documents.*

- 10.5A Announcements shall be issued in respect of connected party transactions and notifiable transactions. Such announcements shall comply with the contents requirements in accordance with Chapter 8 and 10.10B where applicable.

### **Circulars**

- 10.6 A circular shall be issued in respect of

- (a) transactions that require, or in the reasonable opinion of the trustee or the management company require, holders' approval; and
- (b) material information in relation to the scheme.

- 10.7 The following are examples of circumstances in or in relation to which a circular shall be issued. These examples do not constitute a complete list:

- (a) transactions that require, or that in the reasonable opinion of the trustee or the management company require, holders' approval at a general meeting, including a proposal to:
  - (i) issue new units (other than units issued pursuant to a dividend reinvestment plan) that requires holders' approval under Chapter 12;
  - (ii) enter into a merger or takeover;
  - (iii) enter into a disposal of real estate within a period of less than two years since acquisition;
  - (iv) change the management company of the scheme;
  - (v) change the general character or nature of the scheme, such as the investment objective and/or policy of the scheme;
  - (vi) alter the level or structure of fees and charges only if such alteration requires holders' approval; and
  - (vii) [deleted]
  - (viii) request de-authorisation or delisting of the scheme.
- (b) material information in relation to the scheme includes, but is not limited to:
  - (i) [deleted]
  - (ii) [deleted]
  - (iii) a material change in the scheme's financial forecast; and
  - (iv) [deleted]
  - (v) a valuation of the real estate of the scheme, conducted upon request by the trustee under 4.2(d).

10.7A A circular shall be issued in respect of a connected party transaction or a notifiable transaction in accordance with Chapter 8 or 10.10B (as the case may be) where applicable.

10.8 In general, a circular shall be sent within 15 business days to holders after the issuance of an announcement. Where a general meeting is to be held, the relevant circular shall be sent to holders at the same time as or before the scheme gives the relevant notice of general meeting.

*Note: In determining the timing within which a circular shall be despatched to holders, reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time. The management company should refer to the relevant requirements under the Listing Rules, for example, in cases where a delay in distribution of the circular by the date previously announced is expected and where it is aware of any material information relating to the transaction after the circular is issued.*

10.9 The following guidance shall be borne in mind in preparing circulars that are required by the Code:

- (a) the primary objective of the circular is to enable holders to properly and in an informed manner examine the reasonableness and fairness of the proposed transaction. The balance of advantage or disadvantage to the scheme shall therefore be readily apparent to enable a holder to reach his own conclusions on the proposal;
- (b) the circular shall provide sufficient information to holders to evaluate the proposal; and
- (c) where applicable, provide a fair and objective valuation of the relevant real estate of the scheme.

*Note: Reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time.*

10.10 The circular shall where applicable, at a minimum, contain the full particulars of the transaction or matter disclosed in the announcement to which the circular pertain. The items listed below are not meant to be exhaustive. The Commission may require additional information to be disclosed:

- (a) the date of the transaction and the parties thereto;
- (b) a general description of the nature of the real estate concerned (if any);
- (c) the total consideration and the terms and composition thereof;

- (d) the financing arrangement and justification for such arrangement;
- (e) a description of the impact to the financial position and the capital structure of the scheme in relation to the transactions contemplated in the circular;
- (f) in the case of a new issue, the proposed use of proceeds from the new issue and any other arrangements related to the new issue;
- (g) [deleted]
- (h) [deleted]
- (i) where the transaction involves a special purpose vehicle, the particulars of the special purpose vehicle, a general description of its activities, and an accountants' report prepared in accordance with 7.6;
- (j) the date and the location of any general meeting;
- (k) where applicable, an independent valuation in respect of the real estate concerned (if any) prepared in accordance with Chapter 6;
- (l) if the matter pertains to changes to a financial forecast, information set out in Appendix F;
- (m) a statement by the management company of any material adverse change in the financial or trading position of the scheme since the date to which its latest published audited accounts have been made up, or an appropriate negative statement;
- (n) where appropriate, the nature of any resolutions required to approve the transaction and a statement that holders who have a material interest, whether direct or indirect, in the transaction and such interest is different from the interests of all other holders, will not vote in the general meeting;
- (o) an opinion by the trustee or the management company (insofar as it is not conflicted out by virtue of its interest in the transaction) as to whether the transaction is fair and reasonable so far as the holders of the scheme are concerned and such opinion shall set out the reasons for, the key assumptions made and the factors taken into consideration in, forming that opinion;
- (p) [deleted]
- (q) where a transaction is not a connected party transaction, an opinion from an independent expert may be sought by the trustee or the management company after having regard to the interests of the holders and the nature of the transactions e.g. the scheme undergoes restructuring or mergers or other transactions that have a material impact on its financial or commercial interest;

- (r) where the circular includes a statement purporting to be made by an expert, a declaration by such expert of his interest in the scheme;

*Note: The expression "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.*

- (s) prominent warning statement:

**"THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. IF IN DOUBT, PLEASE SEEK PROFESSIONAL ADVICE."**

- (t) responsibility statement:

"The management company and its directors collectively and individually accept full responsibility for the accuracy of the information contained in this document and confirm, having made all reasonable enquiries, that to the best of their knowledge and belief there are no other facts the omission of which would make any statement herein misleading."

- (u) disclaimer statement:

"The Commission takes no responsibility for the contents of this circular, makes no representation as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this circular."

*Note: The above requirements in 10.10 are not applicable to circulars issued in respect of connected party transactions or notifiable transactions in compliance with Chapter 8 or 10.10B (as the case may be) save for sub-paragraphs (d), (e), (f), (j), (k), (l), (n), (o), (q), (s), (t) and (u) above.*

### **Notifiable Transactions**

- 10.10A A scheme considering to enter into a notifiable transaction must at an early stage consider the requirements set out in 10.10A to 10.10D. The management company should consult the Commission at an early stage if it is in any doubt as to the application of the requirements.
- 10.10B Notifiable transactions entered into by a scheme will be regulated with reference to requirements applicable to listed companies under Chapter 14 of the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable, including but not limited to:
- (a) definition of "transaction";
  - (b) classification of transactions;
  - (c) notification, publication, shareholders' approval and other

requirements;

- (d) whether any exemption is available; and
- (e) content requirements applicable to the announcements and circulars to be issued in relation to notifiable transactions.

A scheme entering into a notifiable transaction shall comply with all applicable requirements.

10.10C The Commission has the power to specify that an exemption will not apply to a particular transaction.

10.10D The Commission may waive any requirements under 10.10A in individual cases, subject to any conditions that it may impose.

### **Notice**

10.11 Holders shall be informed of the results of any holders' voting at a general meeting by way of a notice.

### **Reporting Requirements**

#### *Reporting to Holders*

10.12 At least two reports shall be published in respect of each financial year. Annual reports and accounts shall be published and distributed to holders within four months of the end of the scheme's financial year and semi-annual reports shall be published and distributed to holders within three months of the end of the period they cover. The contents of the annual reports and semi-annual reports shall comply with the requirements set out in Appendix C.

#### *Reporting to the Commission*

10.13 Subsequent to the authorisation of the scheme, all financial reports produced by or for the scheme, its management company and trustee shall be filed with the Commission within the time frame specified in 10.12.

10.14 The management company shall supply to the Commission, upon request, all information relevant to the scheme's financial reports and accounts.

10.15 The management company shall notify the Commission as soon as practicable of any change to the data in the application form.

### **Advertising**

10.16 Advertisements and other invitations to invest in a scheme shall be submitted for authorisation prior to their issue or publication in Hong Kong. The general principle is that no advertisement can be made that is false, biased, misleading or deceptive. Any advertisement or announcement which concerns the trustee shall be accompanied by its written consent. Authorisation may be varied or withdrawn by the Commission as it deems

fit.

- 10.17 If a scheme is described as having been authorised by the Commission, it shall be stated that authorisation does not imply official approval or recommendation.
- 10.18 Advertisements and marketing materials shall have proper risk warning statements, including a reference to the offering document of the scheme for a detailed discussion of the risk factors of the scheme.”

17. Replace 11.4 of the REIT Code with the following:-

“11.4 A circular shall be served on holders of all the relevant schemes within 15 business days of the announcement. Where a general meeting is to be held, the relevant circular shall be sent to holders at the same time as or before the scheme gives the relevant notice of general meeting. The circular shall at least contain information including the following and that required by Chapter 10:

- (a) the rationale for the termination of the scheme or merger of schemes;
- (b) the effective date of the termination or merger;
- (c) the manner in which the assets held by the scheme(s) are to be dealt with;
- (d) the procedures and timing for the distribution of the proceeds (in the case of termination) or issuance or exchange of new units (in the case of a merger) arising therefrom;
- (e) a valuation report for each relevant scheme prepared in accordance with Chapter 6;

*Note: The date of the valuation report shall be a date which is not more than three months before the date of the circular.*

- (f) the alternatives available to investors (including, if possible, a right to switch without charge into another authorised scheme);
- (g) the estimated costs of the termination or merger and who is expected to bear these costs; and
- (h) such other material information that the holders should be informed of.”

18. Replace the notes to 12.2 of the REIT Code with the following:-

*“Notes: (1) New units may be issued to independent third parties in exchange for real estate under this 12.2.*

*(2) Save as otherwise provided in 12.6, where units to be issued under this 12.2 are issued*

*(a) to a connected person; or*

- (b) *in relation to a connected party transaction that requires holders' approval under Chapter 8;*

*then notwithstanding that these new units may fall within the 20% threshold, the issue of units in the case of (a), or the transaction in the case of (b), shall require the approval of holders by way of ordinary resolution at a general meeting. An announcement, a circular and a notice shall be issued in accordance with Chapter 10. Units issued as a result of such approval shall be included in the calculation of 20% for all other purposes under this 12.2.*

- (3) *Where unitholders' approval is exempted under Chapter 8 for issuance of units to connected persons, such issuance will also be exempted from strict compliance with unitholders' approval requirement under Note (2) above."*

19. Add the following paragraph as the new 12.6 of the REIT Code after 12.5 of the REIT Code:-

"12.6 Payment of the management company's remuneration by way of units in accordance with the terms of the scheme's constitutive documents by a scheme within the 20% threshold under 12.2 will be exempted from strict compliance with unitholders' approval requirement under Note (2) to 12.2 provided that the aggregate number of units issued for such purpose in respect of a financial year does not exceed 3% (or such other percentage as may be considered appropriate by the Commission) of the total number of units outstanding as at the last day of the immediately preceding financial year plus the number of units (if any) issued in the relevant financial year for the purposes of financing any acquisition of real estate by the scheme.

*Note: Proper disclosure should be made in the offering document, circular or announcement, as the case may be, to inform investors of the details of any such exemption."*

20. Replace paragraph 10 of Practice Note on Overseas Investments by SFC- authorised REITs in the REIT Code with the following:-

"10. At a minimum, a management company that proposes to invest overseas must be able to demonstrate that it has the requisite competence, experience and resources to analyse the issues and risks involved in overseas investment, to develop, implement and keep up-to-date a set of effective internal controls and risk management system to deal with existing and foreseeable risks involved in overseas investments, and to inform investors in a clear, concise and timely manner of the investment profile and risks of a scheme."

21. Replace paragraph 12 of Practice Note on Overseas Investments by SFC- authorised REITs in the REIT Code with the following:-

"12. The management company shall have a comprehensive compliance plan that is appropriately devised to ensure that risks involved in overseas investments, such as legal, regulatory, fiscal and operational risks etc. are adequately mitigated and proper checks and balances are in place to



monitor the activities performed in relation to a scheme. The management company shall also have a contingency plan that enables it to proactively respond to any exigencies that may arise in the course of its investment and management of overseas properties, its divestment of such properties and any matters arising in the course of a public offering of any units in the scheme.”

22. Replace paragraphs B2(e) and B2(q) of Appendix B to the REIT Code with the following:-

- “(e) the nature and risks of making property investments including those pursuant to 7.2A, 7.7A and 7.7B in each of the relevant locations, including:
- (i) demographics;
  - (ii) state of the economy, economic risks and foreign exchange risk;
  - (iii) political risks;
  - (iv) legal risks and tax considerations;
  - (v) policies that affect property investments and property sales;
  - (vi) overview of the property market;
  - (vii) analysis of the specific property sector and the competitive dynamics in the rental market;
  - (viii) operational requirement; and
  - (ix) rules and regulations governing property ownership and tenancy matters;
- (q) a valuation report prepared by the Principal Valuer in accordance with Chapter 6 with respect to all the scheme’s interest in real estate (including all Minority-owned Properties), including particulars of each property owned by the scheme or contracted for purchase by the scheme; and

*Note: If the scheme has obtained more than one valuation report regarding any of its real estate within six months before the issue of the offering document, then all other such reports shall be included.”*

23. Replace paragraphs B5 and B6 of Appendix B to the REIT Code with the following:-

- “**B5** The names of the substantial holders and the number of units held and deemed to be held by each of them; or the identity of investors each of whom has agreed to subscribe to 10% or more of the scheme, and the number of units each of them has agreed to subscribe for.
- B6** The minimum period that each of the substantial holders intends to hold the units after the scheme becomes authorised.”

24. Replace paragraph B24 of Appendix B to the REIT Code with the following:-

- “**B24** A list of constitutive documents, and the scheme’s website address or an address in Hong Kong where they can be inspected free of charge or purchased at a reasonable price.”

25. Replace the section headed “Contents of Financial Reports” in Appendix C to the REIT Code with the following:-

### **“Contents of Financial Reports**

The annual report shall contain, at a minimum, the following:

1. Manager’s discussion and analysis of financial conditions and results of operations, explanation of any potential conflicts of interest and the manner in which they are dealt with; and discussions on the strategy, plans and operations for the coming year;
2. Summary of all real estate sales and purchases as well as connected party transaction(s) entered into during the relevant period;
- 2A. Summary of all investments in Property Development and Related Activities pursuant to 7.2A and summary of all investments in Relevant Investments pursuant to 7.2B;
- 2B. The extent (in percentage terms) to which each of the Property Development Cap and the Maximum Cap has been applied pursuant to 7.2A and 7.2C respectively;
- 2C. Summary of all real estate other than Non-qualified Minority-owned Properties, including all investments in all Qualified Minority-owned Properties pursuant to 7.7C ;
3. Valuation report as described in Chapter 6 or a summary form of such valuation report;
4. Trustee’s report as required under 4.2;
5. A report of the names of the top five real estate agents and contractors engaged by the scheme during the financial year, based on the value of commissions paid or the value of the service contracts. Such report shall include a breakdown of the consideration attributable to each of the agents or contractors by way of figures and percentages, and a description of the services/works contracted for;
6. Holdings of each of the connected persons to the scheme;
7. Number of new units issued;
8. A set of financial statements comprising:
  - (a) balance sheet;
  - (b) income statement;
  - (c) cash flow statement;
  - (d) distribution statement;
  - (e) statement of movements in capital account;
  - (f) comparative figures for the statements referred to in (a) to (e) above inclusive for the corresponding previous period;
  - (g) accounting policies and explanatory notes;
  - (h) auditor’s report; and
  - (i) performance table.

*Note: Financial statements of a REIT are required to conform with either:*

- (a) accounting standards approved by the Hong Kong Institute of Certified Public Accountants and laid down in the Hong Kong Financial Reporting Standards issued from time to time by that Institute; or*
- (b) International Financial Reporting Standards (“IFRS”) as promulgated from time to time by the International Accounting Standards Board. Schemes which adopt IFRS, are required:*
  - (i) to disclose and explain differences of accounting practice between IFRS and generally accepted accounting principles in Hong Kong, which have a significant effect on their financial statements; and*
  - (ii) to compile a statement of the financial effect of any such material differences.*

The semi-annual report shall contain, at a minimum, the following:

1. Manager’s discussion and analysis of financial conditions and results of operations, and discussions on the outlook for the coming half-year;
  2. List of real estate held by the scheme under 2C above;
  3. Summary of real estate sales and purchase, as well as connected party transactions during the interim period;
  - 3A. Summary of the items discloseable for annual reports under 2A above during the interim period;
  - 3B. The extent (in percentage terms) to which each of the Property Development Cap and the Maximum Cap has been applied pursuant to 7.2A and 7.2C respectively;
  4. Holdings of each of the connected persons to the scheme;
  5. Number of new units issued; and
  6. Performance table.”
26. Replace paragraph 2 of the section headed “Notes to the Accounts” in Appendix C to the REIT Code with the following:-
- “2. Transactions with Connected Persons
- Disclosure should be made in accordance with the requirements set out in Chapter 8.”
27. Replace paragraph 5(d) of Appendix D to the REIT Code with the following:-
- “(d) A statement to requiring a holder to promptly disclose to the trustee when the holder becomes a substantial holder.”

28. Replace paragraph 13 of Appendix D to the REIT Code with the following:-

“13. Transactions with Connected Persons

The following shall be stated:

- (a) Cash forming part of the scheme's assets may be deposited with the trustee, the management company or with any other connected persons (being an institution licensed to accept deposits) so long as that institution pays interest on the deposit at a rate not lower than the prevailing commercial rate for a deposit of that size and term.
- (b) Money can be borrowed from the trustee, the management company or any other connected persons (being an institution licensed to lend money) so long as that institution charges interest at no higher rate, and any fee for arranging or terminating the loan is of no greater amount than the prevailing commercial rate for a loan of the size and nature of the loan in question negotiated at arm's length.
- (c) All transactions carried out by or on behalf of the scheme shall be:
  - (i) carried out at arm's length and on normal commercial terms;
  - (ii) valued, in relation to a property transaction, by an independent valuer that meets the requirements of Chapter 6;
  - (iii) consistent with the investment objectives and strategy of the scheme; and
  - (iv) on terms that are fair and reasonable and in the best interests of holders.
- (d) Any transactions between the scheme and any of its connected persons shall be carried out in accordance with the requirements set out in Chapter 8.”

4 December 2020

Christina CHOI  
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