

22 May 2015

Mutual Recognition of Funds (MRF) between the Mainland and Hong Kong

1. The Securities and Futures Commission (SFC) and the China Securities Regulatory Commission (CSRC) signed a Memorandum of Regulatory Cooperation concerning Mutual Recognition of Funds between the Mainland and Hong Kong (Memorandum) on 22 May 2015. The Memorandum provides a framework for mutual recognition of publicly offered funds between the CSRC and the SFC so that these recognised funds could be offered to the public in both markets. This initiative represents a significant milestone towards strengthening regulatory ties and cooperation between the CSRC and the SFC.

General principles

2. MRF operates on the principles that, in respect of a fund that has been authorised by or registered with the relevant authority in one jurisdiction (Home Jurisdiction) and is seeking or has received authorisation or approval to be offered to the public in the other jurisdiction (Host Jurisdiction):
 - a) the fund should meet the eligibility requirements released by the relevant authority in the Host Jurisdiction from time to time;
 - b) the fund should remain authorised by or registered with the relevant regulator in the Home Jurisdiction and is allowed to be marketed to the public within the Home Jurisdiction;
 - c) the fund should generally operate and be managed in accordance with the relevant laws and regulations in the Home Jurisdiction and its constitutive documents;
 - d) the sale and distribution of the fund in the Host Jurisdiction shall comply with the applicable laws and regulations in the Host Jurisdiction;
 - e) the fund will comply with the additional rules released by the relevant authority in the Host Jurisdiction governing the authorisation or registration, post-authorization and ongoing compliance, and the sale and distribution of the fund in the Host Jurisdiction; and
 - f) the management firm of the fund shall ensure holders of both the Home Jurisdiction and Host Jurisdiction receive fair and the same treatment, including in respect of investor protection, exercise of rights, compensation and disclosure of information.
3. In general, funds that are seeking SFC authorization or have received SFC authorization for offering to the Hong Kong public pursuant to section 104 of the Securities and Futures Ordinance (SFO) have to comply with the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (SFC Handbook) and the circulars, guidelines and other requirements as may be issued by the SFC from time to time. On the basis of



the principles set out above, if a Mainland fund complies with the relevant Mainland laws and regulations, it is generally deemed to have complied in substance with the relevant SFC requirements and will enjoy a streamlined process for the purpose of authorization for offering to Hong Kong public.

4. There are, however, areas where regulations and market practices in the Mainland and Hong Kong differ. As well, certain Mainland regulations and market practices may not be catered for a fund's offering in Hong Kong. To ensure proper investor protection and consistency with existing Hong Kong SFC-authorized funds, this Circular sets out the additional requirements with which a Mainland Fund has to comply when applying for SFC authorization for offering to the Hong Kong public under the MRF, as well as other requirements with which a Recognised Mainland Fund (see definition in paragraph 5 below) has to observe after obtaining SFC authorization. The CSRC will issue separate rules regarding the approval of eligible Hong Kong funds for offering to the public in the Mainland.
5. Hereafter, Mainland funds that are eligible for SFC authorization or have received SFC authorization under the MRF are denoted as Recognised Mainland Funds.

Eligibility requirements and types of eligible funds

6. At the initial stage, only general equity funds, bond funds, mixed funds, unlisted index funds and physical index-tracking exchange traded funds would be eligible under the MRF. The SFC and the CSRC may consider extending the MRF to include other types of products in future.
7. In addition, Mainland funds applying for SFC authorization must meet the following eligibility requirements:
 - a) the fund is established and managed and operates in accordance with Mainland laws and regulations and its constitutive documents;
 - b) the fund is a publicly offered securities investment fund registered with the CSRC under the Securities Investment Fund Law of the People's Republic of China;
 - c) the fund must be established for more than 1 year;
 - d) the fund must have a minimum fund size of not less than RMB 200 million or its equivalent in a different currency;
 - e) the fund must not primarily invest in the Hong Kong market; and
 - f) the value of shares/units in the fund sold to investors in Hong Kong shall not be more than 50% of the value of the fund's total assets.

Requirements on management firms

8. The management firm of a Recognised Mainland Fund must be registered and operate in the Mainland in accordance with Mainland laws and regulations and is licensed by the CSRC to manage publicly offered securities investment funds.
9. The management firm of a Recognised Mainland Fund must not have been the subject of any major regulatory actions by the CSRC in the past 3 years or, if it has been established for less than 3 years, since the date of its establishment.



10. The management firm of a Recognised Mainland Fund cannot delegate its investment management functions to a party operating outside the Mainland.

Requirements on custodians

11. The Recognised Mainland Fund must have a custodian that qualifies to act as custodian for publicly offered securities investment funds pursuant to Mainland laws and regulations.

Representatives in Hong Kong

12. Each Recognised Mainland Fund must appoint a firm in Hong Kong to be its representative.
13. The representative of a Recognised Mainland Fund shall comply with Chapter 9 of the Code on Unit Trusts and Mutual Funds (UT Code).

Operational and on-going requirements

Home Jurisdiction supervision

14. The Recognised Mainland Fund must, on an ongoing basis, remain registered with the CSRC for offering to the Mainland public, and be subject to the ongoing regulation and supervision of the CSRC.

Constitutive documents

15. The management firm of a Recognised Mainland Fund must ensure that the constitutive documents are made available for inspection by the public in Hong Kong, free of charge at all times during normal office hours at the place of business of its representative in Hong Kong and make copies of such documents available upon the payment of a reasonable fee.

Pricing error and change/suspension/deferral of dealings

16. If there is pricing error, change in dealings or suspension or deferral of dealings of the Recognised Mainland Fund requiring notification to the CSRC, the SFC shall also be notified correspondingly.

Jurisdiction

17. The management firm of a Recognised Mainland Fund shall make effective and proper arrangement to ensure that, where the constitutive documents provide for dispute resolution by way of litigation, the courts of Hong Kong shall not be excluded from entertaining an action concerning the Recognised Mainland Fund.

Changes to Recognised Mainland Funds

18. Changes to a Recognised Mainland Fund shall be made in accordance with the applicable Mainland laws and regulations and the provisions of the constitutive documents. These changes shall be effective upon approval by the CSRC or compliance with the appropriate procedures. Thereafter, such changes shall be submitted to the SFC for filing.



19. Changes to a Recognised Mainland Fund shall not contravene the applicable Mainland laws and regulations and the requirements set out in this Circular. Holders in Hong Kong shall be notified about the changes to the Recognised Mainland Fund.

Breach

20. In the event of breach of Mainland laws and regulations or the requirements set out in this Circular, the management firm shall endeavour to notify the CSRC and the SFC at the same time and rectify the breach promptly.
21. Following SFC authorization, if a Recognised Mainland Fund ceases to meet the requirements as set out in this Circular, its management firm shall notify the SFC immediately. The Recognised Mainland Fund shall not continue to be marketed to the public in Hong Kong and shall not accept new subscriptions.

Withdrawal of authorization

22. Following the authorization of a Recognised Mainland Fund, if its management firm does not wish to maintain such authorization, it shall apply for withdrawal of authorization from the SFC in accordance with the applicable Hong Kong laws and regulations.
23. The SFC may at any time pursuant to the SFO review its authorization and may modify, add to or withdraw any of the conditions of such authorization, or withdraw the authorization, as it considers appropriate.

Sale/distribution, offering documents, ongoing disclosure and advertisements

Sale/distribution

24. The sale and distribution of a Recognised Mainland Fund in Hong Kong must be conducted by intermediaries properly licensed by or registered with the SFC. The sale and distribution of a Recognised Mainland Fund in Hong Kong shall comply with the applicable Hong Kong laws and regulations relating to distribution of funds.

Offering documents

25. The disclosure of information relating to a Recognised Mainland Fund shall be complete, accurate, fair, clear, effective, and shall be capable of being easily understood by investors.
26. The offering documents of a Recognised Mainland Fund must be up-to-date and contain information necessary for investors to be able to make an informed judgement of the investment proposed to them.
27. A Recognised Mainland Fund may utilize the offering documents registered with the CSRC. Unless otherwise provided in this Circular, matters such as the type of documents, content, format, frequency of update and the update procedures shall comply with the applicable Mainland laws and regulations and the provisions of the constitutive documents. In addition, the CSRC-registered offering documents must be supplemented by a Hong Kong covering document to comply with the following disclosure requirements:



- a) bilingual offering document as per 5.6 of the Overarching Principles Section (OPS) of the SFC Handbook;
 - b) product key facts statement as per 6.2A of the UT Code;
 - c) enquiries and complaints handling as per 7.4 of OPS of the SFC Handbook;
 - d) information to be disclosed in the offering document as per Appendix C 3(d), 12, 16, 18, 18A, 19(a), 20 and 23 of the UT Code;
 - e) mention of SFC authorization as per 1.10 of OPS of the SFC Handbook;
 - f) disclosure on stock lending as per FAQ 21 in the Frequently Asked Questions on the Code on Unit Trusts and Mutual Funds or (in respect of physical index-tracking exchange traded funds) FAQ7 in the Frequently Asked Questions on the Exchange Traded Funds and Listed Funds; and
 - g) any other information which may have a significant impact on the investors in Hong Kong.
28. The management firm shall take reasonable steps and measures to ensure that the offering documents of a Recognised Mainland Fund and their changes are made available to the investors in the Mainland and Hong Kong at the same time. The revised offering documents of a Recognised Mainland Fund shall be filed with both the CSRC and the SFC at the same time.

Ongoing disclosure

29. The management firm shall take reasonable steps and measures to ensure that the ongoing disclosure of information of a Recognised Mainland Fund (including periodic financial reports, notices and announcements) is made available to the investors in the Mainland and Hong Kong and filed with the CSRC and the SFC at the same time. Unless otherwise provided in this Circular, matters such as the type of ongoing disclosure documents, format, content, timing and frequency of disclosure, matters to be disclosed shall comply with the applicable Mainland laws and regulations and the provisions of the constitutive documents. In addition, a Recognised Mainland Fund shall comply with the following requirements:
- a) mention of SFC authorization as per 1.10 of OPS of the SFC Handbook;
 - b) notice to holders as per 11.2 (bilingual notice), 11.2A and 11.2B of the UT Code;
 - c) disclosure of withdrawal of authorization as per 11.4 of the UT Code;
 - d) disclosure on merger or termination as per 11.5 of the UT Code;
 - e) disclosure on stock lending as per FAQ 21 in the Frequently Asked Questions on the Code on Unit Trusts and Mutual Funds or (in respect of physical index-tracking exchange traded funds) FAQ7 in the Frequently Asked Questions on the Exchange Traded Funds and Listed Funds; and
 - f) any other information which may have a significant impact on the investors in Hong Kong.
30. A Recognised Mainland Fund may use its Mainland financial reports as the basis for distribution in Hong Kong, provided that it is supplemented by the following information:



- a) disclosure on investment portfolio as per clauses 1 and 4 of the “Investment portfolio” Section of Appendix E of the UT Code; and
 - b) mention of SFC authorization as per 1.10 of OPS of the SFC Handbook.
31. The management firm of a Recognised Mainland Fund shall respond promptly to the SFC’s enquiries associated with the Recognised Mainland Fund. The management firm must upon request provide to the SFC all information relating to the Recognised Mainland Fund (including but not limited to its financial reports and accounts).

Languages

32. Where Chinese documents (including offering documents, product key facts statements, notices and announcements) of a Recognised Mainland Fund are provided or made available to investors in Hong Kong, such documents shall be produced in traditional Chinese. Where such documents are originally in simplified Chinese, the traditional Chinese text shall be a true and accurate reflection of the original text, taking into account market practice and customary use of Chinese language in Hong Kong. In any event, there shall be no substantive difference between the traditional Chinese text and the simplified Chinese text registered or filed with the CSRC.

Advertisement

33. All advertisements in relation to the Recognised Mainland Fund issued in Hong Kong shall comply with the applicable Hong Kong laws and regulations.

Application process

34. The SFC understands that this marks the first time Recognised Mainland Funds may seek authorization from the SFC. The SFC therefore encourages applicants to consult the Investment Products Division early for any clarification or guidance as to how the relevant requirements may apply and be complied with in light of their specific circumstances.
35. The SFC may issue other circulars, frequently asked questions and other documents from time to time to provide practical guidance to the industry. Please refer to the SFC’s website or contact the Investment Products Division.
36. Further details of the MRF application process for a Recognized Mainland Fund seeking authorization from the SFC are set out in the Information Checklist, which is available at the SFC’s website <http://www.sfc.hk/web/EN/forms/products/forms.html> starting from today.

Investment Products Division Securities and Futures Commission