

Annex A

Requirements in the Overarching Principles Section of the SFC Handbook (Overarching Principles Section) and UT Code to be complied with by all Luxembourg Covered Funds⁸

	Relevant provisions in the Overarching Principles Section and UT Code (Transitional period to end on 31 December 2019⁹)	Relevant provisions in the Overarching Principles Section and UT Code (Effective on 1 January 2019⁸ (Revised UT Code))
1. General requirements		
Mention of SFC authorisation	1.10 of the Overarching Principles Section	1.10 of the Overarching Principles Section
Naming of a Luxembourg Covered Fund	5.1 and 5.2 of the Overarching Principles Section	5.1 and 5.2 of the Overarching Principles Section
Availability of constitutive documents	5.10(c) of the UT Code	5.10(c) of the Revised UT Code
Investment in other funds	7.11D and 7.12 of the UT Code	7.11D and 7.12 of the Revised UT Code
Jurisdiction	9.10 of the UT Code	9.10 of the Revised UT Code
Self-managed schemes	A self-managed scheme must appoint a Luxembourg management company that is authorised by the CSSF to manage UCITS in accordance with Law of 2010 as investment manager.	A self-managed scheme must appoint a Luxembourg management company that is authorised by the CSSF to manage UCITS in accordance with Law of 2010 as investment manager.

⁸ For the avoidance of doubt, Luxembourg Covered Funds and the Luxembourg Covered Management Companies should also comply with the Frequently Asked Questions (FAQs) on Luxembourg-Hong Kong Mutual Recognition of Funds and other relevant FAQs issued by the SFC from time to time, including, FAQs on Advertising Materials of Collective Investment Schemes Authorized under the Product Codes, FAQs on the Code on Unit Trusts and Mutual Funds, FAQs on Post Authorization Compliance Issues of SFC-authorized Unit Trusts and Mutual Funds and FAQs on SFC Authorization of UCITS III Funds.

⁹The New Schemes with New Operators (as defined in the Revised UT Code) are subject to the Revised UT Code with immediate effect. The Existing Schemes and Existing Operators (as defined in the Revised UT Code) are generally subject to a 12-month transitional period from 1 January 2019 to comply with the Revised UT Code. Please refer to the implementation schedule as set out in the Revised UT Code for further details on the implementation and transition arrangements.

2. Operational requirements		
Scheme documentation, pricing, issue and redemption of units/shares, fees	Chapter 6 of the UT Code, except for 6.6 – 6.8, and 6.15	Chapter 6 of the Revised UT Code, except for 6.6 – 6.8, and 6.15
Valuation and pricing, pricing errors, suspension and deferral of dealings, transactions with connected persons	Chapter 10 of the UT Code	Chapter 10 of the Revised UT Code
3. Disclosure requirements in relation to offering documents		
Language	5.6 of the Overarching Principles Section	5.6 of the Overarching Principles Section
Product key facts statement	6.5 – 6.8 of the Overarching Principles Section and 6.2A of the UT Code	6.5 – 6.8 of the Overarching Principles Section and 6.2A of the Revised UT Code
Use of disclaimers	6.12 of the Overarching Principles Section	6.12 of the Overarching Principles Section
Enquiries and complaints handling	7.4 of the Overarching Principles Section	7.4 of the Overarching Principles Section
Multimanager schemes	Note to 5.5(b) of the UT Code	Note (2) to 5.5(b) of the Revised UT Code
Use of financial derivative instruments for investment purpose	8.9(j) of the UT Code	8.9(j) of the Revised UT Code
Information to be disclosed in the offering document	Appendix C to the UT Code, except for C2A	Appendix C to the Revised UT Code, except for C2 (regarding Securities Financing Transactions) and C2A

4. Disclosure and reporting requirements		
General obligation of trustee/custodian	4.5(f) of the UT Code ¹⁰	4.5(f) of the Revised UT Code ⁹
Scheme changes, notifications, ongoing disclosures, reporting, withdrawal of authorisation, merger or termination	Chapter 11 of the Revised UT Code, except for 11.1(a) and 11.6A	
Other documents to be made available to Hong Kong investors as specified in the offering documents	Upon request by investors, specific information regarding these documents should be made available to Hong Kong investors in English or Chinese. Information regarding how investors can make such information requests should also be clearly disclosed in the Hong Kong offering documents	Upon request by investors, specific information regarding these documents should be made available to Hong Kong investors in English or Chinese. Information regarding how investors can make such information requests should also be clearly disclosed in the Hong Kong offering documents
5. Disclosure requirements in relation to financial reports		
Notes to the accounts	Items 2 and 3 of the “Notes to the accounts” Section of Appendix E to the UT Code	Items 2 and 3(a) of the “Notes to the Financial Reports” Section of Appendix E to the Revised UT Code

¹⁰ For the purposes of 4.5(f), Luxembourg Covered Funds may (i) prepare a long form audit report as required or in accordance with Luxembourg’s rules or regulations or (ii) comply with additional audit review procedures for authorisation of the fund in Hong Kong. In respect of the additional audit review procedures mentioned in item (ii) above, the additional procedures essentially involve a review of additional matters concerning practices not already carried out by the auditor in its annual review for the CSSF (including, for example, window dressing, rebates, soft commissions, price calculation, choice of investment / borrowing limit, price allocation, best execution, underwriting / sub-underwriting agreements, connected party transactions, fees and expenses, portfolio turnover, unusual losses). The Luxembourg Covered Management Company must ensure that the relevant report to be issued by its auditor should conform with such other requirements (if any) by CSSF.

Annex B

Eligibility Requirements

Luxembourg Covered Fund

1. The Luxembourg Covered Fund must be established, domiciled and managed in accordance with Luxembourg laws and regulations and its constitutive documents. It must be a UCITS which is formally authorised by the CSSF in accordance with the Law of 2010.
2. The Luxembourg Covered Fund must be one of the following fund types under the UT Code:
 - a. a general equity fund, bond fund or mixed fund; or
 - b. a feeder fund, where the underlying fund falls within one of the fund types in paragraph 2(a) of this Annex and complies with the requirements in this circular.
3. The Luxembourg Covered Fund must not use leverage (arising from derivatives) exceeding 100% of the fund's net asset value as calculated under the commitment approach provided by Article 47 of the CSSF Regulation No. 10-4.
4. The Luxembourg Covered Fund must not invest in (i) physical commodities including precious metals or commodity based investments or real estate, (ii) crypto-assets or crypto-currencies, or (iii) certificates representing the assets referred to under (i) or (ii).
5. The Luxembourg Covered Fund must not have share classes with hedging arrangements other than currency hedging.
6. The Luxembourg Covered Fund must have at least one dealing day for redemption every two weeks.

Luxembourg Covered Management Company

7. The Luxembourg Covered Fund must be managed by a Luxembourg Covered Management Company that is authorised / regulated by the CSSF to manage UCITS in accordance with the Law of 2010.
8. The Luxembourg Covered Management Company of a Luxembourg Covered Fund must have minimum paid-up share capital and non-distributable capital reserves of HK\$10 million or its equivalent in Euro.

9. The Luxembourg Covered Management Company of a Luxembourg Covered Fund, the members of the management body¹¹ and its conducting officers¹² must not have been the subject of any of the following disciplinary actions taken by CSSF in the past three years or, if it has been established for less than three years, since the date of its establishment:
- a. with respect to the Luxembourg Covered Management Company:
 - a withdrawal of its license by the CSSF in accordance with Article 148, paragraph (4) c) of the Law of 2010;
 - a temporary ban on providing some or all of the services previously provided in accordance with Article 147, paragraph (2) g) of the Law of 2010; or
 - b. with respect to the members of the management body and the conducting officer(s) of the Luxembourg Covered Management Company, a temporary or permanent ban on conducting some or all of their business activities in accordance with Article 148, paragraph (4) d) of the Law of 2010.
10. The Luxembourg Covered Management Company of a Luxembourg Covered Fund may only delegate the investment management functions to any entity, provided that such delegation is accepted under the Luxembourg laws¹³ and regulations¹⁴ for Luxembourg UCITS authorised for public offering, the Luxembourg Covered Management Company remains responsible for any action of its delegate(s), and such delegate operates in one of the acceptable inspection regimes recognized under 5.1 of the UT Code (AIR Delegate)¹⁵.

Luxembourg Covered Fund's depositary

11. The Luxembourg Covered Fund must have a depositary that qualifies to act as a depositary for Luxembourg UCITS.

¹¹ Pursuant to Article 1, paragraph (26a) of the Law of 2010, "management body" refers to:

- a. as regards public limited companies, the board of directors or the management board, as the case may be;
- b. as regards other types of companies, the body that represents, pursuant to the law and the instruments of incorporation, the management company.

¹² Pursuant to Article 102, paragraph (1) c) of the Law of 2010, "conducting officers" refer to the persons who effectively conduct the business of the management company.

¹³ The legal framework regarding the delegation of functions by a Luxembourg management company is laid down in Article 110 of the Law of 2010 which is based on the provisions of Article 13 of the UCITS Directive.

¹⁴ As regards delegation of the investment management function, specific conditions are applicable as per section 6.3.2. of Circular CSSF 18/698 concerning the authorisation and organisation of investment fund managers incorporated under Luxembourg law.

http://www.cssf.lu/fileadmin/files/Lois_reglements/Circulaires/Hors_blanchiment_terrorisme/cssf18_698.pdf

¹⁵ For the purpose of providing confirmation on Eligibility Requirements pursuant to paragraph 36 of this circular, in addition to confirming the matters listed in Annex B to this circular, where applicable, the CSSF will also confirm to the SFC that it has conducted regulatory check with the authority primarily responsible for regulating the AIR Delegate and is not aware of any regulatory concerns.