



## **Appendix C:**

# **Consequential amendments to SFC Code on MPF Products and Code on Pooled Retirement Funds**



## Appendix C

### Consequential amendments to SFC Code on MPF Products

#### Chapter 2: Administrative Arrangements

##### Authorization Powers

- 2.2 Powers are normally exercised by the Director (Investment Products). ~~According to section 8 of the SFO, the Commission is empowered to set up committees, whether for advisory or other purposes. The Commission will establish a Product Advisory Committee for the purposes of consultation and advice on matters which may relate to collective investment schemes within the scope of this Code. The remit of the Products Advisory Committee and its membership will be set out in its Terms of Reference. Where a new management group is involved in the investment management of an MPF scheme or pooled investment fund, it may be referred to the Committee on Investment-Linked Assurance and Pooled Retirement Funds (ILAC) or the Committee on Unit Trusts (CUT) for consideration and advice, as appropriate. For details of the responsibilities and constitution of ILAC and CUT, please refer to the Code on Pooled Retirement Funds and Code on Unit Trusts and Mutual Funds respectively.~~



## Consequential amendments to Code on Pooled Retirement Funds

### Chapter 2: Administrative Arrangements

~~2.1 The Commission has delegated to the Committee on Investment-Linked Assurance and Pooled Retirement Funds (ILAC), an Executive Director and the Director (Investment Products), its power to authorize investment-linked assurance schemes and pooled retirement funds. Powers are normally exercised by ILAC when new management groups or new policy issues are considered; otherwise powers are normally exercised by the Director (Investment Products).~~

~~2.12 According to section 8 of the SFO, the Commission is empowered to set up committees, whether for advisory or other purposes. The Commission will establish a Product Advisory Committee for the purposes of consultation and advice on matters which may relate to collective investment schemes within the scope of this Code. The remit of the Products Advisory Committee and its membership will be set out in its Terms of Reference. The Commission has established ILAC under section 8(1) of the SFO for the purposes of:~~

- ~~(a) assisting the Commission in the performance of its functions to ensure the effective regulation of the marketing of investment-linked assurance schemes and pooled retirement funds;~~
- ~~(b) authorizing investment-linked assurance schemes and pooled retirement funds pursuant to section 104(1) of the SFO;~~
- ~~(c) imposing conditions on the authorization of investment-linked assurance schemes and pooled retirement funds pursuant to section 104(1) of the SFO;~~
- ~~(d) granting waivers from this Code; and~~
- ~~(e) considering whether there should be any amendments to the legislation relating to investment-linked assurance schemes and pooled retirement funds and to this Code and making recommendations to the Commission accordingly.~~

#### Constitution of Committee

~~2.3 The constitution of ILAC is:~~

~~*Chairman*~~

- ~~(a) Any Executive Director of the SFC;~~

~~*Members (11)*~~

- ~~(b) Non-executive Director of the SFC;~~
- ~~(c) Director (Investment Products), SFC (ex-officio and deputizes as Chairman in the absence of the Chairman);~~
- ~~(d) Representative of the Commissioner of Insurance;~~
- ~~(e) Representative of the Mandatory Provident Fund Schemes Authority;~~
- ~~(f) Chairman of the Life Insurance Council (ex-officio);~~
- ~~(g) Life assurance company member;~~
- ~~(h) Retirement fund company member;~~
- ~~(i) Person nominated by the SFC;~~
- ~~(j) Actuary member;~~
- ~~(k) Trustee company member; and~~



- ~~(l) — Appointment (l) ad personam.~~
- ~~— Alternate Members (4)~~
- ~~(m) — Alternate life assurance company member;~~
- ~~(n) — Alternate retirement fund company member;~~
- ~~(o) — Alternate actuary member; and~~
- ~~(p) — Alternate trustee company member.~~

## **Quorum & Meetings**

~~2.4 — The quorum for any meeting of ILAC is four members, one of whom must be an Executive Director or Director of the Commission and one of whom must be employed by a life assurance or retirement fund company. ILAC has appointed a staff member of the SFC as Secretary. The Secretary attends ILAC's discussions but has no vote.~~

~~2.5 — On request, the Commission will give reasons for decisions reached.~~

~~2.6 — Under section 10(4) of the SFO, the Commission may concurrently perform any function, power or duty which it has delegated but the Commission does not intend to exercise this right by reviewing a decision of ILAC except where there has been:~~

- ~~(a) — a manifest error;~~
- ~~(b) — an application of defective procedures; or~~
- ~~(c) — a manifest misinterpretation of this Code.~~

## **Procedure for Amendments to the Code**

~~2.7 — ILAC may make recommendations to the Commission whenever it considers that the provisions of this Code should be amended or extended. If the Commission accepts ILAC's recommendation, any such change or amendment will be made known to the industry and transitional periods for compliance will be allowed where necessary.~~

## **Data Privacy**

~~2.28~~ The information requested under the Code may result in the applicant providing the Commission with personal data as defined in the Personal Data (Privacy) Ordinance. The data supplied will only be used by the Commission to perform its functions, in the course of which it may match, compare, transfer or exchange personal data with data held or obtained by the Commission, government bodies, other regulatory authorities, corporations, organizations or individuals in Hong Kong or overseas for the purpose of verifying those data. Subject to the limits in section 378 of the SFO, the Commission may disclose personal data to other regulatory bodies. You may be entitled under the Personal Data (Privacy) Ordinance to request access to or to request the correction of any data supplied to the Commission, in the manner and subject to the limitations prescribed. All enquiries should be directed to the Data Privacy Officer at the SFC.



## Chapter 5: Management Company

- 5.5(b) Key personnel must be dedicated full-time staff with a demonstrable track record in the management of pooled retirement funds or other public funds. In assessing the qualifications of the personnel of the management company, the Commission may request resumes of the directors of the management company and its delegates (if any) (see 2.28).