SECURITIES AND FUTURES COMMISSION
證券及期貨事務監察委員會

Code on Real Estate Investment Trusts

October 2026

© Securities & Futures Commission 2022
August 2003 first edition
June 2005 second edition
June 2010 third edition
April 2013 fourth edition
August 2014 fifth edition
December 2020 sixth edition
August 2022 seventh edition
October 2024 eighth edition
October 2026 ninth edition

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Authorisation of REITs and its General Principles

Explanatory Notes

The Securities and Futures Commission ("Commission") is empowered under section 104(1) of the Securities and Futures Ordinance (Cap. 571) ("SFO") to authorise collective investment schemes, subject to such conditions as it considers appropriate.

This Code on Real Estate Investment Trusts together with the Practice Note(s) issued from time to time ("Code") establish guidelines for the authorisation of a collective investment scheme which is a real estate investment trust ("REIT").

The Commission is empowered under section 105(1) of the SFO to authorise the issue of an advertisement or invitation to the public in Hong Kong to invest in a collective investment scheme, subject to such conditions as the Commission considers appropriate.

The Commission may at any time review its authorisation of a REIT, or of an advertisement or invitation relating thereto, and may modify, add to or withdraw any of the conditions of such authorisation, or revoke the authorisation, as it considers appropriate.

The Commission may modify or relax the application of a requirement in this Code if it considers that, in particular circumstances, strict application of the requirement would operate in an unduly burdensome or unnecessarily restrictive manner.

The issue of a false or misleading advertisement or an invitation to the public in Hong Kong to invest in an unauthorised collective investment scheme may amount to an offence under section 103(1) of the SFO.

This Code does not have the force of law and shall not be interpreted in a way that will override the provision of any law.

General Principles

The Commission has modelled the Code on principles developed by the International Organization of Securities Commissions and other principles that the Commission believes to be fundamental for the proper regulation of REITs. The management company, the trustee and their agents or delegates are expected to comply with the spirit of these principles in managing or administering any matters relating to the operation of a REIT.

GP1. Clarity of legal form and ownership structure

The assets of a REIT shall be held in a trust and segregated from the assets of its trustee, its management company, its related entities, other collective investment schemes and any other entity.

GP2. Effective oversight by trustee

The trustee shall be functionally independent of the management company of a REIT and shall act in the best interests of holders in maintaining the legal integrity of the assets of the REIT. The trustee shall ensure that it discharges its duties with diligence and prudence.

GP3. Eligible management company

The management company of a REIT shall satisfy the Commission that it possesses the human, technical and financial resources to effectively and responsibly discharge its functions in relation to the REIT, including carrying out its stated investment policy. In this aspect, the management company shall observe high standards of integrity, market conduct, fair dealing and corporate governance. Further, the management company shall not exceed the powers conferred upon it by the constitutive documents of the REIT.

GP4. Delegation of management functions

A REIT management company shall perform all the key functions in relation to the management of the REIT. No management function shall be delegated unless the management company can properly monitor and ensure proper performance by the delegate. Notwithstanding that certain subsidiary functions can be delegated to a third party, the management company remains fully liable to the REIT's holders and trustee for the proper performance thereof. The management company shall ensure that a delegate remains competent to undertake the function in question. The legal relationship between the management company and a delegate shall be unambiguous.

GP5. Compliance with relevant requirements

The management company of the REIT shall satisfy the Commission that sufficient systems, controls and procedures are in place to ensure that all applicable regulatory and other legal requirements are complied with. The management company and the trustee of a REIT shall bear ultimate responsibility in ensuring compliance with this Code and they shall deal with the Commission in an open and co-operative manner.

GP6. Good governance and avoidance of conflicts of interest

The management company shall act in the best interests of the REIT's holders, to whom it owes a fiduciary duty. Transactions entered into by the management company for the REIT shall be at arm's length and on normal commercial terms. The management company shall ensure that procedures are in place to ensure that its staff do not enter into transactions for the REIT which may compromise the interests of the REIT's holders. Unless otherwise specified in this Code, transactions involving connected parties to the scheme shall be subject to holders' approval, and those holders having a material interest in the transactions which is different from the interests of all other unit-holders, shall abstain from voting.

The management company shall adhere to and uphold good corporate governance principles and best industry standards for all activities and transactions conducted in relation to the REIT and any matters arising out of its listing or trading on any stock exchange. The trustee, management company, property valuer and any other delegates of the scheme shall observe the best governance standards.

GP7. Valuation of the scheme

The management company shall ensure that the assets of a REIT are regularly valued in good faith according to market practice and in accordance with procedures that are approved by the Commission, and prepared in accordance with accepted accounting principles.

GP8. Investment and borrowing limitations

There shall be investment restrictions and borrowing limitations that take into account the investment objectives, risk profile and liquidity required for a REIT. Such restrictions and limitations shall be disclosed clearly in the offering document of the REIT.

GP9. Management fees and investor rights

Management fees shall be disclosed clearly in the offering document. A REIT shall ensure that holders are able to participate in significant decisions concerning the REIT and are treated fairly and equitably. Any material change in the REIT's activities shall not unfairly prejudice the rights of the holders.

GP10. Marketing and disclosure

Potential investors and current holders in a REIT shall be provided with full, accurate and timely information regarding the REIT in order to enable them to fully understand the investment and risk profile of the REIT and to help them make informed investment decisions. All transactions, appointments or activities that could create a conflict of interest or be perceived to create such a conflict should be disclosed to investors and holders. Advertising shall not contain information which is false or misleading nor be presented in a deceptive manner.

Effect of Breach of the Code

Failure by any person to comply with any applicable provision of the Code

(a) shall not by itself render the person liable to any judicial or other proceedings, but in any proceedings under the SFO before any court, the Code shall be admissible in evidence, and if any provision set out in the Code appears to the court to be relevant to any question arising in the proceedings, it shall be taken into account in determining the question; and

(b) may cause the Commission to consider whether such failure adversely reflects on the person's fitness and properness and the suitability of the REIT to remain authorised.

Chapter 1: Administrative Arrangements

1.1 The Commission has delegated its powers under section 104 of the SFO with respect to REITs to its Executive Director (Investment Products) and any of its delegates appointed pursuant to the SFO.

1.2 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 Committee on REITs for the purpose of consultation and advice on matters that may relate to the Code. The remit of the Committee on REITs and its membership shall be laid down in its Terms of Reference.

Data Privacy

1.3 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 sections 378 of the SFO, the Commission may disclose personal data to other regulatory bodies. Persons who have supplied data to the Commission under the Code 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 shall be directed to the Data Privacy Officer at the SFC.

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.

2.3A "Code of Conduct" refers to the Code of Conduct for Persons Licensed by or Registered with 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 carparks 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" or "issuer" shall be construed as references to the scheme;

(aa) references to the "new applicant" shall be construed as references to the REIT seeking the Commission's authorisation;

(b) references to the "directors" of the new applicant or 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" and "equity securities or interests" in relation to a new applicant or 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);

(ka) references to “sponsor” shall be construed as references to the listing agent in the context of a REIT seeking the Commission’s authorisation;

(kb) references to the “expected hearing date” of the Listing Committee shall be construed as references to the expected date of issue of the approval-in-principle letter by the Commission in the context of a REIT seeking the Commission’s authorisation;

(kc) references to “listing application” shall be construed as references to the Application Form for Real Estate Investment Trusts submitted by a REIT seeking the Commission’s authorisation;

(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 or be included as appropriate 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.

Chapter 3: Basic Requirements for the Authorisation of a REIT

What is a REIT

3.1 A REIT is a collective investment scheme constituted as a trust that invests primarily in real estate with the aim to provide returns to holders derived from the rental income of the real estate. Funds obtained by a REIT from the sale of units in the REIT are used in accordance with the constitutive documents to maintain, manage and acquire real estate within its portfolio.

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.

Requisite Conditions for REIT Authorisation

3.2 A REIT seeking authorisation from the Commission shall have the following characteristics:

(a) dedicated investments in real estate that generates recurrent rental income;

(b) active trading of real estate is restricted;

(c) the greater proportion of income shall be derived from rentals of real estate;

(d) a significant portion of income is distributed to holders in the form of regular dividends;

(e) a maximum borrowing limit is defined; and

(f) connected party transactions are subject to holders' approval.

3.3 Pursuant to sections 104(2) and 105(2) of the SFO, there shall be an individual approved by the Commission for the purposes of being served by the Commission with notices and decisions for, respectively, the REIT and the issue of any related advertisement, invitation or document. An applicant for authorisation is, therefore, required to nominate an individual for approval by the Commission as an approved person.

3.4 An approved person shall:

(a) have his/her ordinary residence in Hong Kong;

(b) inform the Commission of his/her current contact details, including, in so far as applicable, the address, telephone and facsimile numbers, and electronic mail address;

(c) be capable of being contacted by the Commission during business hours;

(d) inform the Commission of any change in his/her contact details within 14 days after the change takes place; and

(e) comply with any other requirements as the Commission considers appropriate.

3.5 An individual approved by the Commission as an approved person for a REIT shall generally be approved also for the issue of any advertisement, invitation or document made in respect of that REIT.

3.6 It is a condition for a REIT to be authorised by the Commission that it will be listed on the Exchange within a period acceptable to the Commission.

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.

Chapter 4: Trustee

Appointment of Trustee

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.

General Obligations of Trustee

4.1A The trustee has the fiduciary duty to hold the assets of a scheme in trust for the benefit of the holders, and to oversee the activities of the management company for compliance with the relevant constitutive documents of, and regulatory requirements applicable to, the scheme. This includes ensuring that all investment activities carried out by the management company are in line with the investment objective and policy of a scheme and its constitutive documents, and are in the interests of the holders.

4.2 The trustee shall:

(a) (i) exercise all due diligence and vigilance in carrying out its functions and duties and in protecting the rights and interests of the holders;

Note: The trustee may seek the opinion or advice of an independent professional adviser concerning matters in the administration of the scheme if it deems appropriate.

(ii) ensure that all the assets of the scheme are properly segregated and held for the benefit of the holders in accordance with the provisions of the constitutive documents; and

(iii) be liable for the acts and omissions of its nominees and agents in relation to assets forming part of the property of the scheme;

(b) take all reasonable care to ensure that the sale, issue, repurchase and cancellation of units effected by a scheme are carried out in accordance with the provisions of the constitutive documents;

(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;

(d) cause a valuation of any of the real estate of the scheme to be carried out if it, or the management company, reasonably believes that such valuation is appropriate;

(e) carry out the instructions of the management company in respect of investments unless they are in conflict with the provisions of the offering or constitutive documents or this Code or under general law;

(f) take all reasonable care to ensure that the investment and borrowing limitations set out in the constitutive documents and the conditions under which the scheme was authorised are complied with;

(g) take all reasonable care to ensure that no real estate is acquired or disposed of by or on behalf of the trustee until the trustee has obtained a recent valuation report of a property valuer appointed and instructed in writing by the trustee;

Note: The effective date as at which the real estate is valued shall not be more than three months before the date on which the relevant circular is issued (if the transaction requires holders' approval) or the date of the sale and purchase agreement (if the transaction does not require holders' approval).

(h) take all reasonable care to ensure that all transactions carried out by or on behalf of a scheme are conducted at arm's length and that connected party transactions are carried out in accordance with Chapter 8;

Note: Where the trustee is in doubt as to whether a transaction is a connected party transaction, it shall require such transaction to be subject to the provisions of Chapter 8.

(i) issue a report to the holders, to be included in the annual report, on whether in the trustee's opinion, the management company has in all material respects managed the scheme in accordance with the provisions of the constitutive documents; if the management company has not done so, the report shall specify respects in which it has not done so and the steps which the trustee has taken in respect thereof;

(j) take all reasonable care to ensure that unit certificates are not issued until subscription monies have been paid;

(k) take all reasonable care to ensure that a scheme has proper legal title to the real estate owned by the scheme, as well as to the contracts (such as property contracts, rental agreements, joint venture or joint arrangement agreements, and any other agreements) entered into on behalf of the scheme with respect to its assets and that each such contract is legal, valid and binding and enforceable by or on behalf of the scheme in accordance with its terms;

Note: The real estate shall have good marketable title.

(l) take all reasonable care to ensure that the management company arranges adequate property insurance and public insurance coverage in relation to the real estate of a scheme;

(m) take all reasonable care to ensure that the net asset value per unit of a scheme is calculated as and when an annual valuation report is issued by the valuer for the relevant period, and that such net asset value shall be published in the annual report;

(n) require that the management company report to the trustee as soon as reasonably practicable any breaches of the provisions in this Code and the trustee shall inform the Commission of such breaches, where appropriate, upon notification by the management company; and

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

Criteria for Acceptability of a Trustee

4.3 A trustee shall be:

(a) [deleted]

(b) [deleted]

(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; or

(d) a depositary licensed or registered to carry on Type 13 regulated activity under Part V of the SFO.

4.4 A trustee shall be independently audited to ensure that the applicable statutory and regulatory requirements on financial resources are complied with.

4.5 A trustee shall have minimum issued and paid-up-share capital and non-distributable capital reserves of HK$10 million or its equivalent in foreign currency. Notwithstanding this, 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.

Note: 4.5 is not applicable to a trustee that is licensed or registered to carry on Type 13 regulated activity under Part V of the SFO, which shall comply with the applicable statutory requirements on financial resources.

4.6 The trustee shall:

(a) possess key personnel with the knowledge, organizational resources and experience relevant to the holding of real estate under a scheme that operates in a manner similar to that of a scheme authorised under this Code; or

(b) belong to a corporate group that:

(i) is of good repute;
(ii) has acted as trustees for REITs or schemes of similar nature in overseas jurisdictions; and
(iii) is able to provide the trustee with adequate support in all material aspects to enable the trustee to discharge its functions in relation to the scheme.

Retirement of Trustee

4.7 The trustee shall not retire except upon the appointment of a new trustee whose appointment has been subject to the prior approval of the Commission. The retirement of the trustee shall take effect at the same time as the new trustee takes up office.

Independence of Trustee

4.8 The trustee and the management company shall be independent of each other.

4.9 Notwithstanding 4.8 above, if the trustee and the management company are both corporations having the same ultimate holding company, whether incorporated in Hong Kong or outside Hong Kong, the trustee and the management company are deemed to be independent of each other if:

(a) [deleted]

(b) neither the trustee nor the management company is a subsidiary of the other;

(c) no person is a director of both the trustee and the management company;

(d) both the trustee and the management company sign an undertaking that they will act independently of each other in their dealings with the scheme; and

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.

(e) the ultimate holding company of the trustee and the management company submits a declaration and an undertaking to the Commission that the trustee and the management company are, and that the ultimate holding company shall ensure that they continue to be, independent of each other, except as regards their relationship with each other as member companies in the same group.

Chapter 5: Management Company, Auditor, Listing Agent and Financial Adviser

Appointment of a Management Company

5.1 Every scheme for which authorisation is requested shall appoint a management company acceptable to the Commission.

General Obligations of a Management Company

5.2 A management company shall:

(a) manage the scheme in accordance with the scheme's constitutive documents in the sole interest of the holders. It shall also fulfill the duties imposed on it under general law;

(b) ensure that the financial and economic aspects of the assets of the scheme are professionally managed in the sole interest of the holders; including, without limitation:

(i) formulating the investment strategy and policy of the scheme and managing risks connected with the scheme efficiently;
(ii) determining the borrowing limit of the scheme;
(iii) investing in real estate that meets the investment objective of the scheme;
(iv) managing the cash flows of the scheme;
(v) managing the financial arrangements of the scheme;
(vi) formulating dividend payment schedules of the scheme;
(vii) arranging adequate property insurance and public insurance coverage in relation to the real estate of the scheme;

Note: In jurisdictions where it is a common practice to take out title insurance, the management company is expected to make such insurance arrangement in respect of properties located in such jurisdictions.

(viii) planning the tenant mix and identifying potential tenants;
(ix) formulating and implementing leasing strategies;
(x) enforcing tenancy conditions;
(xi) ensuring compliance with government regulations in respect of the real estate under management;
(xii) performing tenancy administration work, such as managing tenant occupancy and ancillary amenities, and negotiating with tenants on grant, surrender and renewal of lease, rent review, termination and re-letting of premises;
(xiii) conducting rental assessment, formulating tenancy terms, preparing tenancy agreements, rent collection and accounting, recovery of arrears and possession;
(xiv) securing and administering routine management services, including security control, fire precautions, communication systems and emergency management;

(xv) formulating and implementing policies and programmes in respect of building management, maintenance and improvement; and
(xvi) initiating refurbishment and monitoring such activity;

(c) ensure that the scheme has proper legal title to the real estate owned by the scheme, as well as to the contracts (such as rental agreements) entered on behalf of the scheme with respect to its assets, and that all such contracts are legal, valid and binding, and enforceable by or on behalf of the scheme in accordance with its terms;

(ca) implement appropriate policies and conduct due diligence such that investments are made only after careful and diligent investigations by the management company. All such procedures and processes followed, and decisions made in relation to whether to invest or not to invest in a particular country or a property by a scheme shall be fully, properly and clearly documented as part of the record-keeping function of the management company;

Notes: (1) The management company shall take all reasonable steps to ensure that the rights of a scheme over the overseas properties are properly vested and registered under applicable land title and property laws of the relevant jurisdiction(s) and are enforceable in the judicial system of such overseas jurisdiction(s).

(2) While the areas or issues in relation to which due diligence shall be conducted vary according to the property, its geographical location and other circumstances, the standards of due diligence to be performed on a property shall be the same regardless of the location of the property.

(3) It is the management company's responsibility to conduct all proper and thorough due diligence on all relevant aspects of any property investment. While what are relevant aspects would depend on the nature and specific circumstance relating to the property and the jurisdiction in which it is located, relevant aspects would include matters such as:

(i) the ownership and title of the property;
(ii) necessary government approvals and town planning requirements;
(iii) restrictions on property usage and foreign ownership;
(iv) safety requirements;
(v) land premium requirements;
(vi) existence of encumbrances on the property;
(vii) compliance with zoning and building requirements;
(viii) current and prospective leases and material agreements;
(ix) outgoings required in maintaining and operating the property; and
(x) the scope and value of the insurance in place.

(The above list is meant to give some indication of the areas requiring due diligence and is not meant to be exhaustive.)

(d) maintain or cause to be maintained proper books and records of the scheme (and where applicable of all SPVs and joint ownership arrangements) in Hong Kong and prepare the scheme's financial statements which are in agreement with the scheme's books and records and in accordance with the relevant provisions of this Code, the constitutive and offering documents or circulars in relation to the scheme and which give a true and fair view of the state of affairs of the scheme at the end of the financial period and of the financial transactions of the scheme for the financial period then ended;

(e) prepare and publish reports, and at least two reports shall be published in respect of each financial year, such reports to be sent to all holders and filed with the Commission within the time frame specified in Chapter 10;

(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;

(g) ensure that holders are given sufficient prior notice, and where applicable, right to vote, with respect to any material change to the scheme, such as an increase in the level of management fees, changes in investment objectives or proposal to de-authorise the scheme;

(h) ensure compliance with any applicable laws, rules, codes or guidelines issued by governmental departments, regulatory bodies, exchanges or any other organizations regarding the activities of the scheme or its administration; and

(i) provide relevant information to the trustee to discharge its regulatory obligations including those obligations pursuant to 4.2.

5.2A The management company and each of its directors are jointly and severally responsible for the contents, completeness and accuracy of the information contained in a scheme's offering document, circulars and any notices and announcements published or distributed and for ensuring that all material statements therein have been verified and that they comply with all relevant laws and regulations.

Criteria for Acceptability of Management Company

5.3 A management company shall be licensed under Part V of the SFO and approved by the Commission to manage the scheme.

Notes: (1) Where a management company is licensed by the securities regulator of an overseas regime acceptable to the Commission to conduct business similar to that carried out by the scheme, the Commission may consider such management company acceptable where several conditions are met. The management company shall be subject to the regulatory oversight of the overseas regulator. There shall be a memorandum of understanding between the overseas regulator and the Commission whereby the Commission can rely on the mutual assistance of the overseas regulator in regulatory matters in relation to the management company. Such overseas

management company shall demonstrate to the satisfaction of the Commission that it generally meets the requirements imposed on a management company under this Code and it is experienced with respect to the property market in the relevant jurisdiction(s). It shall also undertake to the Commission that it will, upon request, provide the Commission with all books and records relating to the scheme. A list of overseas regimes acceptable to the Commission is set out in Appendix A.

(2) A management company shall fulfil the licensing requirements under the SFO. Based on the capabilities and resources possessed by a management company, the Commission may license a management company for managing a scheme, subject to imposition or variation of such conditions and/or provision of undertakings as it may from time to time deem appropriate. This is to ensure that the management company is only allowed to engage in the management of a scheme to the extent commensurate with their skills and capacity.

5.3A The complexity of the issues that a management company has to deal with when investing in and managing overseas properties depends on the jurisdiction(s) where the properties are located. As a general rule, as the number of properties increases, especially where properties are situated in different jurisdictions, the demand on the resources, expertise and internal control system of the management company multiplies. Therefore, in licensing a management company as a REIT manager that invests in overseas properties, the Commission will generally only allow it to manage one REIT and will impose such conditions as may be appropriate in the light of the unique circumstances of the management company.

5.3B Further conditions which may be imposed by the Commission on the management company may vary in accordance with the specific circumstances of the management company and may include restrictions on the type(s) of properties being managed and the location(s) of the properties that the management company may invest in.

5.3C Licensing conditions may be reviewed and varied as and when the management company establishes its track record and can demonstrate to the Commission that it has the expertise and capability to go beyond its existing restrictions as laid down in the licensing conditions. In exceptional cases where the management company can demonstrate that it has extensive operational support, adequate key personnel with cross-jurisdictional property investment experience and management expertise, strong financial and organisational backing, and an established track record of property portfolio management, the Commission may consider granting a licence to manage more than one REIT at the outset.

Note: Where a management company provides property investment and management services to other entities (including other REITs or property owners / investments), the management company shall have proper and adequate measures to avoid conflicts of interest that may arise therefrom.

5.4 The management company shall possess sufficient human, organizational and technical resources for the proper performance of its duties, including two responsible officers each of whom shall have at least five years' track record in investment management and/or property portfolio management, and at least one of the responsible officers shall be available at all times to supervise the management company's business of regulated activity, including asset and property management. It shall also maintain satisfactory internal controls and written compliance procedures which address all applicable regulatory requirements.

Notes: (1) For the purpose of determining the experience of the responsible officers, the Commission may consider their experience in managing private funds.

(2) The management company may choose to itself perform all the functions required of it under this Code or delegate or contract out to one or more outside entities one or more of these functions (see 5.7). Where it chooses to itself perform the function of management of the real estate of the scheme, the management company shall have key personnel who are specifically responsible for the property management functions and who shall be professionally qualified to manage real estate. Each such person shall have at least five years of experience in managing real estate. The management company shall properly supervise such personnel and ensure that they are fit and proper.

5.5 The management company shall:

(a) demonstrate that it has sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities; in particular, it shall comply with any financial requirement applicable to the company under the Securities and Futures (Financial Resources) Rules; and

(b) not lend to a material extent.

5.6 Indebtedness owed by the management company to its parent company will be considered as part of capital for the purpose of 5.5 in the following circumstances:

(a) the indebtedness shall not be settled without the prior written consent of the Commission; and

(b) the indebtedness shall be subordinated to all other liabilities of the management company, both in terms of its entitlement to income and its rights in a liquidation.

5.7 The management company may delegate one or more functions in relation to the scheme, and it shall:

(a) ensure that its delegates have sufficient experience and financial resources at their disposal to enable them to conduct their business and meet their liabilities; and

(b) demonstrate that it has proper due diligence procedures and management or administrative structures in place for the selection and on-going monitoring of the delegate(s).

Notes: (1) The management company shall ensure that its delegates are fit and proper. This includes ensuring that the delegates are companies with a good and established reputation in performing such duties, and have sufficient resources, relevant experience, and professional qualifications (those set out in Note (2) to 5.4) to carry out their duties in relation to the functions being delegated. Such delegates shall also be financially sound, have a positive net asset position, and have acquired sufficient insurance (including professional insurance, where applicable) to cover the usual risks.

(2) The agreement between the management company and each of the delegates shall clearly document the demarcation of functions between themselves.

(3) The management company shall be entitled to inspect, and the delegates shall make available for inspection, any books and records kept by the delegates in relation to the functions delegated to them.

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.

5.8 The management company shall at all times maintain on-going supervision and regular monitoring of the competence of its delegates to ensure that the management company's accountability to investors is neither diminished nor compromised. Although one or more functions of the management company may be delegated to third parties, the responsibilities and obligations of the management company may not be delegated and shall remain the responsibilities and obligations of the management company.

5.9 All transactions carried out by or on behalf of the scheme shall be at arm's length. In particular, any transactions between the scheme and the management company or any other connected persons to the scheme acting as principal may only be made and disclosed in the scheme's annual report, both in accordance with Chapter 8.

5.10 The management company shall satisfy the Commission as to the overall integrity of the management company. The management company shall ensure that it has reasonable assurance of the adequacy of internal controls and the existence of written procedures, which shall be regularly monitored by the management company's senior management for up-to-dateness and compliance. Conflicts of interests shall be properly addressed to safeguard investors' interests.

Note: The Commission may on a case-by-case basis require independent review on the internal controls and systems [see 5.4] of the management company which does not have demonstrable relevant management experience and track record in investment management and/or property portfolio management.

Appointment of Listing Agent and Financial Adviser

5.11 The management company of the scheme shall ensure that there are sufficient resources and expertise to address the requirements of the Exchange and to comply with its listing rules. The management company shall ensure that the initial public offering process is conducted in a fair, proper and orderly manner. The management company shall appoint an agent acceptable to the Commission and such agent shall be responsible for preparing the scheme as a new applicant for listing, for lodging the formal application for listing and all supporting documents with the Exchange and for dealing with the Exchange on all matters arising in connection with the application. In particular, each such agent shall have sufficient experience to discharge the following functions:

(a) communications with the Exchange – the agent will deal with the Exchange on all matters arising from the listing application and ensure that all the applicable procedural and documentary requirements are complied with;

(b) overall management of the offer of interests in the scheme through the Exchange and the listing process – the agent will ensure that the offer and listing process are managed and conducted in a fair, timely and orderly manner; and

(c) duties as a sponsor - the listing agent is in effect assuming the responsibilities of, and discharging a function no different from, the sponsor of an initial public offering. It shall conduct its own independent due diligence on the properties of the scheme and demonstrate comparable standards of due diligence in this regard as those required by the Exchange and the Commission in respect of sponsors.

Note: The management company may appoint joint listing agents. Where more than one listing agent is appointed, the Commission may require the management company to designate one of the listing agents to be the primary channel of communication with the Commission concerning matters involving the application. However, the listing agents of a scheme are jointly and severally responsible and liable for their work conducted in relation to the offering of the units of the scheme.

5.12 Subject to the approval of the Commission, the management company may itself perform the functions and duties described in 5.11, or appoint a listing agent for such purpose. In the case of a transaction, the management company shall, where necessary or required by the Code, engage a financial adviser.

Notes: (1) The Commission expects any listing agent or financial adviser appointed by the management company of a scheme shall at all times perform its functions and duties and conduct its activities in accordance with the standards and requirements under the Commission's codes and guidelines including the Corporate Finance Adviser Code of Conduct, licensing conditions and such other conditions as the Commission shall impose.

(2) It is the duty of the management company to ensure that any listing agent appointed for the purpose of managing an initial public offering, or financial adviser appointed in relation to a transaction, is fit and proper, and possesses the relevant experience and resources to undertake the work. Notwithstanding the appointment of a listing agent or financial adviser and their respective responsibilities under this Code and all relevant laws and

regulations, the management company shall remain responsible for all matters relating to the conduct of an initial public offering and the listing of the scheme.

(3) The listing agent appointed in connection with the listing of a scheme and the financial adviser appointed in relation to a transaction shall be a person licensed by the Commission to engage in one or more regulated activities including the provision of relevant corporate finance services, and shall be acceptable to the Commission.

(4) Marketing materials in relation to a scheme may only be published, distributed or issued to the public after they are authorised by the SFC. For avoidance of doubt, the SFC would normally not authorise any marketing materials for a scheme before the scheme is authorised by the Commission or listing approval is granted by the Exchange.

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.

Retirement of a Management Company

5.14 The management company shall be removed by the trustee by notice in writing in any of the following events:

(a) the management company goes into liquidation, becomes bankrupt or has a receiver appointed over its assets or any part thereof; or

(b) for good and sufficient reason(s), the trustee states in writing that a change in management company is desirable in the interest of the holders; or

(c) an ordinary resolution is passed by the holders to dismiss the management company.

Notes: All holders, including the management company and its associates, are entitled to vote their units on the ordinary resolution to dismiss the management company and be counted in the quorum for the purposes of passing such ordinary resolution.

5.15 In addition, the management company shall retire:

(a) in all other cases provided for in the constitutive documents where such retirement will not adversely affect the interests of the holders in any material respect; or

(b) when the Commission withdraws its approval of the management company.

5.16 The trustee shall inform the Commission forthwith of any proposal or decision to remove the management company.

5.17 Upon the retirement or dismissal of the management company, the trustee shall appoint a new management company as soon as possible whose appointment shall be subject to holders' approval by ordinary resolution and the prior approval of the Commission.

Notes: All holders, including the new management company and its associates, are entitled to vote their units on the ordinary resolution to appoint the management company and be counted in the quorum for the purposes of passing such ordinary resolution.

Appointment of the Auditor

5.18 The management company shall, at the outset and upon any vacancy, appoint an auditor for the scheme and any special purpose vehicles acquired or to be acquired by the scheme.

5.19 The auditor shall normally have an international name and reputation, and shall be qualified under the Professional Accountants Ordinance for appointment as an auditor of a company and independent of the management company, the trustee and any other party concerned.

5.20 The management company shall cause the scheme's financial statements to be audited by the auditor. Such statements shall contain the information in Appendix C.

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.

6.6 The Principal Valuer shall ensure that its opinion and valuation is 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.

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.

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.

Chapter 9: Operational Requirements

Scheme Documentation

Matters to be Disclosed in Offering Document

9.1 Authorised schemes shall issue an up-to-date offering document when they offer units to the public, containing information necessary for investors to be able to make an informed judgement of the investment proposed to them, and in particular containing the information set out in Appendix B.

English and Chinese Documentation

9.2 All the circulars, notices, announcements, offering documents, and valuation report in relation to the scheme shall be provided in the English and Chinese languages.

Inclusion of Performance Data

9.3 The offering document may disclose the rental yield actually achieved by the real estate at the time the valuation report was made.

9.4 A forecast of the scheme's dividend yield is permitted only if it is made on reasonable grounds and on condition that:

(a) the relevant forecasts are compiled in accordance with the requirements set out in Appendix F, and

(b) when results are published relating to the period covered by the forecast dividend yield, the published financial statements shall disclose the relevant figure and account for the discrepancy between the forecast and the actual yield.

Notes: (1) The dividend yield forecast shall only cover a period of up to two years. The second year covered by the forecast shall not exceed the end of the next fiscal year.

(2) The assumptions pertaining to any forecasts and dividend yield calculation shall be clearly stated.

(3) There shall be appropriate risk disclosures, including risks that the prospective financial information and the projected yield may not be achieved.

Contents of Constitutive Documents

9.5 The constitutive documents of a scheme shall contain the information set out in Appendix D. Nothing in the constitutive documents shall provide that the trustee or management company may be exempted from any liability to holders imposed under any relevant law or breaches of trust through fraud or negligence or wilful default, nor may they be indemnified against such liability by holders or at the scheme's expense.

Changes to Scheme Documentation

9.6 The constitutive documents may be altered by the management company and trustee, without consulting holders, provided that the trustee certifies in writing that in its opinion the proposed alteration:

(a) is necessary to comply with fiscal or other statutory or official requirements; or

(b) does not materially prejudice holders' interests, does not to any material extent release the trustee, management company or any other person from any liability to holders and does not increase the costs and charges payable from the scheme property; or

(c) is necessary to correct a manifest error.

In all other cases no alteration may be made except by a special resolution of holders.

Register of Holders

9.7 The trustee or the person so appointed by the trustee shall maintain a register in Hong Kong of holders. The Commission shall be informed of the address(es) where the register is kept. The register shall be open for inspection by holders during business hours. Where the trustee is empowered under the constitutive documents to direct disclosure of any particulars of the holdings of a holder and its associates in the scheme, the trustee shall keep proper records of any particulars obtained under such direction.

Offers of Units

9.8 If an initial offer of units is made, no investment of subscription money can be made until the conclusion of the first issue of units at the initial price.

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

9.8B In the case of offerings involving bookbuilding activities (as defined under the Code of Conduct) of units by a REIT seeking authorisation from the Commission or an SFC-authorised REIT, Chapter 3A of the Listing Rules and the other relevant Listing Rule provisions relating to sponsor-overall coordinator, overall coordinator and other capital market intermediaries shall apply.

Notes: (1) These requirements include but are not limited to those provisions relating to (a) the appointment of overall coordinator(s) and sponsor-overall coordinator(s); (b) obligations of new applicants, issuers and their directors; (c) engagement of capital market intermediaries; and (d) related reporting, publication and disclosure requirements.

(2) Bookbuilding activities (as defined under the Code of Conduct) also cover those conducted in respect of offerings of debt securities.

(3) 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.

Meetings

9.9 A scheme shall arrange to conduct general meetings of holders as follows:

(a) holders shall be able to appoint proxies;

(b) votes shall be proportionate to the number of units held or to the value of units held where there are accumulation units;

(c) the quorum for meetings at which a special resolution is to be considered shall be the holders of 25% of the units in issue and 10% if only an ordinary resolution is to be considered;

(d) if within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall be adjourned for not less than 15 days. The quorum at an adjourned meeting will be the number of those holders present at the adjourned meeting in person or by proxy;

(e) if the possibility exists of a conflict of interest between different classes of holders there shall be provision for class meetings;

(f) holders shall be prohibited from voting their own units at, or counted in the quorum for, a meeting at which they have a material interest in the business to be contracted and that interest is different from the interests of all other holders;

Notes: Notwithstanding the foregoing, all holders are entitled to vote their units on an ordinary resolution to dismiss or appoint the management company and be counted in the quorum for the purposes of passing such ordinary resolution.

(g) an ordinary resolution may be 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;

(h) a special resolution 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 poll; and

Note: A special resolution shall be required in the event of circumstances specified in this Code, or in such other cases as provided for in the constitutive documents of the scheme.

(i) two or more holders holding not less than 10% of the outstanding units of a scheme shall have the right to requisition a general meeting of the scheme subject to satisfying any quorum requirement laid down by the scheme's constitutive documents.

Fees

9.10 The level/basis of calculation of all costs and charges payable from the scheme's property shall be clearly stated in the offering document, with percentages expressed on a per annum basis (see Appendix B). The aggregate level of fees for investment management and property management functions shall also be disclosed.

Note: Percentage-based transaction fees payable to the management company or any of its connected persons may be disallowed as being inconsistent with the management company's fiduciary responsibility.

9.11 Where appropriate, all fees and expenses (including underwriting fees) incurred in relation to the listing of a scheme shall be disclosed in the offering document.

9.12 A performance fee is payable by the scheme, the fee shall be payable:

(a) no more frequently than annually; and

(b) if the net asset value per unit exceeds the net asset value per unit on which the performance fee was last calculated and paid (i.e. on a "high-on-high" basis).

Note: The Commission may consider a calculation basis for performance fees which is different from the mechanism as set out above only if the calculation basis could adhere to the "high-on-high" principle, truly reflect the operation and performance of the management company, does not prejudice the interests of holders, and is fair and objectively calculated.

9.13 The following fees, costs and charges shall not be paid from the scheme's property:

(a) commissions payable to sales agents arising out of any dealings in units of the scheme;

(b) expenses arising out of any advertising or promotional activities in connection with the scheme;

(c) expenses which are not ordinarily paid from the property of schemes authorised in Hong Kong; and

(d) expenses which have not been disclosed in the offering documents or constitutive documents as required by Appendix D.

Note: Deviation of the fee structure of a scheme from the requirements under 9.13 (a) or (b) may be considered by the Commission on a case-by-case basis supported with proper justification by the management company.

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), (i), (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.

Chapter 11: Termination or Merger of a REIT

11.1 The scheme may be wound up by the court, otherwise, termination of the scheme shall be subject to holders' approval by special resolution at a general meeting. Where the proposal to terminate the scheme is recommended by the management company, the management company and its connected persons as described in 8.1(e), (f) or (g) shall abstain from voting if they hold interests in the units of the scheme and if their interest in terminating the scheme is different from that of all other holders.

11.2 A scheme may be merged with another scheme(s) authorised by the Commission under this Code. Such merger shall follow any procedures set out in the constitutive documents or governing law of both schemes, and shall be subject to holders' approval by special resolution at a general meeting. Where the proposal to merge the schemes is recommended by the management company, the management company and their connected persons as described in 8.1(e), (f) or (g) shall abstain from voting if they hold interests in the units of the scheme(s) and if their interest in merging the schemes is different from that of all other holders.

11.3 An announcement on a termination or a merger shall be made as soon as reasonably practicable in accordance with Chapter 10.

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.

11.5 A notice shall be sent to holders informing them of the result of the holders' voting at the general meeting.

11.6 Upon holders' approval of the termination of the scheme or merger of schemes, the scheme(s) shall cease to create, cancel or sell units. No transfer of the units may be registered and no other change to the register of holders may be made without the sanction of the trustee(s).

11.7 The terminating scheme shall not make further investments. The obligations of the trustee, the management company and the Principal Valuer shall continue until the scheme is dissolved.

11.8 In the case of termination, the trustee shall oversee, as soon as practicable after the scheme falls to be wound up, the realisation of the real estate of the scheme by the management company, and ensure that, after paying all outstanding liabilities and providing adequate provisions for liabilities, the proceeds of that realisation are distributed to the holders proportionately to their respective interests in the scheme at the date of the termination of the scheme.

Notes: (1) All real estate held by the scheme shall be disposed of through public auction or any form of open tender. The disposal shall be conducted at arm's length and in the best interests of the holders. The disposal price shall be the best available price obtained through public auction or open tender. Where appropriate, the Commission may consider granting a waiver from strict compliance with such public auction or open tender requirement where 11.13 and the applicable provisions in the Takeovers Code have been duly complied with in the circumstances.

(2) The trustee shall ensure that the liquidation exercise is completed within twelve months from the date the termination takes effect. Where the trustee considers it is in the best interests of the holders, the liquidation exercise may be completed for such longer period (in total not to exceed 24 months) as the trustee deems appropriate. Holders shall be informed by way of announcement.

(3) All cash proceeds derived from the liquidation of the scheme shall be distributed to holders on a pro rata basis. Where the liquidation exceeds six months, an interim distribution shall be made in respect of the sale proceeds received by the end of every six-month period, except where no sales were made during such period. Upon completion of the liquidation, a one-off distribution shall be made within one month from the date of completion.

(4) Distributions to holders upon termination of the scheme shall be made in cash only.

11.9 Subject to any order of the court, while a scheme is being wound up, the scheme shall continue to prepare its annual or semi-annual report, whichever is applicable.

11.10 On completion of the liquidation of the scheme or merger of schemes, the following shall be prepared:

(a) the management company's review and comments on the performance of the scheme, and an explanation as to how the real estate has been disposed of, the transaction prices and major terms of disposal, in the case of termination, and

how the real estate has been accounted for in the merged scheme, in the case of a merger;

(b) a trustee's report that the management company has managed and liquidated the fund in accordance with the Code and the provisions of the trust deed, in the case of a scheme liquidation, or that the management company has managed and merged the scheme in accordance with the Code and the provisions of the trust deed, in the case of a merger of schemes;

(c) financial statements of the scheme (see Appendix E for content requirements); and

(d) an auditors' report (see Appendix E for content requirements).

11.11 Copies of the financial statements shall be distributed to holders within three months of the completion of the liquidation or merger and a copy shall be filed with the Commission.

11.12 Where a scheme is involved in any form of merger, takeover, amalgamation or restructuring, the Takeovers Code must be complied with and the scheme's trustee and/or management company shall as soon as practicable consult with the Commission on the manner in which such activities could be carried out so that it is fair and equitable to all holders.

11.13 Where a delisting of a scheme from the Exchange is proposed, all rules and principles as applicable to listed companies under the Exchange's Listing Rules regarding withdrawal of listing should be complied with in substance, with necessary changes being made, as if such rules and principles were applicable to the scheme. The scheme's trustee and/or management company shall as soon as practicable consult with the Commission on the detailed application of such rules and principles with respect to the particular situation.

Chapter 12: Issue of New Units

12.1 A scheme shall be so structured as to enable a holder to protect his proportion of the total units held by having the opportunity to subscribe for any new issue of units. Accordingly, unless the Code otherwise permits, all issues of units by the scheme shall be offered to the existing holders pro rata to their existing holdings, and only to the extent that the units offered are not taken up by such holders may they be allotted or issued to other persons or otherwise than pro rata to their existing holdings.

12.2 If new units are not offered to holders on a pro rata basis, holders' approval by way of ordinary resolution at a general meeting is required, unless the aggregate number of new units issued under this 12.2 during the financial year does not increase the total number of units outstanding at the end of the previous financial year by more than 20% (or such lower amount as may from time to time be specified by the Commission).

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.

12.3 Where the scheme issues new units on a pro rata basis, and the issue increases the market capitalization of the scheme by more than 50%, holders' approval by way of ordinary resolution at a general meeting is required. An announcement, a circular and a notice shall be issued in accordance with Chapter 10.

Note: Any units issued (other than those issued under 12.2) in the preceding 12 months shall be aggregated for the purpose of calculating the 50% limit.

12.4 Where a holder may increase his holdings of units in the scheme by more than his pro rata entitlement upon completion of an issuance of units, the holder shall abstain from voting in relation to such unit issuance.

12.5 Where applicable, the management company and its connected persons shall abstain from voting in relation to any unit issuance.

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.

Practice Note on Overseas Investments by SFC-authorised REITs

Introduction

1. With effect from June 2005, the Code on REITs (the "Code") has been amended to allow SFC-authorised REITs to invest in overseas properties in accordance with the provisions of the Code. It is generally accepted that the market characteristics, investment considerations, and types and level of risks faced by a scheme when investing in and managing overseas properties may be different from those faced by a scheme that invests in Hong Kong properties. These differences may arise in areas such as legal and accounting systems, regulatory framework for properties, valuation methodology, and political and economic environment.

2. The management company is expected to have the requisite competence, experience, and effective internal controls and risk management system for conducting property investments and management in the relevant overseas jurisdiction. It is also required to comply with applicable laws and regulations governing its conduct as an intermediary in investment management business. Decisions to invest in overseas properties shall be made solely in the best interests of holders. A management company's responsibility and duty towards holders shall not be diminished or undermined when a scheme invests in overseas properties. While a management company may delegate functions, it cannot delegate or absolve itself from its responsibilities and duties in relation to the management of a scheme.

3. The Code has set out the general principles and requirements to be followed by the parties involved in the operation of a scheme including the management company, trustee, valuer and auditor (collectively, the "REIT operators"). Such general principles and requirements shall equally apply in the case of a scheme investing in overseas properties. However, with a potentially different operating environment for a scheme investing in overseas properties, the Commission is mindful of the need to reiterate and, where necessary, to elaborate on the practical application of the Code provisions to schemes that own and manage overseas properties.

4. REIT operators shall possess relevant expertise and implement effective risk control system when carrying out their respective functions in connection with a scheme that invests in overseas properties. However, it is also recognized that certain overseas investment risks, though capable of being minimised, cannot be completely eliminated.

5. This Practice Note aims to highlight to REIT operators that they are responsible for applying appropriate measures and safeguards to mitigate foreign investment risks as much as practicable and to clearly, reasonably and accurately disclose the risks involved in investing overseas to investors so as to enable them to make informed investment decisions.

6. This Practice Note forms part of the Code and is to be read in conjunction with the Code for an overall view of the regulatory framework for schemes that invest in overseas properties.

7. This Practice Note also supplements the disclosure requirements set out in the Code. Applicants are reminded to refer to the Code which, among other things, also identifies circumstances where specific disclosure is required and the manner in which such disclosure has to be made.

8. Unless otherwise stated, words and expressions defined in the Code shall bear the same meaning in this Practice Note.

Safeguarding Measures for Overseas Investments

Qualifications of the Management Company

9. The complexity and risks involved in making property investments and divestment vary from country to country, as each jurisdiction has its own unique legal framework, legislative requirements, business operations model and stage of economic development. In determining whether a scheme shall invest in overseas properties, the management company shall assess the suitability of such decision with reference to its experience, capability, resources and competence, and its track record in dealing with the legal, regulatory and other requirements of overseas property investments.

Note: When determining whether a management company may be licensed to manage a scheme that invests in overseas properties, the Commission may take into account the extent and nature of firm support to be provided to the management company by the group of which it is a member.

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.

11. In assessing whether a management company is capable of engaging in overseas property investments and management, the Commission will consider factors such as:

(a) the composition of the management team;

(b) the expertise of the key personnel and senior management, and the competence, knowledge and experience of staff and their ability to devote their time and attention to investing in and managing the properties in the jurisdiction(s) and the type(s) of properties that the scheme invests or proposes to invest in;

(c) the regulatory and/or disciplinary records of the management company and its key personnel, as a manager of a collective investment scheme or a listed vehicle;

(d) the track record of the management company or its key personnel in investing in and managing the type(s) of properties in the jurisdiction(s) that it intends to invest in;

(e) the operating system and compliance standards of the management company;

(f) the accounting and internal controls systems of the management company;

(g) the contingency plans of the management company to deal with exigencies that may arise in overseas jurisdiction(s) and to address any consequential impact that may affect the scheme's investments in such jurisdiction(s);

(h) the financial resources of the management company; and

(i) the nature and extent of technical and human resources that the management company may obtain from the group it belongs to.

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.

13. Subject to compliance with the principles and rules relating to delegation in the Code and this Practice Note (including without limitation those in GP4 and Rule 5.7 of the Code), the management company may delegate one or more functions in relation to the management of the scheme's overseas investments to an overseas partner or appoint an overseas agent/expert (each an "overseas entity") to perform such functions. However, it shall conduct due diligence work to ensure that such overseas entity is competent to perform the functions so delegated or appointed, and shall establish adequate measures to monitor and/or supervise the activities of such overseas entity. The management company's accountability to investors is neither diminished nor compromised as a result of such delegation or appointment. The management company remains fully responsible for the acts and omissions of the overseas entity.

Notes: (1) The compliance plan of the management company shall clearly demonstrate that it has proper and adequate due diligence procedures and structured plans as to how an overseas entity (who is appointed to perform one or more management functions) shall be selected and monitored on a continuous basis. Such plan shall include at a minimum the following provisions:

(a) the criteria and procedures for selection of an overseas entity;
(b) the mechanism for regular review of the performance of an overseas entity to reflect changes in relevant rules and regulations in the overseas jurisdictions; and
(c) means to assess shortfalls in standards/performance of an overseas entity.

(2) In assessing an overseas entity for initial or ongoing appointment, the management company shall pay special regard to and disclose where appropriate:

(a) the expertise of the overseas entity;
(b) the professional and liability insurance required to be taken out by the overseas entity in connection with the type of work carried out for a scheme and/or its underlying properties, in accordance with the relevant

rules and regulations of the jurisdiction where the overseas entity operates;

(c) *means of recourse against the overseas entity in cases of its sub-standard performance or misconduct; and*

(d) *the track record of the overseas entity in investing in and managing properties in the relevant jurisdiction. In this regard, the manager shall assess an overseas entity based on the general principles laid down in the Code.*

14. The management company shall implement appropriate measures to oversee and supervise an overseas entity it has appointed. There shall also be a mechanism in place to identify and address any potential conflicts of interest of such overseas entity.

Due Diligence Exercise

15. The following paragraphs only set out some of the key areas that a management company shall pay special attention to in its due diligence before investing in overseas properties and shall not be taken as exhaustive obligations, steps or standards expected of a management company in such situations.

16. The management company shall ensure that the rights and interests of the holders of the scheme are protected in implementing any decisions. As in the case of making investments in Hong Kong, a management company has the duty to ensure that any decisions in relation to overseas investment or divestment are made in the best interests of the holders of the scheme, taking into account various factors, including without limitation the following:

(a) overall and thorough examination and understanding of the economic and political environment, legal, judicial and accounting systems, and the property market in the relevant overseas market;

(b) entrance barrier of overseas market e.g. foreign ownership restrictions, foreign exchange and remittance control, and anti-trust/competition provisions;

(c) the legal and regulatory framework governing the proprietary rights of investors in real estate in that jurisdiction, the effectiveness and certainty of the legal system whereby contractual and proprietary rights of real estate owners and landlords are enforced and upheld, for example, reliability and certainty of ascertaining, establishing and protecting title to real estate and the rights of parties to a lease and other real estate agreements, and the enforceability of leases and other real estate agreements; specific legislation, regulations or government policies securing tenants' tenure, protecting tenants or controlling rental reviews; laws governing the operations of the specific business(es) to be contemplated for operations in the property; and the level of transparency and certainty of governmental policy on real estate regulation;

(d) operational barriers e.g. rental collection, enforcement of legal rights as landlord and transparency of accounting and financial reporting systems;

(e) environmental matters e.g. regulations and any requirements for licences or consents from environmental authorities;

(f) taxation matters e.g. land appreciation tax or other special levy or tax for the business, withholding tax or any other taxes that may affect operations of a scheme investing in the overseas property concerned;

(g) where applicable, the existence of an overseas entity to whom functions are delegated, the ability of the management company to maintain sufficient on-going supervision of such overseas entity and the presence of any overseas constraints or limitations in engaging such entity;

(h) possible exit strategies or mechanisms for the overseas market and termination arrangements for the scheme's overseas investments; and

(i) practical and effective measures to address the issues or mitigate the risks that may arise out of the overseas investments.

Valuation

17. The Principal Valuer shall be responsible for conducting the valuation of all properties owned by the scheme. The Principal Valuer is required to comply with the qualification requirements set out in the Code. Where the Principal Valuer is not able to conduct valuation for overseas properties owned, to be purchased or to be sold by the scheme, it shall appoint an overseas valuer in the overseas jurisdiction to assist in preparing the valuation of that overseas property subject however to the Principal Valuer having assessed, and disclosed in the valuation report, the following:

(a) the justification for appointment of an overseas valuer in an overseas jurisdiction including the reasons for the Principal Valuer not carrying out overseas valuation by itself or its group companies;

(b) the characteristics of the relevant overseas property market and the availability of qualified and experienced overseas valuers in that market that can exhibit the level of standard and expertise comparable to international standards in valuation;

(c) the merits and disadvantages of appointing an overseas valuer and whether such appointment is to the overall benefit of the scheme and its investors; and

(d) whether the overseas valuer appointed can meet the independence test stated in 6.5 of the Code.

18. Notwithstanding that part or all of the preparation of the valuation report of an overseas property is carried out by an overseas valuer, the Principal Valuer shall remain fully responsible for the work carried out by the overseas valuer in accordance with 6.2 of the Code and shall certify the valuation report of such overseas property for the purpose of inclusion in the offering document or circular where applicable.

19. The Principal Valuer is expected to conduct due diligence in the identification of an appropriate overseas valuer and it shall ensure that the overseas valuer meets the same criteria for acceptability of the Principal Valuer, as set out in Chapters 6.4 to 6.7 (except for 6.4(b) and (c)) of the Code.

Notes: (1) The overseas valuer shall have suitable experience in conducting property valuation for the relevant type(s) of properties in the relevant jurisdiction on a regular basis.

(2) An overseas valuer shall only be acceptable by the Principal Valuer for preparing the valuation report if the former is subject to the oversight of a reputable national professional organization for valuers.

(3) The Principal Valuer shall ensure that the criteria for selecting an overseas valuer are consistently and objectively applied, regardless of the location of the overseas property.

Enhanced Disclosure of Risks and Specific Overseas Issues

20. The management company shall keep current holders and potential investors informed of any information or matters that may be relevant and important to the scheme in a timely, accurate and clear manner. The Code has laid down general principles and disclosure requirements for, among others, the offering document, circulars, announcements and valuation report. While it is expected that these principles and disclosure requirements shall not be applied differently in the case of overseas properties, paragraphs 21-26 of this Practice Note seek to supplement and elaborate on these requirements.

Offering Document and Circular

21. Given that local investors are generally not familiar with the characteristics and risks pertaining to overseas property investments, the manager of a scheme that invests or proposes to invest in overseas properties shall ensure that information about the overseas market and the specific overseas property is disclosed in accordance with the principles and rules in the Code (including GP10 and Rule 10.10(t) of the Code) whether in the offering circular (in the case of a scheme that proposes to invest in overseas properties in its initial public offering) or the circular to holders (in the case of a scheme that seeks to expand its REIT management activities outside of Hong Kong or to diversify into additional overseas jurisdictions).

22. The management company shall ensure that the characteristics and risks of investing in the relevant property market are disclosed. The management company shall at least disclose the following:

(a) the overseas jurisdictions that a scheme invests or will invest in, or a description of the criteria for selecting the overseas jurisdiction(s) for investment;

(b) an assessment of the financial aspects of overseas property investment, such as the ability to hedge against currency risks, foreign exchange controls or restrictions imposed by overseas government, taxation in respect of appreciation in property values, rental income and gains on disposal of properties, the state of the overseas capital market and access to such market, and the ability to preserve and repatriate gains, profits and capital;

(c) an explanation of the operational matters specific to property investments in each of the relevant overseas jurisdictions, such as its practice of rental collections and rental deposit refunds, the requirement to obtain the relevant licences, the

administrative requirements laid down by the relevant governing authorities, laws governing repossession of properties, and tenant protection laws; and

(d) where there is a significant fluctuation in exchange rates between the date of property valuation and the latest practicable date prior to publication of the relevant document, this fact together with the effect of the fluctuation on the valuation as stated in the valuation report shall be set out.

23. A scheme investing or proposing to invest in overseas properties shall explain to investors the regulatory framework in which proprietary rights and title of such overseas real estate can be vested in the scheme. The management company shall, with the information provided by experts, prepare a commentary to be included in the offering document or circular that covers the following aspects concerning the overseas properties:

(a) overview of the legal framework of the relevant overseas market that governs the conveyance of proprietary and legal title of real estate (including the land and the superstructure on it) in that market;

(b) comparison of the extent of legal protection of proprietary rights over real estate conferred by the legal system in the relevant overseas market and that of Hong Kong;

(c) brief description of any previous restructuring, transactions and derivation of title of the overseas property that is to be or has been acquired by the scheme, for a period of not less than 5 years before the date of the latest valuation of the property;

(d) any applicable (whether in force, announced or proposed) policy changes or government administrative measures that might have an impact on the enforcement and protection of the title of the property and any of the related proprietary rights of the property acquired or to be acquired by the scheme, and an assessment of the implication thereof on all material aspects in relation to the scheme;

(e) any laws protecting tenants or restricting rental reviews;

(f) assessment and explanation by the management company of the key areas of concerns in relation to the ownership and enforcement of proprietary rights of the overseas property and the operational aspects in managing such property in view of the overseas legal and regulatory regime;

(g) the nature and extent of title insurance acquired in respect of the property, where applicable;

(h) description of any material conditions affecting either the status of the legal title to the subject property as disclosed in the legal opinion in respect of such property, or the assumptions adopted by the valuer in the valuation of such property as disclosed in the valuation report; and

(i) description of all known relevant taxes and premiums which may be charged in respect of the subject property.

24. To ensure that investors have a clear understanding of the manner in which overseas investments are conducted, the offering document or circular shall also clearly explain whether an overseas entity is appointed and the criteria for such appointment. The offering document or circular shall, at least, provide names and succinct descriptions of the overseas entities, their relationships with the operators of the scheme or with the property that the scheme invests in, and the major terms (including duration) of each of the arrangements with the respective overseas entities.

Note: Where an overseas entity is engaged to manage an overseas property, the details of the arrangement have to be disclosed on substantially the same basis as described in paragraph 7.7A of the Code.

Valuation Report

25. In addition to the requirements set out in the Code and paragraph 17 of this Practice Note, a valuation report that concerns overseas properties is expected to include, as a minimum, analysis and commentary on the following aspects:

(a) identity, experience and professional qualification of the valuer(s) of the respective overseas properties and the relationship between the Principal Valuer and the overseas valuer(s) where the valuer(s) is(are) not the Principal Valuer;

(b) description of the significant overseas taxes which may be charged in respect of the relevant property; and

(c) the exchange rate used in connection with any figures or calculations of property valuation that involves currency exchange rates and the relevant date for the rate shall be stated.

Financial Statements

26. Where the value of the properties held by the scheme as recorded in the financial statements differ from that provided by the valuer in the valuation report, a reconciliation statement shall be required to explain the differences.

Appendix A

Overseas Regimes Acceptable to the Commission

Management companies in the following jurisdictions are regarded as subject to an acceptable inspection regime acceptable to the Commission and may be considered as approved management companies under 5.3 of this Code. As a general guide, the Commission looks to the following matters in determining the acceptability of an overseas management company:

(a) the management company is licensed by an overseas regulator who carries out inspections of the management company (including its activities in relation to REITs or schemes of a similar nature) within its jurisdiction in a manner generally consistent with that of the Commission; and

(b) the Commission and the overseas regulator concerned have satisfactory procedures for the timely exchange of information regarding the management company.

The regulators of management companies in respect of the following overseas jurisdictions are regarded as acceptable to the Commission:

Jurisdiction	**Regulator**
Australia	Australian Securities & Investments Commission (ASIC)
Germany	Bundesanstalt fur Finanzdienstleistungsaufsicht (BAFin) (German Financial Supervisory Authority)
Ireland	Financial Services Regulatory Authority
Luxembourg	The Commission de Surveillance du Secteur Financier (CSSF)
United Kingdom	Financial Conduct Authority (FCA)

Appendix B

Information in the Offering Document

This list is not intended to be exhaustive. The management company is obliged to disclose any information which may be necessary for investors to make an informed judgement.

Constitution of the Scheme

B1 Name, registered address and place and date of creation of the scheme.

Investment Objectives and Restrictions

B2 The offering document of the scheme shall clearly include:

(a) the investment policy and strategy of the scheme;

(b) the proposed use of the monies raised from the public offering of the units in the scheme and any business plan for the scheme;

(c) a discussion of the business plan for property investment and management covering the scope and type of investments made or intended to be made by the scheme, including the type(s) of real estate (e.g. residential/commercial/industrial);

(d) the general character and competitive conditions of all real estate now held or intended to be acquired by the scheme and how it meets the established criteria for selection;

(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;

(ea) the nature and risks of making investments pursuant to 7.2B;

(f) details of the arrangement that has been entered into by the scheme for it to own the legal and beneficial title of that property and the benefits and drawbacks of such arrangement;

Note: The management company shall disclose, as a minimum, the information in relation to properties not directly or wholly owned by a scheme, as set out in 7.7A.

(g) transaction history of the relevant property in the five years immediately preceding the date of the valuation report included in the offering document or circular;

(h) any proposed program for renovation or improvement to the real estate, including the estimated costs thereof and the method of financing to be used;

(i) the operating data of each of the real estate, including the occupancy rate, number of tenants and its mix in terms of occupation or business, principal provisions of the leases, average annual rental per square foot, and schedule of lease expirations for the next five years;

(j) the borrowing policy and the method or proposed method of operating and financing the scheme's real estate investments;

(k) the measures in place to mitigate or minimize risks relating to the investment and management of real estate owned by the scheme;

(l) the dividend policy;

(m) the insurance arranged for the scheme;

(n) the exit strategy in the event of divestment (including the exit from any joint ownership arrangement), factors and risks which may impact or act as an impediment to an exit, and the contingency plan;

(o) a statement with respect to any material policy regarding real estate activities; details of transactions or agreements entered into with connected parties;

(p) full particulars of the nature and extent of the interest, if any, of any director of the trustee, the management company, the Principal Valuer or any other connected persons to the scheme, in the property owned or proposed to be acquired by the scheme; and where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or the firm for services rendered to the scheme;

(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.

(r) particulars of any bank overdrafts or similar indebtedness of the scheme, or if there is no such indebtedness, a statement to that effect.

Note: All the above information has to be disclosed in the context of the specific characteristics and circumstances of the investments made or to be made by a scheme, and shall not be generic statements of investment in the property market.

B3 If the nature of the investment policy so dictates, a warning that investment in the scheme is subject to abnormal risks, and a description of the risks involved.

Operators and Principals

B4 The names, registered addresses and responsibilities of the parties involved in the management, operation and valuation of the scheme, including the following parties (where applicable):

(a) the management company;

Note: Information on the management company shall include:
(i) a description of the expertise, experience, resources, internal controls and risk management system regarding the investment activities of scheme; and
(ii) a description of the scheme management activities that the management company is licensed by the Commission to perform and any applicable conditions placed on the licence;

(b) the trustee;

(c) delegates of the management company;

(d) the property valuer;

(e) the auditor; and

(f) the registrar.

Substantial Holders

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.

Characteristics of Units

B7 Minimum investment and subsequent holding (if any).

B8 A description of the different types of units, including their currency of denomination.

B9 Form of certification.

B10 Proforma net asset value per unit upon completion of fundraising.

Application Procedures

B11 Procedure for subscribing units.

B12 Statement that no money shall be paid to any intermediary in Hong Kong who is not licensed or registered to carry on Type 1 regulated activity under Part V of the SFO.

Distribution Policy

B13 The approximate dates on which dividends will be paid.

Fees and Charges

B14 (a) The levels of all fees and charges payable by an investor (see 9.10 to 9.13), including all charges levied on subscription and conversion;

(b) The levels of all fees and charges payable by the scheme, including management fees, trustee fees, start-up expense and fees in relation to listing (including underwriting fees, where applicable); and

(c) The notice period for fee increases.

Note: In the case of indeterminable fees and charges, the basis of calculation or the estimated ranges shall be disclosed.

Taxation

B15 Details of Hong Kong and principal taxes levied on the scheme's income and capital, including tax, if any, deducted on distribution to holders.

Reports and Accounts

B16 The date of the scheme's financial year.

B17 Particulars of what reports will be sent to holders and when (including those in 10.12).

B18 A yield forecast may be incorporated into the offering document, subject to the requirements stated in Appendix F.

Warnings

B19 Statements/warnings shall be prominently displayed in the offering document as follows:

(a) "Important - if you are in any doubt about the contents of this offering document, you shall seek independent professional financial advice".

(b) A statement to the effect that the rental yield on real estate held by the scheme is not equivalent to the yield on the units.

B20 A statement to explain:

(a) the current rental receipts and that yields may not be sustained;

(b) the value of the property may rise as well as fall; and

(c) the standards according to which the property valuations are conducted.

B21 A statement to explain the investment characteristics and risk profile of the scheme.

Expert Statement

B22 Where the offering document includes a statement purporting to be made by an expert, a statement that he has given his consent to the issue of the offering document with the statement included in the form and context in which it is included.

B23 In B22 above, the expression "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him. For the purposes of B22 a statement shall be deemed to be included in an offering document if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

General Information

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.

B25 The date of publication of the offering document.

B26 A statement that the management company and its directors accept responsibility for the information contained in the offering document as being accurate at the date of publication.

Note: A responsibility statement as required under 10.10(t) shall be made in the offering document.

B27 Details of unauthorised schemes shall not be shown in the offering document. Where names of such schemes are mentioned, these shall be clearly marked as unauthorised and not available to Hong Kong residents.

B28 Details of listing procedures and special information relating to listing.

Termination of Scheme

B29 A summary of the circumstances in which the scheme can be terminated.

Merger of Scheme

B30 A summary of the circumstances in which the scheme can be merged with another scheme(s).

Accompaniment to the Offering Document

B31 The offering document shall be accompanied by:

(a) the scheme's most recent audited annual report and accounts (where applicable);

(b) the scheme's semi-annual report if published after the annual report (where applicable); and

(c) a valuation report prepared by a property valuer that meets the qualification requirements stated in Chapter 6. The effective date as at which the real estate was valued shall not be more than three months before the date on which the offering document is issued and the valuation report shall comply with the requirements of Chapter 6.

B32 No application form may be supplied to any person not a holder unless accompanied by the offering document, except that an advertisement or report containing all the requirements in this Appendix may be allowed to incorporate an application form.

Appendix C

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.

Balance Sheet

The balance sheet shall separately disclose, where applicable, at least the following items:

1. Total value of real estate

2. Cash and cash equivalents

3. Rentals and other receivables

4. Amounts receivable on subscription

5. Bank loans and overdrafts or other forms of borrowings

6. Distributions payable

7. Total value of all assets

8. Total value of all liabilities

9. Revaluation reserve

10. Net asset value

11. Number of units in issue

12. Net asset value per unit

Income Statement

The income statement shall separately disclose, where applicable, at least the following items:

1. Gross rental income from real estate

2. Other income, broken down by category

3. Deficit/Surplus on revaluation taken to the Income Statement during the accounting period

4. Profit or loss on disposal of any investment real estate

4A. Profit or loss on the holding and disposal of any Relevant Investment

5. Equalization on issue and cancellation of units

6. An itemized list of various expenditure charged to the scheme including:

   (a) fees paid to the management company
   (b) remuneration of the trustee
   (c) fees paid to delegates of the management company
   (d) fees paid to Principal Valuer
   (e) other amounts paid to any connected persons of the scheme
   (f) interest on borrowings
   (g) directors' fee and remuneration
   (h) safe custody and bank charges
   (i) auditors' remuneration
   (j) legal and other professional fees
   (k) commission paid to property agents

7. Taxes

8. Amounts transferred to and from the capital account

9. Net income for distribution

Cash Flow Statement

The cash flow statement shall include:

1. Cash flows from operating activities

2. Cash flows from investing activities

3. Cash flows from financing activities

Distribution Statement

The distribution statement shall separately disclose, where applicable, at least the following items:

1. Net after tax income for the period

2. Interim distribution per unit and date of distribution

3. Final distribution per unit and date of distribution

Statement of Movements in Capital Account

The statement of movements in capital account shall separately disclose, where applicable, at least the following items:

1. Value of the scheme as at the beginning of the period

2. Number of units issued and the amounts received upon such issuance (after equalization if applicable).

3. Any items resulting in an increase/decrease in value of the scheme including:

    (a) surplus/loss on sale of real estate

    (b) exchange gain/loss

    (c) unrealised appreciation/diminution in value of real estate

    (d) net income for the period less distribution

4. Amounts transferred to and from the Income Statement

5. Value of the scheme as at the end of the period

Notes to the Accounts

The following matters shall be set out in the notes to the accounts:

1. Principal Accounting Policies

    (a) in respect of real estate, the basis of valuation, the treatment of changes in their value and the treatment of any revaluation on their sale;

    (b) the revenue recognition policy regarding rental income, dividend income and other income;

(c) the basis of treatment of formation costs;

(d) taxation; and

(e) any other accounting policy adopted to deal with items which are judged material or critical in determining the transactions and in stating the disposition of the scheme.

Any changes to the above accounting policies and their financial effects upon the accounts shall also be disclosed.

2. Transactions with Connected Persons

Disclosure should be made in accordance with the requirements set out in Chapter 8.

3. Borrowings

State whether the borrowings are secured or unsecured and the duration of the borrowings.

4. Commissions

Commission paid to top five real estate agents and value of service contracts of the top five contractors engaged by the scheme during the year.

5. Contingent Liabilities and Commitments

Details of any contingent liabilities and commitments of the scheme.

6. If the free negotiability of any asset is restricted by statutory or contractual requirements, this shall be stated.

Contents of the Auditors' Reports

Two reports shall be prepared by the auditor, namely:

1. An auditor's report on compliance with the regulatory requirements, in which the auditor expresses an opinion as to whether the financial statements prepared for that period have been properly prepared in accordance with the relevant provisions of the trust deed and the Code; and

2. An auditor's report on the financial statements, in which the auditor expresses an opinion as to whether the financial statements give a true and fair view of the disposition of the scheme at the end of the period and of the transactions of the scheme for the period then ended;

If the auditor is of the opinion that proper books and records have not been kept by the scheme and/or the financial statements prepared are not in agreement with the scheme's books and records, that fact should be stated in the auditors' report in (2) above.

If the auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of the audit, that fact should be stated in the auditors' report in (2) above.

Performance Table

A comparative table covering the last 5 financial years or since launch, whichever is later, and including, for each financial year:

(a) the total net asset value at the end of the financial year;

(b) the net asset value per unit at the end of the financial year;

(c) the highest premium or discount of the traded price to net asset value; and

(d) the net yield per unit at the end of the financial year.

Note: A performance table prepared for a semi-annual report shall include (a) to (d) for the relevant interim period.

Appendix D

Contents of the Trust Deed

The trust deed of a scheme shall be submitted to the Commission for prior approval. It shall, at a minimum, contain all the information listed in this Appendix. The items listed are not meant to be exhaustive, the Commission may require additional information to be disclosed in the trust deed.

1. Name of Scheme

2. Participating Parties

   A statement to specify the participating parties such as the management company and the trustee.

3. The scheme is subject to and governed under the laws of Hong Kong.

4. (a) A statement that the deed is binding on each holder as if he had been a party to it and so to be bound by its provisions and authorises and requires the trustee and the management company to do as required of them by the terms of the deed.

   (b) A provision that a holder is not liable to make any further payment after he had paid the purchase price of his units and that no further liability can be imposed on him in respect of the units which he holds.

   (c) A declaration that the assets of the scheme is held by the trustee on trust for the holders of the units pari passu according to the number of units held by each holder.

5. Trustee

   (a) A statement to set out the obligations of the trustee as set out in Chapter 4.

   (b) A statement that the trustee shall retire in the manner as stipulated in Chapter 4.

   (c) A statement to empower the trustee to require holders to disclose to it upon its request, their beneficial interests in the scheme.

   (d) A statement to requiring a holder to promptly disclose to the trustee when the holder becomes a substantial holder.

6. Management Company

   (a) A statement to list the obligations of the management company including (see Chapter 5):
      (i) its general obligations with respect to the scheme;
      (ii) its obligations with respect to the delegation of functions;
      (iii) its obligations with respect to the scheme that is seeking a listing on an exchange; and
      (iv) appointment of auditor.

(b) A statement that the management company shall be appointed, removed or retire as set out in Chapter 5.

7. Investment Limitations and Dividend Policy

The following shall be specified (see Chapter 7):

(a) core investment requirements;

(b) criteria for using special purpose vehicles;

(c) minimum holding period for the scheme's real estate assets;

(d) limitations on borrowing; and

(e) the income distribution policy/mechanism of the scheme and approximate date when income will be distributed.

8. Valuation

The following rules on valuation shall be stated:

(a) the method of determining the value of the assets and liabilities of the scheme and the net asset value accordingly; and

(b) the frequency of valuing the assets and liabilities of the scheme (see Chapter 6).

9. Issuance of Announcement, Circular and Notice

(a) A statement that the management company shall keep holders informed of any material information pertaining to the scheme in a timely and transparent manner as set out in Chapter 10.

(b) A statement that the management company shall inform its holders by way of announcement as soon as reasonably practicable of any information concerning the scheme which:
   (i) is necessary to enable holders to appraise the position of the scheme; or
   (ii) is necessary to avoid a false market in the units of the scheme; or
   (iii) might be reasonably expected materially to affect market activity in and the price of the units of the scheme (see 10.3 and 10.4); or
   (iv) requires holders' approval.

(c) A statement that sets out the situations under which the management company shall send circulars to holders (see Chapter 10).

(d) A statement that sets out the situations under which the management company shall send notices to holders (see Chapter 10).

(e) A statement that lists out the procedures that the management company shall follow in issuing announcements, circulars and notices to holders.

10. Issuance of Units

The following shall be stated:

(a) The procedures that a scheme should follow when new units are issued (see Chapter 12).

(b) The method of determining the issue price.

11. Fees & Charges

The following shall be stated:

(a) the maximum percentage of the initial charge (if any) payable to the management company out of the issue price of an unit;

(b) the maximum fee payable to the management company out of the assets of the scheme, expressed as an annual percentage;

(c) fee payable to trustee;

(d) fee payable to Principal Valuer;

(e) preliminary expenses to be amortized against the assets of the scheme; and

(f) all other material fees and charges payable out of the property of the scheme.

12. Meetings

Provisions on the manner in which meetings are conducted in accordance with 9.9; and on the circumstances under which meetings are to be held.

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.

14. Annual Accounting Period

Calendar year date on which the annual accounting period of the scheme ends.

15. Base Currency

A statement of the base currency of the scheme.

16. Modification of the Trust Deed

A statement of the means by which modifications to the trust deed can be effected (see Chapter 9).

17. Termination of Scheme

(a) A statement of the circumstances in which the scheme can be terminated.

(b) A statement to list the procedures that are to be followed upon termination of the scheme (see Chapter 11).

18. Merger of Scheme

A statement to list the procedures that are to be followed upon the merger with another scheme(s) (see Chapter 11).

Appendix E

Contents of Financial Statements for Liquidation or Merger of Schemes

The financial statements prepared for the purpose of the liquidation of a scheme or merger of schemes shall at least contain the following:

1. revenue statement;

2. statement of assets and liabilities, which shall include a separate disclosure of the net asset value of the scheme(s) as at the date of termination or merger and the relevant net asset value per unit;

3. a distribution statement; and

4. a statement of movements in capital account.

Contents of Auditor's Reports on Financial Statements for Liquidation or Merger of Schemes

Two reports shall be prepared by the auditor, namely:

1. an auditor's report on compliance with the regulatory requirements, in which the auditor states whether or not the management company has conducted the liquidation or the merger in accordance with the Code and the trust deed; and

2. an auditor's report to state that the financial statements prepared for purpose of the liquidation / merger of the scheme(s) has been properly prepared from the books and record of the scheme(s).

If the auditor is of the opinion that proper books and records have not been kept by the scheme and/or the financial statements prepared are not in agreement with the scheme's books and records, that fact should be stated in the auditor's report in (2) above.

If the auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of the audit, that fact should be stated in the auditor's report in (2) above.

Appendix F

Preparation and Presentation of Forecast

No forecast of profits or dividends based on an assumed future level of profits may be made, unless it is made on reasonable grounds and supported by a formal profit forecast.

The forecast shall cover a period which is coterminous with the scheme's financial year-end. If, exceptionally the forecast period ends at a half year-end, the Commission will require an undertaking from the management company that the interim report for that half year will be audited. Forecast periods not ending on the financial year end or half year-end will not be permitted.

Note: A forecast may be provided for a period beyond the current financial year end, subject to approval by the Commission, if the management company reasonably believes that such forecast is compiled in accordance with the principles and requirements set out in this Appendix.

The principal assumptions underlying the forecast, including commercial assumptions, upon which it is based, shall be stated. The assumptions shall be specific and precise, and readily understandable by investors. Such assumptions shall draw the investors' attention to, and where possible quantify, those uncertain factors which could materially disturb the ultimate achievement of the forecast. The assumptions shall not relate to the general accuracy of the estimates underlying the forecast. Any statement or information relating to the forecast shall be clear and unambiguous. Assumptions and limits regarding the prospective financial information shall be disclosed in a way that is no less prominent than the forecast itself.

Rental income, which forms a material element of the forecast, shall be examined and reported on by the valuer and its report shall be set out.

The accounting policies and calculations for the forecast shall be reviewed and reported on by the auditor and its report shall be set out.

The forecast and the assumptions on which it is based are the sole responsibility of the management company. The management company shall ensure that it exercises due care and consideration in the compilation of the forecast, and that sufficient information is disclosed to enable investors to interpret the forecast and to form a view as to its reasonableness. The management company shall report in addition that it has satisfied itself that the forecast has been stated after due and careful enquiry, and such report shall be set out.

There should be appropriate risk disclosures, including risks that the prospective financial information will not be achieved.