

## Checklist for Australian-registered Managed Investment Schemes Seeking SFC's Authorization under the Mutual Recognition Arrangement

### I. Introduction

An applicant for authorization of an Australian-registered managed investment scheme ("Australian MIS") must complete this checklist and submit it to the Investment Products Division of the SFC, together with relevant documents required for an application. References to the Scheme in this checklist refer to the applicant scheme.

Name of the Scheme : \_\_\_\_\_

Name of Management Company : \_\_\_\_\_

### II. Instructions for Completing the Compliance Checklists

Please find attached a set of standard compliance checklists that sets out the basic requirements in support of an application for authorization of an Australian MIS and relevant confirmation of compliance against the SFC's requirements as stipulated under the Circular on "Mutual recognition of cross-border offering of collective investment schemes by the Securities and Futures Commission and Australian Securities and Investment Commission" dated 7 July 2008. The compliance checklists should not be considered as exhaustive and where appropriate, they should be tailored to meet the specific features and requirements of the Scheme. Additional material information that is relevant to the application should also be submitted.

When completing the compliance checklists, you must note the following:

1. each relevant requirement in the compliance checklists should be referenced to the page number in the document where the requirement is complied with;
2. to keep the compliance checklists as short as possible, only a small amount of space has been set aside for comments. If further space is required, please attach a separate sheet of paper to the checklist and cross-reference all comments to the appropriate requirement; and
3. where your answer to an item on the checklist is "No" or "Not Applicable", the reason for such response should be clearly disclosed in the "Comments" section and if necessary, on a separate page cross-referenced to the checklist. We may reject an incomplete application to the extent this checklist is not properly or fully completed and/or where negative responses (i.e. "No" or "Not Applicable") are not properly explained.

**Please note that we will only accept documents for review if this checklist is submitted and it is substantially complete, accurate and properly annotated. We reserve the right to return forthwith, without processing, any application that is accompanied by documents that do not meet the specified requirements.**



## 1. Documents to be supplied to the SFC

Please note that documents submitted should be in an advanced form, in good order and suitable for clearance. The SFC reserves the right to reject draft documents that are not in an advanced form.

Please notify the SFC immediately if there are any changes to the information provided.

The list below is not exhaustive. The SFC may require additional information.

	Submitted?			Comments
	Yes	No	N/A	
(1) Documents required under Chapter 1.3 of the Code:				
(a) Completed Application Form pursuant to Appendix B of the Code on Unit Trusts and Mutual Funds (the "Code") (excluding III-IV of B29)				
(b) The Hong Kong offering document <sup>1</sup> and constitutive documents of the Scheme				
(c) The Scheme's latest audited report (if any) and if more recent, the latest unaudited report				
(d) The Custodian's latest audited report (if the Custodian has not acted as a custodian of any SFC authorised CIS)				
(e) Application fee in the form of a cheque payable to the "Securities & Futures Commission" <sup>2</sup>				
(f) The letter nominating an individual to be approved by the SFC as an approved person (see Chapter 1.5 of the Code)				
(g) Hong Kong Representative Agreement and Undertaking (see Chapter 9 of the Code)				
(2) A deed from the management company of the Australian MIS for the benefit of and enforceable by SFC, and which provides that:				
(a) the deed is irrevocable except with the prior written consent of SFC;				
(b) it will take all reasonable steps to ensure that not more than 30% by value of all interests or shares in the Australian MIS are held by persons who the management				

<sup>1</sup> The Hong Kong offering document can be a simple Hong Kong wrapper complementing the Australian offering document.

<sup>2</sup> The application fee is HKD40,000 for an umbrella fund, HKD20,000 for a single fund and HKD5,000 for a subfund.



	Submitted?			Comments
	Yes	No	N/A	
<p>company has reason to believe are in this jurisdiction;</p> <p>(c) it and the Australian MIS will comply with the requirements set out in paragraph 2 of the Circular on “Mutual recognition of cross-border offering of collective investment schemes by the Securities and Futures Commission and Australian Securities and Investment Commission” dated 7 July 2008 (the “Circular”) and the specific provisions in the Code, as set out in Annex A of the Circular;</p> <p>(d) it will notify the SFC in a timely manner:</p> <p>(i) any significant changes, pricing errors and breaches concerning the Australian MIS according to Australian requirements;</p> <p>(ii) any breach or non-compliance with any of the matters under the deeds as required under this paragraph (2) and paragraph (3) of this checklist;</p> <p>(e) it will notify the SFC within 10 business days if the management company becomes or should reasonably have become aware of:</p> <p>(i) each significant change to a license, registration, authorisation or other approval (however described) granted by ASIC relevant to the operation of the Australian MIS;</p> <p>(ii) each significant change to the Australian regulatory requirements (including the power or authority of ASIC to supervise, monitor or procure compliance by the management company of the Australian MIS with the Australian regulatory requirements with respect to the Australian MIS) that is relevant to the operation or intended operation of the Australian MIS in this jurisdiction unless SFC has stated in writing that notification of that change is not required;</p> <p>(iii) each significant exemption, or other relief obtained from the Australian regulatory requirements by:</p> <p>(A) the Australian MIS;</p> <p>(B) the management company of the Australian MIS; and</p> <p>(C) the custodian of the Australian MIS; and</p> <p>(iv) each enforcement or disciplinary action taken by ASIC or any other overseas regulatory authority against :</p> <p>(A) the Australian MIS;</p> <p>(B) the management company of the Australian MIS; and</p> <p>(C) the custodian of the Australian MIS.</p>				



	Submitted?			Comments
	Yes	No	N/A	
<p>(f) nothing in the constitution of the Australian MIS may exclude the jurisdiction of the courts of Hong Kong to entertain an action or legal proceedings concerning the MIS;</p> <p>(g) it will keep a copy of the Hong Kong offering document for seven years after it is first given to a retail investor; and</p> <p>(h) it will make available on request, to members in this jurisdiction, any publicly available information about the Australian MIS that has been produced by, or on behalf of, the management company of the Australian MIS and that relates to the Australian MIS, unless members in this jurisdiction can otherwise obtain that information conveniently and for no greater charge (if any) than would apply in Australia.</p>				
<p>(3) A deed from the management company of the Australian MIS for the benefit of and enforceable by SFC and any member or former member of the Australian MIS in this jurisdiction at the time they were offered interests in the Australian MIS, and which provides that:</p> <p>(a) the deed is irrevocable except with the prior written consent of SFC;</p> <p>(b) the management company of the Australian MIS covenants to comply with the Australian regulatory requirements in respect of its conduct in this jurisdiction as if the conduct occurred in Australia in like circumstances;</p> <p>(c) the management company of the Australian MIS covenants to:</p> <p>(i) ensure that each of its agents and representatives that engages in conduct in this jurisdiction will comply with the Australian regulatory requirements in respect of their conduct in this jurisdiction as if the conduct occurred in Australia in like circumstances; or</p> <p>(ii) ensure that each of its agents and representatives that engages in conduct in this jurisdiction has entered into a deed as required by this paragraph (3) as if:</p> <p>(A) references to the management company of the Australian MIS were references to the agent or representative; and</p>				



	Submitted?			Comments
	Yes	No	N/A	
<p>(B) this paragraph (c) were omitted;</p> <p>(d) it submits to the non-exclusive jurisdiction of the Hong Kong courts in legal proceedings conducted by any of the following:</p> <p>(i) SFC;</p> <p>(ii) any member (or former member) of the Australian MIS who was in this jurisdiction when they were offered interests in the Australian MIS; and</p> <p>(iii) any person appointed under or performing any function under or carrying into effect any of the provisions of the Securities and Futures Ordinance;</p> <p>(e) it covenants to comply with any order of a Hong Kong court in respect of any matter relating to the provision of the financial services in relation to the Australian MIS or the operation of the Australian MIS; and</p> <p>(f) it covenants that, on written request of either ASIC or SFC, it will give or vary written consent and take all other practicable steps to enable and assist ASIC to disclose to SFC and SFC to disclose to ASIC any information or document that ASIC or SFC has that relates to the management company of the Australian MIS or the Australian MIS.</p>				
(4) Evidence that the Australian MIS is registered with the ASIC				
(5) Evidence that the management company of the Australian MIS is licensed with ASIC				
(6) Evidence that the custodian of the Australian MIS is licensed with ASIC				
(7) Written consents to the disclosure by ASIC to SFC and SFC to ASIC of any information or document that SFC or ASIC has that relates to the Australian MIS or its management company				
(8) A description of how the management company of the Australian MIS will plan for, monitor and assess its compliance with the requirements and conditions of the Declaration and the Circular and any Hong Kong regulatory requirements to which it will be subject.				



	Submitted?			Comments
	Yes	No	N/A	
(9) A description of the financial services relating to the Australian MIS it intends to provide in this jurisdiction.				
(10) Information about the interests in the Australian MIS that the management company intends to offer or issue to persons in Hong Kong and how it plans to seek members in Hong Kong.				



## 2. Compliance of Key Operational and Disclosure Requirements

Applicants should note the following in preparing the Scheme's Offering Document:

1. The offering document should be clear and succinct, and written in plain language so as to facilitate investors' understanding of the Scheme.
2. The following 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 judgment.
3. The finalized Chinese version of the Offering Document together with the Chinese translation certificate may be submitted after the English version has been cleared.

Item No.	Relevant Chapters of the Code, Appendix C or other specific requirements	Complied with?			Page reference in Hong Kong offering document (if applicable)	Comments
		Yes	No	N/A		
<b>Documents available for inspection by investors in Hong Kong</b>						
S1	Chapter 5.10(c), Clause 20 of Appendix C					
<b>Offering &amp; dealing arrangements</b>						
S2	Chapter 6.2					
S3	Chapter 6.14					
S4	Chapter 10.6					
S5	Chapter 10.7					
S6	Chapter 10.8					
S7	Clause 12 of Appendix C					
S8	Adoption of forward pricing					
<b>Price Publication</b>						
S9	Chapter 11.7 Clause 8 of Appendix C					
<b>Specific Information Disclosure</b>						
S10	Clause 16 of Appendix C					
S11	Clause 19 of Appendix C					
S12	Clause 23 of Appendix C					
S13	Chapter 8.2(d) – where applicable					
S14	Chapter 8.4A(p) – where applicable					
<b>Investment: Core Requirements</b>						
S15	Chapter 7 (except for Chapter 7.17, 7.19 and 7.24)					



Item No.	Relevant Chapters of the Code, Appendix C or other specific requirements	Complied with?			Page reference in Hong Kong offering document (if applicable)	Comments
		Yes	No	N/A		
<b>Specialized Schemes (where applicable)</b>						
<b>Please specify fund category: [ ]</b>						
<i>Unit Portfolio Management Funds</i>						
S16	Chapter 8.1(a) to (g)					
<i>Money Market/Cash Management Funds</i>						
S17	Chapter 8.2(a), (d) to (h)					
<i>Warrant Funds</i>						
S18	Chapter 8.3(a) to (f)					
<i>Leveraged Funds</i>						
S19	Chapter 8.4(a), (b)					
<i>Futures and Options Funds</i>						
S20	Chapter 8.4A(a) to (h), (p)					
<i>Guaranteed Funds</i>						
S21	Chapter 8.5(a), (b), (g), (i)					
<i>Index Funds</i>						
S22	Chapter 8.6(e), (g) to (i)					

Item No.	Relevant Chapters of the Code, Appendix C or other specific requirements	Complied with?			Page reference in Hong Kong offering document (if applicable)
		Yes	No	N/A	
<b>Additional Disclosure in Hong Kong Offering Document</b>					
S23	The Australian MIS and the Australian MIS management company are regulated by the Australian regulatory requirements, and those requirements differ from the Hong Kong regulatory requirements				
S24	The rights and remedies available to persons in Hong Kong who acquire interests or shares in the Australian MIS may differ from those of persons acquiring interests in collective investment schemes primarily regulated in Hong Kong				
S25	The main rights and remedies available to persons in Hong Kong under the Australian regulatory requirements and how those rights and remedies can be accessed				





S26	Information on any main rights and remedies available to Australian investors but not available to Hong Kong investors in respect of interests in the Australian MIS				
S27	General information about significant Hong Kong taxation implications in respect of holding, acquiring or disposing of the interests in the Australian MIS				
S28	The nature of any special considerations associated with cross-border investing, such as considerations arising from foreign taxation requirements, foreign currency or time differences				
S29	The nature and consequences of significant differences between Australian regulatory requirements and Hong Kong regulatory requirements				
S30	Where a scheme is described as having been authorized by the SFC it must state that authorisation does not imply official recommendation.				

### 3. Confirmation of Compliance

We confirm that the documents of the Scheme have been properly annotated against and checked compliance with the relevant SFC's requirements.

**Signed by and on behalf of:**

[Management  
Company/legal  
advisers]<sup>3</sup> :

\_\_\_\_\_

Name of authorized  
signatory :

\_\_\_\_\_

Date :

\_\_\_\_\_

<sup>3</sup> This confirmation may be provided by the senior executives, compliance officers or their equivalent of, or the legal advisers to, the Australian MIS or the management company of the Australian MIS.