

Recognized Jurisdiction Schemes

With reference to 1.2 of the Code on Unit Trusts and Mutual Funds (“UT Code”), the SFC may accept that some schemes already comply in substance with certain provisions of the UT Code by virtue of prior authorization in a regulated jurisdiction. It currently recognizes schemes that are regulated in the jurisdictions set out below.

Applications for recognized jurisdiction schemes will generally be reviewed on the basis that the scheme's structural and operational requirements and core investment restrictions (except where noted in the UT Code) already comply in substance with the UT Code. However, unless otherwise agreed by the SFC from time to time, exemptions are not given for approval of management companies or trustees, specialized schemes [see Chapter 8 of the UT Code, save that 8.9 of the UT Code is not applicable to UCITS schemes], Hong Kong-specific disclosure and reporting requirements, and post-authorization requirements as set out in the UT Code.

Applicants should note that the SFC expects recognized jurisdiction schemes to comply in all material respects with the UT Code and reserves the right to require compliance with specific provisions of the UT Code as a condition of authorization. Jurisdictions are recognized on the SFC's understanding that the types of scheme referred to are governed by laws and regulations which are comparable to the UT Code or offer equivalent investor protection. However, laws and regulations, and the UT Code, are subject to amendment from time to time, and discrepancies may emerge which require the SFC to seek further assurance about compliance with specific provisions.

While the SFC makes every effort to streamline procedures for recognized jurisdiction schemes, it must be understood that authorization in Hong Kong carries additional obligations as set out in the UT Code and applicants should familiarise themselves with these. Furthermore, the SFC may impose or vary such requirements and/or conditions in respect of specific scheme(s) or types of schemes from any recognized jurisdiction as it may deem fit at any time before granting authorization or allowing the authorization to remain in force.

This list of recognized jurisdictions is subject to review and update by the SFC from time to time in view of the legal, regulatory and other developments in each recognized jurisdiction and internationally, as well as the level of regulatory oversight, supervision, co-operation and assistance of the primary regulator and reciprocity accorded to the SFC with respect to the schemes it regulates.

Jurisdiction	Applicable Law	Scheme Type
Australia	Corporations Act 2001	Managed investment schemes (Note 1)
France	French Monetary and Financial Code (Code Monétaire et Financier) and General Regulation of the AMF (Règlement Général de l’Autorité des Marchés Financiers)	Undertaking for Collective Investments in Transferable Securities (UCITS) (Note 2)
Germany	German Investment Code (<i>Kapitalanlagegesetzbuch – KAGB</i>) (as amended)	Securities mutual funds (UCITS) complying with EU Directive 2009/65/EC (as amended) (Note 2)

Guernsey	Protection of Investors Law 1987	Class A Schemes
Ireland	European Communities (UCITS) Regulations 2003 (as amended)	Unit Trusts, Investment Companies, Common Contractual Funds (Note 2)
Isle of Man	Collective Investment Schemes Act 2008	Section 2, Authorized Schemes
Jersey	Collective Investment Funds (Recognised Funds) Rules (Jersey) Order 2003	Article 14.02, Recognized Funds
Luxembourg	Law of 17 December 2010 on Undertakings for Collective Investment	Part I schemes (Note 2)
Malaysia	Capital Market and Services Act 2007	Islamic Collective Investment Schemes (Note 3)
Switzerland	Swiss Federal Act on Collective Investment Schemes of 23 June 2006 and Swiss Ordinance on Collective Investment Schemes of 22 November 2006	Swiss Collective Investment Schemes (Note 4)
Taiwan	Securities Investment Trust and Consulting Act	Exchange-traded index tracking funds (Note 5)
United Kingdom	Financial Services and Markets Act 2000 (as amended); Open-Ended Investment Companies Regulations 2001 (as amended)	Undertaking for Collective Investments in Transferable Securities (UCITS) (Note 2)
United States of America	Investment Company Act 1940, as amended	Registered investment companies (Note 6)

Notes

1. See SFC circular “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.
2. SFC circular “Interim measures on the disclosure and submission requirements for the authorization of UCITS III funds domiciled in Luxembourg, Ireland and the United Kingdom by the SFC” dated 31 March 2005 as amended from time to time (“Interim Measures”) applies to UCITS III schemes domiciled in Luxembourg, Ireland and the United Kingdom. For UCITS III funds domiciled in Germany, the SFC will also have regard to the Interim Measures in processing their applications. For UCITS funds domiciled in France, the SFC will have regard to the Interim Measures or the SFC circular “Mutual Recognition of Funds (MRF) between France and Hong Kong” dated 10 July 2017 in processing their applications, as the case may be.

3. See SFC circular “Mutual Cooperation on Development of Islamic Capital Market and Islamic Collective Investment Schemes by the Securities and Futures Commission and Securities Commission of Malaysia” dated 9 November 2009.
4. See SFC circular “Circular on Mutual Recognition of Funds between Switzerland and Hong Kong” dated 2 December 2016.
5. See SFC circular to “SFC-licensed fund managers of Exchange Traded Funds (“ETFs”) on the mutual recognition of ETFs between Hong Kong and Taiwan” dated 22 May 2009.
6. Applicants for U.S. funds should note that while waivers are generally given from compliance with structural requirements such as the requirement for a supervisory custodian, compliance with investment restrictions and other operational requirements as set out in the UT Code is expected. Applicants should seek guidance from SFC staff regarding precedent waivers.
7. For the purposes of 7.11A and 8.1(b) of the UT Code, “recognized jurisdiction schemes” means those UCITS III schemes domiciled in Luxembourg, Ireland and the United Kingdom which are currently covered under the Interim Measures.