

## **Frequently Asked Questions on the Implementation and Transition Arrangements of the Code on Unit Trusts and Mutual Funds (Effective on 1 January 2019)**

This FAQ is prepared by the Investment Products Division and aims to provide information to market practitioners concerning the implementation and transition arrangements of the Code on Unit Trusts and Mutual Funds effective on 1 January 2019 (“revised UT Code”). Applicants are encouraged to contact the relevant case team in the Investment Products Division of the Securities and Futures Commission (the “SFC”) if in doubt on any specific issues arising from the application/interpretation of the UT Code. Please note that each application for authorization is considered on a case-by-case basis.

The information set out below is not meant to be exhaustive. This FAQ may be updated and revised from time to time. This FAQ is only for general reference. Compliance with all the requirements in this FAQ does not necessarily mean an application will be accepted or authorization will be granted. The SFC reserves the rights to exercise all powers conferred under the law.

*Notes: (1) For ease of reference, collective investment schemes that are generally known as unit trusts or mutual funds are referred to as “funds” in the following FAQ.*

*(2) For the purpose of this FAQ, “existing fund(s)” refers to funds which are authorized by the SFC as at the effective date of the revised UT Code and funds which applied for the SFC’s authorization prior to such date and are subsequently authorized by the SFC.*

	Question	Answer
<b>General</b>		
1.	The revised UT Code will become effective on 1 January 2019 (“Effective Date”). Will there be any transition period for existing funds?	<p>A 12-month transition period (“Transition Period”) from the Effective Date ending on 31 December 2019 will be provided for existing funds and existing management companies and trustees/custodians.</p> <p>With effect from the Effective Date, the revised UT Code and the enhanced KFS</p>

	Question	Answer
		<p>disclosures for derivative investments (see Question 4 below) will apply to new funds with new management companies and new trustees/custodians with immediate effect.</p> <p>For further details on the implementation and transition arrangements, please refer to the implementation schedule as set out in the revised UT Code.</p>
2.	<p>Will SFC's prior approval and advance notice to investors be required for changes made to comply with the revised UT Code?</p>	<p>If changes are made by existing funds to comply with the revised UT Code and there are no material changes to the funds' investment objectives, policies or strategies, prior approval from the SFC and advance notice to investors will generally not be required.</p> <p>However, management companies should provide necessary updates to the holders of the funds regarding the changes made to the funds as soon as reasonably practicable (whether by a specific notice or in the financial report of the funds) for holders' appraisal of the funds and their investments. A summary of the changes (including the reason(s) and description of the change, implications to the funds and the resulting impact on investors) is expected to be provided to keep holders informed and enable them to appraise the position of the funds.</p>
<b>Offering documents</b>		
3.	<p>If the funds' offering documents are revised to comply with the enhanced disclosures requirements under the revised UT Code, will these amendments be subject to the prior approval by the SFC?</p>	<p>Where changes to the offering documents of the existing funds are made to reflect the enhanced disclosures and contents requirements necessary for compliance with the revised UT Code, SFC's prior approval and advance notice to investors will generally not be required (further see Question 8 below). The updated offering documents should be filed with the SFC in accordance with 11.1B of the revised UT Code.</p> <p>After the Transition Period and with effect from 1 January 2020, existing funds must comply with the enhanced disclosures requirements on offering documents set out in the revised UT Code.</p> <p>Some of the enhanced disclosures requirements on the offering documents under the revised UT Code are codification of existing requirements or practices. As such,</p>

	Question	Answer
		<p>during the Transition Period, existing funds shall continue to comply with the existing disclosures requirements set out in the relevant circulars and guidance (such as the Guide on Practices and Procedures for Application for Authorization on Unit Trusts and Mutual Funds, frequently asked questions etc.) published by the SFC, which may be updated from time to time. Non-exhaustive examples include existing disclosures requirements regarding liquidity risk management and valuation policies and procedures of the funds, where existing funds are expected to be in compliance with these requirements.</p>
<b>Key facts statements (KFS)</b>		
4.	For the enhanced KFS disclosure for derivative investments, will there be any transition period for compliance?	<p>Yes, the Transition Period will apply whereby existing funds (including UCITS funds) which will continue to be offered to the public in Hong Kong must produce a KFS with the enhanced disclosures for derivative investments with effect from 1 January 2020 (i.e. after the expiry of the 12-month transition period from the Effective Date).</p> <p>The revised templates for KFS are available at the SFC website via the following link <a href="https://www.sfc.hk/web/EN/regulatory-functions/products/list-of-publicly-offered-investment-products/products-key-facts-statements.html">https://www.sfc.hk/web/EN/regulatory-functions/products/list-of-publicly-offered-investment-products/products-key-facts-statements.html</a>.</p>
5.	For existing funds, can fund managers produce updated KFS with the enhanced disclosures for derivative investments (Enhanced KFS) in advance of the expiry of the Transition Period?	<p>Yes, notwithstanding the Transition Period, fund managers are encouraged to and may produce an updated KFS for their funds as soon as reasonably practicable.</p> <p>The funds' net derivative exposures to be disclosed in the KFS should be calculated in accordance with the requirements and guidance issued by SFC which may be updated from time to time. The SFC has published a <a href="#">Guide on the Use of Financial Derivative Instruments for Unit Trusts and Mutual Funds</a> to provide guidance to the industry.</p>
<b>Constitutive documents</b>		
6.	If the funds' constitutive documents are revised to comply with the enhanced contents requirements under the revised UT Code, will these amendments be subject to the prior approval by the SFC? Will advance notice be required to be	<p>Where changes to the constitutive documents are made to reflect the enhanced disclosure and content requirements necessary for compliance with the revised UT Code, SFC's prior approval and advance notice to investors will generally not be required. The updated constitutive documents should be filed with the SFC in accordance with 11.1B of the revised UT Code. Enhanced disclosures that may fall</p>

	Question	Answer
	given to the holders of the funds?	<p>under this nature include revisions of the constitutive documents to reflect the investment restrictions as set out in Chapter 7 of the revised UT Code for an umbrella fund (further see Question 8 below). In this connection, any material changes to the investment objectives, policies or strategies of the sub-funds thereunder however will still be subject to the SFC's prior approval in accordance with 11.1 of the revised UT Code.</p> <p>By the end of the Transition Period, existing funds must comply with the enhanced contents requirements on constitutive documents as set out in the revised UT Code.</p>
7.	Under 6.15(f) of the revised UT Code, increase in the maximum fees paid to the management company, trustee/custodian or directors of the scheme and imposition of other types of fees have been removed as circumstances where general meetings should be called. Does it mean that the funds' constitutive documents must be revised to reflect the revised provisions in the revised UT Code?	<p>Existing funds are not required to adopt the revised provisions in the revised UT Code to reflect the deletion of 6.15(f)(iii) and (iv) of the previous UT Code. Where management companies of existing funds intend to adopt the revised UT Code provisions in constitutive documents in this connection, no prior approval from the SFC is required but they are expected to obtain holders' approval and to provide notifications to holders in accordance with the terms set out in the constitutive documents and the disclosures in the offering documents of the funds (if applicable). Management companies should seek legal advice where appropriate.</p> <p>One-month's prior notice is generally expected to be given to holders before the changes to take effect. Management companies must also ensure that the constitutive documents and the offering documents (if applicable) are properly amended to reflect the revised provisions and file the revised documents with the SFC in accordance with 11.1B of the revised UT Code.</p>
<b>Investment: Requirements, limitations and prohibitions</b>		
8.	Will SFC's prior approval be required if an existing fund adopts the revised investment requirements and limitations as set out in the revised UT Code?	<p>See answers to Questions 3 and 6 above.</p> <p>In the case where the fund takes the opportunity to make changes to its investment objectives, policies or strategy, the management company will need to assess whether such changes are material that may fall under 11.1(c)(i) of the revised UT Code. If such changes are material, SFC's prior approval will need to be obtained and one month's prior written notice is normally expected to be provided to holders. The revised offering documents as a result of such changes should be submitted to</p>

	Question	Answer
		the SFC for prior authorization.
<b>Operational requirements</b>		
9.	<p>Chapter 11 of the revised UT Code regarding scheme changes, notifications and reporting will take immediate effect from the Effective Date.</p> <p>Will there be any updated application or filing forms that are required to be submitted in support of the applications or filing of scheme changes and revised offering documents? Will SFC publish further guidance regarding the SFC's approval and notification to investors' requirements in relation to scheme changes under 11.1 of the revised UT Code?</p>	<p>The revised Chapter 11 of the revised UT Code has codified the existing streamlined measures adopted by the SFC in handling post-authorization matters including scheme changes (with further clarification of the requirements for the notification of investors).</p> <p>Yes, to facilitate implementation, relevant updated application and filing forms that are required to be submitted in support of scheme changes and revision of offering documents have already be posted on the SFC's website under the section "<a href="#">Investment products: Forms &amp; checklists</a>".</p> <p>Also, a set of updated frequently asked questions have been prepared by the Investment Products Division which are posted on the SFC's website under the section "<a href="#">FAQs: Publicly offered investment product</a>" to provide further guidance to the industry in respect of the requirements under the revised UT Code.</p>

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