

Regulation of Overseas Funds in Hong Kong

海外投資基金在香港的監管規則

Hong Kong provides a mechanism which allows both domestic and overseas funds to be authorized for public sale.

A fund will be recognized as an overseas fund if its management company is not incorporated in and does not have a place of business in Hong Kong. In addition to the usual fund authorization procedure, applicants of overseas funds should refer to the **Recognized Jurisdiction Schemes (RJS)** and the **additional requirements** imposed by the SFC.

The Code on Unit Trusts and Mutual Funds (“UT Code”) published by the SFC includes express provisions for the easier authorization of certain types of overseas funds from certain recognized outside jurisdictions, such as France, Germany, Luxembourg, Ireland, United Kingdom and United States of America. The applications for RJS will generally be reviewed on the basis that their **structural and operational requirements and core investment restrictions** already comply in substance with the UT Code.

For the additional requirements, an overseas fund will be required to appoint a **local representative** in Hong Kong and maintain the representative throughout the period that it is authorized in Hong Kong; if its management company is not licensed in Hong Kong. The Hong Kong representative acts as a contact point for the Hong Kong investors and regulatory authority. The representative must be approved by the SFC and meet the requirements of the UT Code. He/she has to be authorized to undertake certain minimum functions (such as issuing receipts in respect of the fund application moneys and delivering to the SFC accounts and records) as listed in the

UT Code. However, he/she is not required to take responsibility for the acts and omissions of the management company of the fund.

An overseas fund management company should be subject to regulatory supervision in an **Acceptable Inspection Regime** (AIR). Some of the jurisdictions in the AIR list prescribed in the UT Code include Australia, France, Ireland, United Kingdom and United States of America. As a general guide, the SFC will consider other jurisdictions on their merits and may accept an undertaking from the management company that the books and records in relation to its management of a fund will be made available for inspection by the SFC on request.

*Nothing shall constitute legal advice to any person by Messrs. Maurice WM Lee Solicitors (Tel: (852) 2537 5833)
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