# Consultation Conclusions on Proposed

# Agenda

**Glossary of key terms**

**Introduction**

**Implementation**

- Revised UT Code and transition period
- Changes made by existing schemes, offering documents and constitutive documents
- Management companies and investment delegates
- Trustees / custodians
- Investment requirements
- Derivatives investments
    - Enhanced KFS disclosure
    - Changes in the use of derivatives
    - Transparency on SFC website
- Scheme changes and notification requirements
- Financial reports

**Some questions and answers**

**Appendix**

- Updated FAQs – updated questions

# Glossary of key terms

**Revised UT Code**

- the revised UT Code which is effective from the Effective Date

**Effective Date**

- 1 January 2019, the effective date of the revised UT Code

**12-month transition period**

- a period of 12 months from the Effective Date to 31 December 2019

**Existing schemes**

- (i) schemes authorized by the SFC as at the Effective Date; and (ii) schemes which applied for SFC's authorization prior to the Effective Date and are subsequently authorized by the SFC

**Existing operators**

- (i) management companies which were managing SFC-authorized schemes as at the Effective Date; and (ii) trustees/custodians which were acting as the trustee/custodian of SFC-authorized schemes as at the Effective Date

**New schemes**

- schemes which applied/apply for SFC's authorization on or after the Effective Date (i.e. new fund applications submitted on or after the Effective Date)

**New operators**

- (i) management companies which were not managing any SFC-authorized schemes as at the Effective Date; and (ii) trustees/custodians which were not acting as the trustee/custodian of any SFC-authorized schemes as at the Effective Date

**Net derivative exposure**

- has the meaning as defined in 7.26 of the revised UT Code

# Introduction

**Consultation paper** on proposed amendments to the Code on Unit Trusts and Mutual Funds (UT Code) issued on 18 December 2017

**Consultation conclusions paper** issued on 6 December 2018

- Revised UT Code became effective on 1 January 2019 (Effective Date)
- A 12-month transition period for existing schemes and existing operators

**Guidance issued/updated**

- To enhance transparency and provide guidance to the industry on SFC's expectation on compliance
- To streamline and simplify forms and checklists
- Published documents
  - *(New)* FAQs on the Implementation and Transition Arrangements of the Revised UT Code (Implementation FAQs)
  - *(New)* Guide on the Use of Financial Derivative Instruments for Unit Trusts and Mutual Funds (SFC Derivative Guide)
  - *(New)* Application of the UT Code on UCITS funds
  - *(New*) KFS template for active ETFs
  - *(Updated)* Guide on Practices and Procedures for Application for Authorization of Unit Trusts and Mutual Funds
  - (*Updated)* Five existing KFS templates
  - *(Updated)* Three existing circulars, 13 sets of existing FAQs, and forms and checklists (including a new confirmation on derivatives)

# Revised UT Code and transition period

**A new scheme with a new management company and a new trustee/custodian**

- Compliance with the revised UT Code with immediate effect from the Effective Date

**Existing schemes and existing operators**

- A 12-month transition period for compliance with the new requirements

**New money market funds (managed by new or existing operators)**

- Compliance with 8.2 of the revised UT Code

**Appointment of new operator(s) for existing schemes**

- Relevant requirements under the revised UT Code will apply:
  - New management companies

# Changes made by existing schemes, offering documents and constitutive documents

**Changes made by existing schemes, changes and revisions of offering documents and/or constitutive documents to comply with the requirements or reflect the enhanced disclosure and contents requirements under the revised UT Code**

- In general, no SFC's prior approval and advance notice to investors are required if:
  - changes/revisions are made to comply with the revised UT Code; and
  - there are no material changes to the scheme's investment objectives, policies or strategies
- Management companies should provide necessary update to the holders of the schemes regarding the changes/revisions as soon as reasonably practicable (whether by a specific notice or in the financial report of the scheme)

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**6.15(f) of the revised UT Code**

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# Management companies and investment delegates

**Key personnel (KP)**

- KP must dedicate sufficient time and attention in the management of a scheme [5.5(b) of the revised UT Code]
  - An individual may be designated as the KP for one or more management companies and/or investment delegates
  - See Question 8B of the UT Code FAQs
- Public fund experience of the KP may be satisfied on a group-wide basis [5.5(a) of the revised UT Code]
  - Applicable to management companies and/or investment delegates belonging to well-established fund management groups
- Existing management companies and/or investment delegates for existing schemes may leverage on these flexibilities with immediate effect
  - SFC's prior approval and notification to investors are not required

    Existing management company: (i) with at least 5 years experience in managing SFC-authorized funds and (ii) belongs to a well-established fund management group managing public funds in AIR for at least 5 years
  - Management companies' obligation to ensure compliance with the relevant requirements – consult the SFC if in doubt

# Management companies and investment delegates (cont'd)

- A new fund management group which intends to use or rely on group investment expertise and experience
  - Information to demonstrate compliance (e.g., corporate structure, AUM, experience in managing public funds, etc.)
- Forms and checklists have been updated to reflect the flexibility for fund managers with multi-national presence to leverage group resources in meeting the public fund investment management experience requirements for KP

# Trustees / custodians

# Derivatives investments – Enhanced KFS disclosure

**Enhanced disclosure on derivatives investments in the KFS**

- SFC-authorized funds (including UCITS funds) offered to the public in Hong Kong
- Existing schemes: the KFS must be updated with the enhanced disclosure from 1 January 2020 (i.e. by the expiry of the 12-month transition period)

**KFS illustrative template**

[redacted]

# Derivatives investments – Enhanced KFS disclosure (cont'd)

**Revised KFS to reflect the enhanced disclosure**

- Fund managers are encouraged to produce the updated KFS for their existing schemes as soon as reasonably practicable
- Filing form for notice of scheme change(s) falling within 11.1B of the revised UT Code
  - Confirmation on Use of Derivatives for Unit Trusts and Mutual Funds to be submitted

**Existing schemes – disclosure requirements during the 12-month transition period**

- See the updated Guide on Practices and Procedures for Application for Authorization of Unit Trusts and Mutual Funds

**Chapter 11 of the revised UT Code takes effect on 1 January 2019**

**Changes falling under 11.1 of the revised UT Code that require SFC's prior approval**

(a) changes to constitutive documents

**Notification to holders**

- Notice requirements under 11.2 of the revised UT Code
  - Information necessary for EMC /LB.oi5(1r(ke)-0.6 (s)-5.3t(.)-5 (o)-0.6 (r)-1.3 (s)-5.3 (8-3.6 (t)-5.

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# Financial reports

**Enhanced disclosure requirements in the financial reports (Appendix E of the revised UT Code)**

- Enhanced transparency to investors on the fund's financial performance and portfolio information, e.g.:
  - Derivatives usages and investments
  - Securities financing and borrowing transactions
  - Collateral holdings
  - Soft dollar arrangements
  - Transaction costs

**Existing schemes**

- 12-month transition period for compliance with the enhanced disclosure requirements on the financial reports under Appendix E of the revised UT Code
  - Compliance of the enhanced Appendix E for the financial period starting on or after 1 January 2020

# Some questions and answers

1. **Concentration and diversification investment limits**

(i) Single entity and group concentration limits [7.1 and 7.1A of the revised UT Code]

- (i) Securities (e.g. equities, bonds, fixed income instruments, money market instruments, etc.); (ii) exposure from underlying assets of derivatives; (iii) net counterparty exposure from OTC derivatives; (iv) collateral received; (v) exposure arising from collateral re-investments; and (vi) counterparty exposure from guarantor
- Cash deposits are not subject to 7.1 and 7.1A (see below)
- Money market instruments (e.g. commercial papers, certificate of deposits) should comply with 7.1 and 7.1A
- An ETF structured as a sub-fund of an umbrella fund would be considered as a separate entity
  - Subject to the 10% single entity concentration limit under 7.1
  - ETFs would not generally be considered as “entities within the same group” under 7.1A

(ii) Cash deposit limits [7.1B of the revised UT Code]

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# Appendix: Updated FAQs (questions updated)

| FAQs (last updated on 17 Dec 2018) | Questions updated |
|---|---|
| Application Procedures for Authorization of Unit Trusts and Mutual Funds under the Revamped Process | Questions 5A, 5A1 and 12 |
| Code on Unit Trusts and Mutual Funds (UT Code FAQs) | Questions 1, 3, 4, 6, 8, 8A, 8B (new), 10, 11, 11A, 11C (new), 13, 16A, 16B, 16C (new), 18-21, 23-26, 27A, 27B, 28-32, 34C and 36 |
| Exchange Traded Funds and Listed Funds | Questions 1-9, 12,13 (new), 14 (new) and 15 (new) |
| Leveraged and Inverse Products | Questions 1A (new), 2, 5, 6 and 20 (new) |
| SFC Authorization of UCITS Funds | Questions 1, 1A (new), 2-5, 7 and 8 |
| Mainland-Hong Kong Mutual Recognition of Funds | Section A: Questions 10 and 12<br>Section C: Question 3<br>Section D: Question 4A<br>Section H: Questions 1, 3 |

# Appendix: Updated FAQs (questions updated) (cont'd)

| FAQs<br>(last updated on 17 Dec 2018) | Questions updated |
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# Thank you.

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