



SECURITIES AND FUTURES COMMISSION
證券及期貨事務監察委員會



Memorandum of Understanding (MoU)
between
the Securities and Futures Commission of Hong Kong
and
the Autorité des Marchés Financiers
concerning Mutual Recognition of Covered Funds, Management
Companies and related Cooperation

Dated 10 July 2017

This MoU has been concluded between SFC and AMF in light of global financial market growth and increasing cross-border activity in asset management and the offering, marketing and distribution of shares or units of collective investment schemes. Its purpose is to enhance cooperation in relation to (i) certain SFC or AMF authorized collective investment schemes domiciled and managed in either Hong Kong or France and offered, marketed and distributed to retail investors in France and/or to the public in Hong Kong on a cross-border basis, and (ii) management companies of collective investment schemes, based in either Hong Kong or France and licensed by the SFC or authorized by the AMF, respectively.

Based on their common understanding of their regulatory and supervisory frameworks concerning their respective management companies and collective investment schemes, the SFC and the AMF have agreed to promote reciprocal market access for fund providers by facilitating cross-border offering, marketing and distribution of certain funds between their jurisdictions subject to the requirements set out in this MoU and its Appendices.

SFC and AMF express their willingness to cooperate with each other in the interest of fulfilling their respective supervisory and regulatory mandates, particularly with the aim of protecting investors and ensuring that the financial markets function properly.

Article 1 Definitions

For the purpose of this MoU:

- a) “AIFMD” means the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, as may be amended, supplemented or otherwise modified from time to time.
- b) “Authority” or “Authorities” means the Securities and Futures Commission (SFC) and/or the Autorité des Marchés Financiers (AMF), including their possible successor(s).

- c) "CIS" means collective investment schemes.
- d) "COMOFI" means the French Monetary and Financial Code (Code monétaire et financier) as may be amended, supplemented or otherwise modified from time to time.
- e) "Covered Entities" means Covered Funds and/or Covered Management Companies.
- f) "Covered Fund" means French UCITS Funds or Hong Kong CIS authorized or seeking authorization on a cross-border basis in accordance with Article 3 of this MoU.
- g) "Covered Management Company" means a French Management Company or a Hong Kong Management Company including Persons (employed by, or given the authority to act on behalf of, such entity) who are licensed or authorized by the relevant Authority to manage Covered Funds and meet the applicable conditions as set out in Appendix B to this MoU.
- h) "Cross-border On-site Visit" means any visit made in the context of this MoU by one Authority to the premises of a Covered Management Company located in the other Authority's jurisdiction for supervisory purposes.
- i) "Delegate" means an entity to which (i) a French Management Company delegates the investment management function of one or more funds under its management in accordance with Article 13 of the Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities, as may be amended, supplemented or otherwise modified from time to time or (ii) a Hong Kong Management Company delegates the investment management function of one or more funds under its management in accordance with Chapter 5 of the UT Code.
- j) "Emergency Situation" means the occurrence of an event that could materially impair the financial or operational condition of Covered Entities, the investors of Covered Funds or the proper functioning of the financial markets.
- k) "Enforcement Actions" or "Enforcement Purposes" means an action or purpose referred to in Paragraph 10(a) of the IOSCO MMoU.
- l) "French UCITS Funds" means UCITS (as defined in aa below) domiciled in France which are authorized by AMF under the COMOFI, the RG AMF, and the applicable AMF's instructions, positions and recommendations.
- m) "Home Authority" means SFC, including its possible successor(s), in the case of Hong Kong Covered Entities; or AMF, including its possible successor(s), in the case of French Covered Entities.
- n) "Home Jurisdiction" means the jurisdiction of the Home Authority, namely Hong Kong, in the case of Hong Kong Covered Entities; or France, in the case of French Covered Entities.
- o) "Hong Kong" means the Hong Kong Special Administrative Region of the People's Republic of China.
- p) "Hong Kong CIS" means collective investment schemes domiciled in Hong Kong (as defined in Section 1 of Part 1 of Schedule 1 to the SFO) which are authorized by the SFC under Section 104 of the SFO in accordance with the Overarching Principles Section and the UT Code.
- q) "Host Authority" means AMF, including its possible successor(s), in the case of Hong Kong Covered Entities; or SFC, including its possible successor(s), in the case of French Covered Entities.
- r) "Host Jurisdiction" means the jurisdiction of the Host Authority, namely France, in the case of Hong Kong Covered Entities; or Hong Kong, in the case of French Covered Entities.
- s) "IOSCO MMoU" means the multilateral memorandum of understanding concerning consultation and cooperation and the exchange of information established by the International Organization of Securities Commissions to which AMF and SFC are signatories.

- t) “Management Company” means:
 - i. “French Management Company” which means a corporation authorized by the AMF to manage CIS assets in accordance with the COMOFI, the RG AMF, and the applicable AMF’s instructions, positions and recommendations; and/or
 - ii. “Hong Kong Management Company” which means a corporation which is licensed by the SFC for Type 9 regulated activity (asset management) in accordance with Part V of the SFO.
- u) “Overarching Principles Section” means the Overarching Principles Section of the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products issued by the SFC, as may be amended, supplemented or otherwise modified from time to time.
- v) “Person” means a natural person or legal person, or an unincorporated entity or association, including partnerships and corporations.
- w) “Requested Authority” means the Authority to whom a request is made under this MoU.
- x) “Requesting Authority” means the Authority making a request under this MoU.
- y) “RG AMF” means the General Regulation (règlement général) issued by the AMF, as may be amended, supplemented or otherwise modified from time to time.
- z) “SFO” means the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) which governs the securities and futures market in Hong Kong, as may be amended, supplemented or otherwise modified from time to time.
- aa) “UCITS” means an undertaking for collective investment in transferable securities authorized in accordance with Article 5 of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities, as may be amended, supplemented or otherwise modified from time to time.
- bb) “UT Code” means the Code on Unit Trusts and Mutual Funds of the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products issued by the SFC, as may be amended, supplemented or otherwise modified from time to time.

Article 2 General provisions

1. This MoU is an agreement concluded by the AMF and the SFC to promote reciprocal market access for fund providers by facilitating cross-border offering, marketing and distribution of certain funds to retail investors in France and to the public in Hong Kong, subject to the requirements set out in this MoU and its Appendices.
2. This MoU is also an agreement concluded by the AMF and the SFC to cooperate in relation to the supervision of Covered Entities that may engage in cross-border offering, marketing and distribution of shares or units of CIS to retail investors in France and to the public in Hong Kong in a manner consistent with domestic laws and regulations applicable in the Host Jurisdiction.
3. This MoU does not create any legally binding obligations, confer any rights, modify or supersede any domestic laws and regulations.
4. This MoU complements, but does not alter, the terms and conditions of existing arrangements between the Authorities including without limitation, the MoU concerning consultation, cooperation and the exchange of information related to the supervision of AIFMD entities established by the European Securities and Markets Authority to which AMF and SFC are signatories and the IOSCO MMoU.

5. Within the framework of this MoU, each Authority will remain responsible for regulating and supervising the Covered Entities under its jurisdiction. The Covered Funds should be operated and managed in accordance with the domestic laws and regulations in the Home Jurisdiction as well as with their constitutive documents.
6. Within the framework of this MoU, each Authority will remain responsible for regulating and supervising the offering, marketing and distribution of a Covered Fund within its jurisdiction in compliance with the applicable domestic laws and regulations where and to the extent that such offering, marketing and distribution are carried out in its jurisdiction. The offering, marketing and distribution of the Covered Funds in the Host Jurisdiction shall comply with the applicable domestic laws and regulations in the Host Jurisdiction. Subject to the provisions in this MoU, the Covered Entities should comply with additional rules provided in Appendix B to this MoU by the Host Authority governing the authorization, post-authorization and ongoing compliance in the context of the offering, marketing and distribution of the Covered Funds in the Host Jurisdiction.
7. Within the framework of this MoU, and subject to Article 12 of this MoU, the Authorities will provide each other with the fullest cooperation in relation to Covered Entities operating on a cross-border basis. Following consultation, cooperation may be denied:
 - a) where cooperation would require an Authority to act in a manner that would violate its domestic laws and regulations;
 - b) where the information could be used for any Enforcement Purposes in the jurisdiction of the Requesting Authority, in which case, it should be governed by the terms and conditions of the IOSCO MMoU;
 - c) on the grounds of public interest in the relevant jurisdiction; or
 - d) where a request for information is not made in accordance with Article 9 of this MoU.

Where a request for assistance is denied, or where assistance is not available under its domestic laws and regulations, the Requested Authority will provide the reasons for not granting the assistance and will consult pursuant to Article 11 below.

8. In accordance with its domestic laws and regulations, each Authority has discretion:
 - a) to regulate the offering, marketing and distribution of a Covered Fund within its jurisdiction, including the power to require Persons engaging in the offering, marketing and distribution of the Covered Fund in its jurisdiction to be licensed, authorized or to have the relevant qualification;
 - b) subject to Article 11(2) below, to suspend or terminate the offering, marketing and distribution of a Covered Fund within its jurisdiction notwithstanding that the Covered Fund has been authorized for offering, marketing and distribution within the parameters of this MoU; and
 - c) to take such Enforcement Actions, as are appropriate, against Covered Entities, including, to the extent permitted by its domestic laws and regulations, against Covered Entities it has not licensed or authorized, should these Covered Entities be in breach of the laws and regulations of the Host Jurisdiction relating to the offering, marketing and distribution of Covered Funds.
9. To facilitate cooperation under this MoU, the Authorities have designated contact points as set out in Appendix A.

Article 3 Scope of mutual agreement

1. Covered Funds

- a) Pursuant to this MoU, the Authorities agree to authorize Covered Funds for offering, marketing and distribution in Hong Kong and France respectively through a streamlined process of one month (the “one-month period”)¹, as set out in Appendix B to this MoU, provided that the Covered Funds meet the applicable conditions as set out in Appendix B.
- b) Appendix B may be amended from time and time by mutual agreement between the Authorities and each Authority will publish the content of the latest version on its website.

2. Management Companies

Based on their common understanding of their regulatory and supervisory frameworks concerning management companies, the Authorities agree that their respective Covered Management Companies are eligible to manage Covered Funds authorized in their Home Jurisdiction and offered, marketed and distributed in the Host Jurisdiction provided that the Covered Management Companies meet the applicable conditions set out in Appendix B and that the offering, marketing and distribution of the Covered Funds comply with the requirements set out in the domestic laws and regulations of the Host Jurisdiction.

Article 4 Delegation

1. The AMF recognises that Hong Kong Management Companies may be appointed as Delegates of the investment management function for French UCITS Funds, which includes French Covered Funds, which are or may be authorized by the AMF under the COMOFI, the RG AMF, and the applicable AMF’s instructions, positions and recommendations provided that the delegation arrangement complies with the requirements provided in domestic laws and regulations in France.
2. The SFC recognises that French Management Companies may be appointed as Delegates of the investment management function for Hong Kong CIS, which includes Hong Kong Covered Funds, which are or may be authorized by SFC under Section 104 of the SFO provided that the delegation arrangement complies with the requirements provided in domestic laws and regulations in Hong Kong.

Article 5 Scope of cooperation

1. Cooperation includes, inter alia, consultation, exchange of information, Cross-border On-site Visits, and matters of mutual supervisory interest, including regulatory developments but does not include Enforcement Actions which are covered by the provisions of the IOSCO MMoU.
2. Cooperation will be most useful in, but is not limited to, the following circumstances:
 - a) the initial application of Covered Funds from one jurisdiction for authorization by the Host Authority; and,
 - b) the ongoing supervision of Covered Entities.
3. The Authorities may cooperate:
 - a) on an ongoing basis or ad hoc, upon request or without prior request (i.e. unsolicited assistance); and,
 - b) orally, provided that it is confirmed in writing shortly thereafter, or in writing.

¹ Such period may be extended to two months should additional information be required by the Host Authority as set out in Appendix B.

Article 6 Provision of assistance for the implementation of this MoU

1. Upon request and in accordance with Article 9 below and apart from assistance on Enforcement Actions which should be provided in accordance with the provisions of the IOSCO MMoU, each Authority will use its reasonable endeavours to provide the Requesting Authority with assistance that would facilitate the Requesting Authority to assess whether or not a Covered Entity is in compliance with the requirements of mutual recognition arrangements set out in Appendix B to this MoU, at the time of application and on an ongoing basis, and to supervise the implementation of such requirements.

Article 7 Notification

1. The Authorities will inform each other to the extent possible and as soon as practicable about:
 - a) any known material event that could have a significant adverse impact on Covered Entities, investors of Covered Funds or the proper functioning of the financial markets; and
 - b) Enforcement Actions taken by them, including the revocation of, suspension of or modifications (other than modification at the request of Covered Entities or, in respect of any Covered Funds, modification of authorization conditions at the request of Covered Entities, which are governed by Appendix B to this MoU) to relevant licences or authorizations, in respect of Covered Entities which may have, in their reasonable opinion, a material impact on these Covered Entities.
2. With respect to a Covered Fund, each Authority will inform the other on a timely basis of :
 - a) any decreed or, where appropriate, pending revocation of authorization of distribution in or from France or Hong Kong taken by it;
 - b) relevant issues such as the revocation of, or any significant changes (other than modifications at the request of a Covered Entity or in respect of any Covered Funds, modification of authorization conditions at the request of a Covered Entity which are governed by Appendix B to this MoU) to licences or authorizations of related Covered Entities; and
 - c) complaints from third parties brought to its attention and associated with a Covered Fund after proper assessment of the relevant case, as and when considered necessary.
3. Each Authority will use its best endeavours to:
 - a) inform in a reasonable time the other about any significant amendments to its domestic laws and regulations which may have an impact on the mutual recognition of Covered Entities and/or cooperation under this MoU; and
 - b) provide, by the end of every six months, the other with a list of the Covered Funds domiciled in the other Authority's jurisdiction and authorized under this MoU.

Article 8 Exchange of information based on request

1. Upon request and in accordance with Article 9 below, each Authority will use its reasonable endeavours to provide the other Authority with assistance:
 - a) in obtaining information not otherwise available to the Requesting Authority; and
 - b) to enable the Requesting Authority to interpret and assess a Covered Entity's compliance with domestic laws and regulations that are administered or made by the Requesting Authority.
2. The information exchanged may include, but is not limited to:
 - a) information which would enable the Requesting Authority to verify that the Covered Entities comply with the relevant obligations and requirements of the domestic laws and regulations in the Requesting Authority's jurisdiction that are administered or made by the Requesting Authority;

- b) information relevant to the financial and operational condition of a Covered Entity, including, for example, reports on capital reserves, liquidity or other prudential measures, and internal control procedures;
- c) relevant supervisory information and reports a Covered Entity is required to submit to an Authority including, for example, interim and annual financial statements and early warning notices;
- d) where appropriate, any inspection findings formally communicated to a Covered Entity in writing;
- e) information relevant for monitoring and responding to the potential implications of the activities of Covered Entities to ensure the proper functioning of the financial markets;
- f) other information which is relevant to a Covered Fund;
- g) Enforcement Actions against any Management Company which have, had or may have significant impact on the operations of such Management Company in the Requesting Authority's jurisdiction; and
- h) information relating to a Covered Fund, including the status, additional terms and conditions, and any waiver granted in respect of the authorization of a Covered Fund.

Article 9 Execution of requests for information

1. A request for written information in accordance with Article 8 above should be made in writing and addressed to the relevant contact point set out in Appendix A.
2. A request should specify the following:
 - a) a concise description of the facts underlying the request and the supervisory purpose for which the information is sought, including the domestic laws and regulations applicable to the supervisory activity;
 - b) the information sought by the Requesting Authority and indications of any sensitivity regarding the request; and
 - c) the desired time period for responding and, where appropriate, the urgency thereof.
3. During Emergency Situations or to expedite the approval process in relation to a Covered Fund, requests for information may be made in any form, including orally, provided such a request is confirmed in writing shortly thereafter.

Article 10 Cross-border On-site Visits

1. Prior to considering engaging in a Cross-border On-site Visit, the Authorities should give due and full consideration to each others' supervisory activities and to any information that has already been made available, or could be made available, by the Requested Authority. An Authority should communicate with the other Authority prior to carrying out any Cross-border On-site Visits. Authorities should discuss and reach an understanding on the terms for conducting Cross-border On-Site Visits, taking into full account each other's jurisdiction, legal framework and statutory obligations, particularly when determining the respective roles and responsibilities of the Authorities.
2. The Authorities will adhere to the following procedure before conducting a Cross-border On-site Visit:
 - a) The Authorities will consult with a view to reaching an understanding on the intended timeframe for, and scope of, any Cross-border On-site Visit.
 - b) The Requested Authority in whose jurisdiction a Cross-border On-site Visit would be undertaken should decide whether the representatives of the Requesting Authority, or Persons mandated by the Requesting Authority, should be accompanied by its own officials during the visit.

- c) The Authorities will endeavour to assist each other in understanding the content of publicly and non-publicly available documents, and obtaining information from directors and senior management of Covered Entities, or any other relevant Person.

Article 11 Consultation

1. The Requesting Authority and Requested Authority will consult with one another in matters relating to specific requests made pursuant to this MoU (e.g., where a request may be denied, or if it appears that responding to a request will involve substantial costs). The Authorities will use reasonable efforts to identify ways to address the specific requests made pursuant to this MoU.
2. Each Authority will, where practicable and appropriate, consult the other Authority prior to suspending (other than at the request of the Covered Entity) or withdrawing an authorization (other than at the request of the Covered Entity for withdrawal of authorization from the Host Authority) and prior to terminating the offering, marketing and distribution of a Covered Fund within its own jurisdiction.

Article 12 Permissible uses of information

1. The Requesting Authority will use non-public information obtained under this MoU solely for the purpose of supervising the distribution of Covered Funds and the supervision of Covered Entities which includes application procedures and ongoing supervision.
2. However, each Authority recognizes that, while this MoU is not intended to gather information for Enforcement Purposes, the Authority may subsequently want to use the non-public information provided pursuant to this MoU for Enforcement Purposes. In such cases, the Authorities will inform each other of such intended use and proceed along with the principles of the IOSCO MMoU. With respect to information shared between the SFC and the AMF, use of non-public information for Enforcement Purposes will be in accordance with the terms and conditions of the IOSCO MMoU.

Article 13 Confidentiality of information and disclosure

1. Subject to paragraphs 2 and 3 of this Article, the Authorities will keep confidential any non-public information communicated between them within the scope of cooperation of this MoU, except:
 - a) the fact that the Authorities have concluded this MoU or that it has been revised after its entry into force;
 - b) Appendix B of this MoU, including a possible revision of Appendix B after its entry into force; and
 - c) the termination of this MoU under Article 15 of this MoU.
2. The Requesting Authority should obtain prior consent from the Requested Authority before disclosing any confidential information received under this MoU to any third party. If consent is not obtained from the Requested Authority, the Authorities will consult to discuss the reasons for withholding approval, and the circumstances, if any, under which the intended use by the Requesting Authority might be allowed.
3. Where confidential information received under this MoU is subject to a legally enforceable demand for onward disclosure in the Requesting Authority's jurisdiction, the latter will notify the Requested Authority prior to complying with such a demand and will assert such appropriate legal exemptions or privileges with respect to such information as may be available. The Requesting Authority will use its best efforts to protect the confidentiality of non-public documents and information received under this MoU.

Article 14 Amendment; suspension

1. The Authorities agree to review regularly the operation of this MoU, in particular in view of complaints from investors, and at least once a year, starting one year after entry into force.
2. The Authority wishing to review the MoU will notify the other Authority in writing, after which the Authorities will consult and use their reasonable endeavours to amend it as appropriate.
3. This MoU may be amended by written agreement.
4. In the event of an emergency situation, the Authorities may decide, by mutual agreement, to suspend market access for new funds until both Authorities agree that the MoU may resume running.

Article 15 Termination; succession

1. Either Authority may terminate this MoU by giving 30 days' advance written notice to the other Authority. If either Authority gives such notice, cooperation will continue on all requests for cooperation that were made under this MoU until notice was given.
2. In the event of termination of this MoU, information obtained within the scope of cooperation of this MoU will continue to be treated as set out under Articles 12 and 13 above.
3. In the event of termination of this MoU, Covered Funds must cease further offering, marketing and distribution in the Host Jurisdiction as soon as practicable and in any event within such time as may be agreed between the Authorities.
4. Where the relevant function of an Authority is transferred or assigned to another supervisory authority or other supervisory authorities, the terms of this MoU will apply to the successor authority or authorities performing those relevant functions. No further amendments to this MoU are required for the successor to become a signatory to this MoU. This will not affect the right of the successor authority and its counterparty to terminate this MoU as set out in paragraph 2.

Article 16 Entry into force

This MoU enters into force upon signature of the Authorities.

Signed on 10 July 2017

Securities and Futures Commission

Autorité des Marchés Financiers

Ashley ALDER
Chief Executive Officer

Gérard RAMEIX
Chairman

Appendix A

Contact points

The contact points are:

Authority	Contact details
SFC (Hong Kong)	Securities and Futures Commission 35/F, Cheung Kong Center 2 Queen's Road Central Hong Kong Email address: - mrffrance@sfc.hk
AMF (France)	Autorité des Marchés Financiers 17 place de la Bourse 75002 Paris France Email addresses: - servicedesaffairesinternationales@amf-france.org - celluleinternationale@amf-france.org

Appendix B - I – SFC Circular

Mutual Recognition of Funds (MRF) between France and Hong Kong

1. The Securities and Futures Commission (SFC) and the Autorité des Marchés Financiers (AMF) signed a Memorandum of Understanding (MoU) on France-Hong Kong mutual recognition of funds on 10 July 2017. The MoU provides a framework for mutual recognition of covered funds offered, marketed and distributed to retail investors in France and the public in Hong Kong.
2. For the purpose of this Circular, unless otherwise defined herein, the words beginning with a capital letter refer to the list of definitions set out in Article 1 of the MoU.
3. For the purpose of this Circular, the term “French Covered Fund” means a French-domiciled UCITS fund authorized or seeking authorization for offering, marketing and distribution to the public in Hong Kong through a streamlined process in accordance with Section 104 of the SFO pursuant to this Circular, provided that such fund meets the applicable conditions as set out in this Circular.
4. For the purpose of this Circular, the term “French Covered Management Company” means a French-domiciled management company which is licensed or authorized by the AMF to manage French Covered Funds and meets the applicable conditions as set out in this Circular.

General principles

5. MRF operates on the principles that, in respect of a French Covered Fund that has been authorized by the AMF and is seeking or has received authorization to be offered, marketed and distributed to the public in Hong Kong:
 - a. the French Covered Fund shall meet the eligibility requirements (Eligibility Requirements) set out in Annex B to this Circular;
 - b. the French Covered Fund shall remain authorized by the AMF in France and is allowed to be offered, marketed and distributed to retail investors within France;
 - c. the French Covered Fund shall operate and be managed in accordance with the relevant laws and regulations in France and its constitutive documents;
 - d. the sale and distribution of the French Covered Fund in Hong Kong shall comply with the applicable laws and regulations in Hong Kong;
 - e. the French Covered Fund and the French Covered Management Company shall comply with the additional rules released by the SFC governing the authorization, post authorization and ongoing compliance in the context of the offering, marketing and distribution of the French Covered Fund to the public in Hong Kong; and
 - f. the French Covered Management Company of the French Covered Fund shall ensure holders in both France and Hong Kong receive fair treatment, including in respect of investor protection, exercise of rights, compensation and disclosure of information.
6. In general, funds that are seeking SFC authorization or have received SFC authorization for offering to the public in Hong Kong pursuant to Section 104 of the SFO have to comply with the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (SFC Handbook) and the circulars, guidelines and other requirements as may be issued by the SFC from time to time (together with the SFO, the Hong Kong laws and regulations). On the basis of the principles set out above, if a French Covered Fund complies with the relevant French laws and regulations and the conditions described in this Circular, it is generally deemed to have complied in substance with the relevant SFC requirements and will enjoy a streamlined process of authorization for offering to the public in Hong Kong.

7. In view of the differences between the Hong Kong and the French regulatory regimes, to ensure proper investor protection and consistency with existing Hong Kong SFC-authorized funds, this Circular sets out the additional requirements with which a French Covered Fund has to comply when applying for SFC authorization for offering, marketing and distribution to the public in Hong Kong under the MRF, as well as other requirements which a French Covered Fund has to observe after obtaining SFC authorization.
8. The SFC will grant authorization to a French Covered Fund for offering, marketing and distribution to the public in Hong Kong within one month (the one-month period)² provided that the French Covered Fund meets all the applicable requirements set out in this Circular and that the SFC has received a complete and satisfactory set of Application Documents as described in paragraph 45 in relation to the application process.

Eligibility Requirements and types of French Covered Funds

9. The Eligibility Requirements are set out in Annex B to this Circular.
10. The SFC and the AMF may consider extending the MRF to include other types of funds in future in accordance with the MoU.
11. A French Covered Fund must comply with the requirements set out under the “Requirements applicable to all French Covered Funds” section below.

Requirements applicable to all French Covered Funds

12. To ensure proper investor protection and consistency with existing Hong Kong schemes authorized for offering, marketing and distribution to the public in Hong Kong, French Covered Funds are required to comply with the requirements set out in paragraphs 13 to 53 below, as well as the relevant requirements set out in Annex A to this Circular.

Representatives in Hong Kong

13. Each French Covered Fund must appoint a firm in Hong Kong as its representative in compliance with Chapter 9 and 11.1(b) of the UT Code.

Operational and ongoing requirements

AMF supervision

14. The French Covered Fund must, on an ongoing basis, remain authorized by the AMF for offering, marketing and distribution to retail investors in France, be subject to the ongoing regulation and supervision of the AMF and comply with the Eligibility Requirements set out in Annex B to this Circular.

Reporting obligation

15. The French Covered Fund shall have at least 20% of the French Covered Fund’s net asset value attributable to investors in France on an ongoing basis for offering, marketing and distribution to the public in Hong Kong.

The French Covered Management Company shall confirm to the AMF semi-annually that at least 20% of the French Covered Fund’s net asset value is attributable to investors in France at the end of each reporting period.

16. If the AMF becomes aware or is notified that the French Covered Fund or its French Covered Management Company fails to meet the requirement set out in paragraph 15 above, it shall notify the SFC as soon as possible.

² Such period may be extended to two months should additional information be required by the SFC.

Jurisdiction

17. The French Covered Management Company shall ensure and procure its distributors to ensure that Hong Kong investors are able to bring actions concerning the French Covered Fund and the French Covered Management Company in the courts of Hong Kong.

Changes to French Covered Funds

18. No change shall be made to a French Covered Fund resulting in non-compliance with the Eligibility Requirements set out in Annex B to this Circular. If the AMF is aware of such change, it shall notify the SFC as soon as possible.
19. Changes to a French Covered Fund shall be made in accordance with the applicable French laws and regulations and the provisions of its constitutive documents³. Changes to a French Covered Fund shall not contravene the applicable French laws and regulations and the requirements set out in this Circular.
20. These changes shall be effective upon approval by the AMF or compliance with the appropriate procedures.
21. However, changes that affect Hong Kong investors only and revisions made to the offering documents of a French Covered Fund relating to such changes should be made in accordance with the requirements under the relevant Hong Kong laws and regulations. Prior consultation with the SFC concerning such changes is encouraged.
22. The AMF shall notify the SFC of any change approved by the AMF in respect of a French Covered Fund authorized by the SFC in Hong Kong as soon as possible and in any event within one week from the date of approval.

In addition, the AMF will confirm to the SFC that the French Covered Fund effecting such changes continues to meet the Eligibility Requirements set out in Annex B to this Circular.

23. The French Covered Management Company shall ensure that the SFC is informed of any change filed with the AMF as soon as possible and in any event within one week from the date of filing with the AMF.
24. Holders in Hong Kong shall be notified about the changes to the French Covered Fund according to the relevant Hong Kong laws and regulations.

Breach

25. In the event of a breach of French laws and regulations or of the requirements set out or referred to in this Circular comes to the attention of the AMF, the AMF will notify promptly the SFC pursuant to the MoU. The French Covered Management Company shall rectify the breach promptly. The AMF will notify the SFC when the French Covered Management Company has rectified the breach.
26. Following SFC authorization, if a French Covered Fund ceases to meet any of the requirements as set out in this Circular, the SFC may withdraw its authorization to offer, market and distribute the fund to the public in Hong Kong, after informing the AMF. In any case, the French Covered Fund shall cease to be offered to the public in Hong Kong and shall not accept subscriptions from new investors in Hong Kong without the SFC's prior approval.

Withdrawal of authorization

27. Following the authorization of a French Covered Fund, if its French Covered Management Company does not wish to maintain such authorization, it shall apply for withdrawal of authorization from the SFC in accordance with the applicable Hong Kong laws and regulations.

Termination

³ For the avoidance of doubt, change in Delegate(s) is subject to AMF's prior approval.

28. Termination of a French Covered Fund shall require the approval of the AMF with immediate notice from the AMF to the SFC. Termination notice to Hong Kong investors should be submitted to the SFC for prior approval.

Sale/distribution, offering documents, ongoing disclosure and advertisements

Sale/distribution

29. The sale and distribution of a French Covered Fund in Hong Kong must be conducted by intermediaries properly licensed by or registered with the SFC. The sale and distribution of a French Covered Fund in Hong Kong shall comply with the applicable Hong Kong laws and regulations relating to distribution, sale and marketing of funds.

Offering documents

30. The disclosure of information relating to a French Covered Fund shall be complete, accurate, fair, clear, effective, and shall be capable of being easily understood by investors.
31. The offering documents of a French Covered Fund must be up-to-date and contain information necessary for investors to be able to make an informed judgement of the investment proposed to them.
32. The offering documents used to market a French Covered Fund in Hong Kong shall include the following statement:

“This fund, authorized by the SFC for offering, marketing and distribution to the public in Hong Kong, remains governed by laws, ordinances and other regulations or requirements applicable in France and is supervised by the Autorité des Marchés Financiers in France. It complies with rules (including investment restrictions) that are different from the requirements applicable to other SFC-authorized funds established under the Hong Kong laws.”

33. A French Covered Fund may utilize the prospectus authorized by the AMF. Unless otherwise provided in this Circular, matters such as the content of the prospectus, its format, frequency of its update and the update procedures shall comply with the applicable French laws and regulations and the provisions of its constitutive documents. In addition, the AMF-authorized prospectus may be supplemented by a Hong Kong covering document to comply with the disclosure requirements set out in Annex A to this Circular and to disclose any other information which may have a material impact on investors in Hong Kong. The prospectus and the Hong Kong covering document shall not contain any information that would be inaccurate/misleading regarding the French Covered Fund.
34. The French Covered Management Company shall ensure fair treatment for investors in France and in Hong Kong in making available to them the offering documents of a French Covered Fund and their possible changes. In any case, the French Covered Management Company shall comply with the requirements regarding information to be provided to investors provided under relevant Hong Kong laws and regulations. Subject to paragraph 21, the revised offering documents of a French Covered Fund shall be filed with the SFC as soon as possible and in any event within one week after the revised offering documents have received AMF’s authorization or are filed with the AMF.

Ongoing disclosure

35. The French Covered Management Company shall provide ongoing disclosure of information (including periodic financial reports and notices) to investors in Hong Kong regarding the French Covered Fund as provided under relevant Hong Kong laws and regulations⁴.

⁴ It is expected that to the extent there are requirements on minimum notice period and content of or template for the notice to Hong Kong investors under the relevant Hong Kong laws and regulations, the French Covered Fund should comply with these requirements.

36. The French Covered Management Company shall ensure fair treatment of investors in France and Hong Kong regarding the ongoing disclosure of information of a French Covered Fund (including periodic financial reports and notices).
37. The ongoing disclosure should be filed with the SFC as soon as possible and in any event within one week after it has received AMF's authorization or is filed with the AMF.
38. French Covered Funds shall comply with the requirements set out in Annex A to this Circular and on an ongoing basis, disclose any other information which may have a material impact on investors in Hong Kong.
39. Subject to paragraph 41, a French Covered Fund may use its French financial reports as the basis for distribution in Hong Kong, provided that it is supplemented by the additional information and meet the other requirements set out in Annex A to this Circular.

Language

40. The offering documents and notices to Hong Kong investors of a French Covered Fund shall be provided in English and Chinese.
41. The constitutive documents and financial reports of a French Covered Fund shall be made available to Hong Kong investors in either English or Chinese. The language in which these documents are made available to Hong Kong investors should be clearly disclosed in the offering documents.

Advertising guidelines

42. All advertisements and marketing materials in relation to the French Covered Fund issued in Hong Kong shall comply with the applicable Hong Kong laws and regulations, in particular, the Advertising Guidelines Applicable to CIS Authorized under the Product Codes.

Application process

43. Unless otherwise specified in paragraphs 44 to 51, the applications of French Covered Funds seeking SFC's authorization under the MRF are subject to the revamped fund authorization process as set out in SFC's circular entitled "Circular to management companies of SFC-authorized unit trusts and mutual funds – Formal adoption of revamped fund authorization process" dated 22 April 2016 (as amended on 2 December 2016).
44. Applications of French Covered Funds will be processed and classified as Standard Applications under the revamped fund authorization process.
45. To start an application, the following documents (Application Documents) have to be submitted to the SFC through the AMF:
 - a. a duly signed and completed Application Form;
 - b. a duly signed and completed Information Checklist (<http://www.sfc.hk/web/EN/forms/products/forms.html>);
 - c. a certificate from the AMF confirming that the Eligibility Requirements listed in Annex B to this Circular are met;
 - d. advanced draft of the French Covered Fund's offering documents in English (including the product key facts statement) and, where applicable, marked up against the latest version filed with the SFC;
 - e. constitutive documents of the French Covered Fund in either English or Chinese;
 - f. documents (including any confirmations and/or undertakings) required to be submitted under or pursuant to the Information Checklist; and

- g. a cheque made payable to “Securities and Futures Commission” in the amount of the applicable application fee (see Q.3 of the FAQs on Application Procedures for Authorization of Unit Trusts and Mutual Funds under the Revamped Process).
46. Upon receipt of the Application Documents, the SFC will have five working days to assess that all Application Documents have been duly and properly submitted.
47. Provided that the French Covered Fund meets all the applicable requirements set out in this Circular and if no requisition letter, as described in paragraph 48 below, is issued by the SFC, the SFC will grant authorization with conditions⁵ to a French Covered Fund within the one-month period. The one-month period will start from the date the SFC confirms that it has received, to its satisfaction, the Application Documents listed in paragraph 45 above. Should a requisition letter be issued by the SFC, the SFC will grant authorization to a French Covered Fund within two months (the two-month period) provided that all outstanding issues have been addressed to the satisfaction of the SFC.
48. A requisition letter might be sent by the SFC for any clarifications relating only to matters relating to paragraphs 29 to 42 and in Annex A to this Circular that it considers necessary.
49. The SFC may refuse the application if outstanding issues are not addressed to the satisfaction of the SFC within the two-month period.
50. Once the SFC authorizes the application, it will notify the AMF.
51. The application process shall be made through the following address: mrffrance@sfc.hk.
52. The SFC encourages applicants to consult the Investment Products Division early for any clarification or guidance as to how the relevant requirements may apply and be complied with in light of their specific circumstances.
53. The SFC may issue other circulars, frequently asked questions and other documents from time to time to provide practical guidance to the industry. Please refer to the SFC’s website or contact the Investment Products Division.

**Investment Products Division
Securities and Futures Commission**

⁵ For the authorization of a French Covered Fund to become effective, the conditions that are required to be fulfilled include: (i) the submission of offering documents properly addressing all the comments of the SFC, (ii) the submission of Chinese version of offering documents together with the Chinese translation confirmation(s); (iii) the due appointment of a Hong Kong representative; and (iv) the payment to the SFC of authorization fee and annual fee (for the first year of authorization).

Annex A

Requirements to be complied with by all French Covered Funds

1. General requirements	
Mention of SFC authorization	1.10 of the Overarching Principles Section (OPS) of the SFC Handbook
Naming of a French Covered Fund	5.1 and 5.2 of the OPS of the SFC Handbook
Availability of constitutive documents	5.10(c) of the UT Code
Accompaniment to offering documents	6.3 and 6.4 of the UT Code
Inclusion of performance data	6.5 of the UT Code
Dealing	6.14 and 10.5(c) of the UT Code
Transaction fees and performance fee	Note to 6.16 and 6.17 of the UT Code
Pricing errors	10.2 of the UT Code, FAQ 4 in the Frequently Asked Questions on Post Authorization Compliance Issues of SFC-authorized Unit Trusts and Mutual Funds
Self-managed schemes	A self-managed scheme must appoint a French Covered Management Company that is authorized by AMF to manage collective investment scheme in accordance with Article L. 532-9,II, 1° of the French Monetary and Financial Code, and Article 312-2 and Article 313-48 of the General Regulation of the AMF as investment manager.
2. Disclosure requirements in relation to offering documents (Note: this may be included in the Hong Kong covering document)	
Language	5.6 of the OPS of the SFC Handbook
Product key facts statement	6.5 – 6.8 of the OPS of the SFC Handbook and 6.2A of the UT Code
Use of disclaimers	6.12 of the OPS of the SFC Handbook
Enquiries and complaints handling	7.4 of the OPS of the SFC Handbook
Distribution fees and advertising or promotional expenses	To disclose such fee arrangements (if any) in the offering documents
Use of financial derivative instruments for investment propose	8.9(j)(ii) and 8.9(j)(iii) of the UT Code
Information to be disclosed in the offering document	Appendix C to the UT Code (paragraphs 3(c), 3(d), 3(e), 3(g), 6, 8, 10, 11, 12, 14(c), 16, 18, 18A, 19, 19A, 20, 23 and 24), FAQ 27B in the Frequently Asked Questions on the Code on Unit Trusts and Mutual Funds and FAQ 9 in the Frequently Asked Questions on SFC Authorization of UCITS III Funds
Disclosure on stock lending, repo and similar over-the-counter transactions	FAQ 21 in the Frequently Asked Questions on the Code on Unit Trusts and Mutual Funds
Disclosure on information to investors regarding the fund's distribution policy	FAQ 34 – 34(C) in the Frequently Asked Questions on the Code on Unit Trusts and Mutual Funds
Disclosure on information to investors regarding US Foreign Account Tax	FAQ 35 in the Frequently Asked Questions on the Code on Unit Trusts and Mutual Funds and

Compliance Act	the Circular to issuers of SFC-authorized investment products concerning the US Foreign Account Tax Compliance Act
3. Disclosure requirements in relation to ongoing disclosure	
Notices to holders	11.2 (bilingual notice and notice period for unitholder meetings), 11.2A and 11.2B of the UT Code
Disclosure of withdrawal of authorization	11.4 of the UT Code
Disclosure on merger or termination	11.5 of the UT Code
Reporting to holders	11.6 of the UT Code (notification of availability of financial reports)
Constitutive documents	All constitutive documents of a French Covered Fund shall be made available to Hong Kong investors in either English or Chinese
Other documents to be made available to Hong Kong investors as specified in the offering documents	Upon request by investors, specific information regarding these documents should be made available to Hong Kong investors in English or Chinese. Information regarding how investors can make such information requests should also be clearly disclosed in the Hong Kong offering documents
4. Disclosure requirements in relation to financial reports	
Language	Financial reports of a French Covered Fund shall be made available to Hong Kong investors in either English or Chinese
Notes to the accounts	Items 2 and 3 of the "Notes to the accounts" Section of the Appendix E to the UT Code
Holdings of collateral	Items 1(b), 1(c) and 1(d) of the "Holdings of collateral" Section of the Appendix E to the UT Code

Annex B
Eligibility Requirements

French Covered Fund

1. The French Covered Fund must be established, domiciled and managed in accordance with French laws and regulations and its constitutive documents.
2. The French Covered Fund must be an undertaking for collective investment in transferable securities authorized in accordance with Article 5 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferrable securities which is authorized by the AMF for offering, marketing and distribution to retail investors in France under Article L. 214-3 of the French Monetary and Financial Code and Article 411-3 of the General Regulation of the AMF.
3. At least 20% of the French Covered Fund's net asset value must be attributable to investors in France.
4. The French Covered Fund must be a general equity fund, bond fund or mixed fund, as defined in Annex C to this Circular.
5. The French Covered Fund must not use leverage exceeding 100% of the fund's net asset value as calculated under the UCITS commitment approach provided by Article 42 of the Directive 2010/43/EU.
6. The French Covered Fund must not invest in (i) physical commodities including precious metals or commodity based investments or real estate, or (ii) certificates representing them.
7. The French Covered Fund must not be a money market fund, an exchange traded fund, an index fund, or a structured fund as defined in Annex C to this Circular.
8. The French Covered Fund must not have share class with hedging arrangement other than currency hedging.
9. The French Covered Fund must not pay any unreasonable turnover fees or percentage-based transaction fees to the French Covered Management Company or any of its connected persons.
10. Should the French Covered Fund charge a performance fee, the fee:
 - a. can only be payable no more frequently than annually;
 - b. must be clearly disclosed in offering documents; and
 - c. must be calculated:
 - either against a benchmark, which is consistent with the risk and reward profile of the fund; or
 - on a high-on-high principle (i.e. the fee can only be payable if the net asset value per unit/share exceeds the net asset value per unit/share on which the performance fee was last calculated and paid). In such case, if a performance fee is levied on the share class(es) offered to the investors in Hong Kong by the French Covered Fund, the reference to which the performance fee (commonly known as high water mark) is calculated must not be reset after SFC authorization of the French Covered Fund.

French Covered Management Company

11. The French Covered Management Company must be domiciled in France and authorized by AMF to manage collective investment scheme in accordance with Article L. 532-9,II, 1° of the French Monetary and Financial Code, and Article 312-2 and Article 313-48 of the General Regulation of the AMF.
12. The French Covered Management Company and its accountable director(s) (within the meaning of Article L. 532-9, II, 4° of the French Monetary and Financial Code) have not been subject to any of the following disciplinary actions taken by the AMF, in the past 3 years or since the date of the establishment of the French Covered Management Company if it has been established for less than 3 years:
 - a. with respect to the French Covered Management Company:
 - a withdrawal of its license by the AMF (in accordance with Article L.532-10 of the French Monetary and Financial Code);
 - a temporary or permanent ban on providing some or all of the services previously provided (in accordance with Article L. 621-15, III, a of the French Monetary and Financial Code); or
 - b. with respect to the accountable director(s) of the French Covered Management Company, a temporary or permanent ban on conducting some or all of their business activities (in accordance with Article L. 621-15, III, b of the French Monetary and Financial Code).
13. Where the French Covered Management Company delegates the investment management decisions to another entity authorized to manage collective investment schemes in accordance with 313-77 of the General Regulation of the AMF, such entity is operating in one of the acceptable inspection regimes recognized under 5.1 of the UT Code (AIR Delegate)⁶.

Custodian

14. The custodian appointed by the French Covered Fund is a credit institution or an investment firm complying with the requirements set out in Article L. 214-10-1 of the French Monetary and Financial Code, in its version in force at the date of the entry into force of the MoU.

⁶ For the purpose of providing confirmation on Eligibility Requirements pursuant to paragraphs 22 and 45 of this Circular, in addition to confirming the matters listed in Annex B to this Circular, where applicable, the AMF will also confirm to the SFC that it has conducted regulatory check with the authority primarily responsible for regulating the AIR Delegate and is not aware of any regulatory concerns.

Annex C

Types of French Covered Funds

Terms used in the MRF	French definition	Covered under the MRF arrangement
equity fund	<p>Article 30 instruction 2011-19 of the AMF must have 60% or more exposure to equity markets at all times. The classification then depends on the geographical zone of the equities to which the UCITS is exposed. The notion of incidental exposure mentioned in Articles 30-1 to 30-4 of this Instruction means the consolidated sum of the exposure to the specific risks described. This means that the contribution of all these risks to the overall risk profile of the UCITS must be low. Under no circumstances may exposure of more than 10% of the assets to specific risks be qualified as incidental exposure within the meaning of Articles 30-1 to 30-9 of this Instruction. On the other hand, merely complying with exposure of less than 10% is not enough in itself to qualify as an incidental specific risk. The notion of incidental risk must be addressed through the nature of the risks incurred and the contribution that the relevant assets make to the overall risk profile and potential return of the UCITS.</p> <p>Article 30-1 - “French equities” UCITS (optional classification) The UCITS has at least 60% exposure to the French equity market at all times. Exposure to exchange rate risk or to markets other than the French market must remain incidental. The UCITS prospectus must mention the minimum exposure of the UCITS to the French equity market.</p> <p>Article 30-2 - “Eurozone equities” UCITS (optional classification) The UCITS has at least 60% exposure to one or several markets for equities issued in one or several Eurozone countries, possibly including the French market. Exposure to exchange rate risk or to foreign markets outside the Eurozone must be incidental. The UCITS prospectus must mention the minimum exposure of the UCITS to Eurozone equity markets.</p> <p>Article 30-3 - “European Union equities” UCITS (optional classification) The UCITS has at least 60% exposure to one or several markets for equities issued in one or more European Union countries at all times, possibly including Eurozone markets. Exposure to exchange rate risk for currencies other than those of the Eurozone or European Union must be incidental. Exposure to market risks other than within the European Union must remain incidental. The UCITS prospectus must mention the minimum exposure of the UCITS to the relevant equity markets.</p> <p>Article 30-4 - “International equities” UCITS (optional classification) The UCITS has at least 60% exposure to at least one foreign equity market or to the equity markets of several countries at all times, possibly including the French market. The UCITS prospectus must mention the minimum exposure of the UCITS to all the relevant markets.</p>	√

<p>bond fund</p>	<p>Article 30-5 – “Euro-denominated bonds and other debt securities” UCITS (optional classification) The UCITS is exposed to fixed-income securities denominated in Euros at all times. Exposure to equity risk must not exceed 10% of net assets. Exposure to securities denominated in a currency other than Euros and exposure to exchange rate risk must be incidental. The “investment strategy” section of the prospectus must provide a table showing the interest-rate sensitivity range within which the UCITS is managed and the geographical zone of the issuers of the securities (or of the underlying assets for securitisation vehicles) that the UCITS is exposed to, along with the relevant exposure ranges. If the range of credit spread sensitivity is materially different from the range of interest rate sensitivity, the credit spread sensitivity must be mentioned in the “investment strategy” section of the prospectus.</p> <p>Article 30-6 - “International bonds and other debt securities” UCITS (optional classification) The UCITS is exposed to fixed-income securities denominated in other currencies than the Euro at all times (and possibly to Euro-denominated fixed-income securities). Exposure to equity risk must not exceed 10% of net assets. The “investment strategy” section of the prospectus must provide a table showing the interest-rate sensitivity range within which the UCITS is managed, the currencies in the which the securities the UCITS is invested in are denominated, the level of exchange rate risk incurred, the geographical zone of the issuers of the securities (or of the underlying assets for securitisation vehicles) that the UCITS is exposed to, along with the relevant exposure ranges. If the range of credit spread sensitivity is materially different from the range of interest rate sensitivity, the credit spread sensitivity must be mentioned in the “investment strategy” section of the prospectus</p>	<p>√</p>
<p>mixed fund</p>	<p>Article 30-9 - “Diversified” UCITS (classification to be terminated as of 31 December 2017) This category covers all UCITS that are not part of any other category herein. A French Covered Fund classified as “mixed fund” should invest at least 60% of its non-cash assets in equities and/or fixed income securities.</p>	<p>√</p>
<p>money market fund</p>	<p>European money market funds’ regulation :</p> <p>Collective investment undertakings that:</p> <ul style="list-style-type: none"> - Invest in short-term assets - Have distinct or cumulative objectives offering returns in line with money market rates or preserving the value of the investment. 	<p>X</p>
<p>ETF</p>	<p>Definitions - position 2013-06 of the AMF A listed UCITS (ETF) is a UCITS in which at least one class of units or shares is traded throughout the day on at least one regulated market or multilateral trading system whereby at least one market maker acts to ensure that the value Market shares of its units or shares does not vary significantly from its net asset value and, if applicable, its indicative net asset value.</p>	<p>X</p>

index fund	<p>Definitions - position 2013-06 of the AMF An OPCVM whose strategy is to replicate or track the performance of one or more indices by synthetic or physical replication, for example.</p>	X
structured fund	<p>Article 30-8 instruction 2011-19 of the AMF</p> <p>In accordance with the provisions of Article R. 214-28 of the Monetary and Financial Code, the investment objective of a structured fund is to reach a predetermined amount at the end of a set period through the mechanical application of a predefined formula based on financial market indicators or financial instruments, and to distribute income that is determined in the same manner, where applicable.</p>	X

Appendix B - II – AMF requirements and process for mutual recognition of Hong Kong Funds

Mutual Recognition of Funds (MRF) between France and Hong Kong

1. The Securities and Futures Commission (SFC) and the Autorité des Marchés Financiers (AMF) signed a Memorandum of Understanding (MoU) on France-Hong Kong mutual recognition of funds on 10 July 2017. The MoU provides a framework for mutual recognition of covered funds offered, marketed and distributed to retail investors in France and the public in Hong Kong.
2. For the purpose of this Circular, unless otherwise defined herein, the words beginning with a capital letter refer to the list of definitions set out in article 1 of the MoU.
3. For the purpose of this Circular, the term “Hong Kong Covered Fund” means a Hong Kong-domiciled CIS authorized or seeking authorization for offering, marketing and distribution to retail investors in France through a streamlined process in accordance with Section 1 of the Chapter IV of the Second Book of the French Monetary and Financial Code pursuant to this Circular, provided that such fund meets the applicable conditions as set out in this Circular.
4. For the purpose of this Circular, the term “Hong Kong Covered Management Company” means a Hong Kong-domiciled management company which is licensed or authorized by the SFC to manage Hong Kong Covered Funds and meets the applicable conditions as set out in this Circular.

General principles

5. MRF operates on the principles that, in respect of a Hong Kong Covered Fund that has been authorized by the SFC and is seeking or has received authorization to be offered, marketed and distributed in France to investors that do not meet the criteria set out in art. D. 533-11 of the French Monetary and Financial Code (retail investors) :
 - a. the Hong Kong Covered Fund shall meet the eligibility requirements (Eligibility Requirements) set out in Annex B to this Circular;
 - b. the Hong Kong Covered Fund shall remain authorized by the SFC in Hong Kong and is allowed to be offered, marketed and distributed to the public within Hong Kong;
 - c. the Hong Kong Covered Fund shall operate and be managed in accordance with the relevant laws and regulations in Hong Kong and its constitutive documents;
 - d. the sale and distribution of the Hong Kong Covered Fund in France shall comply with the applicable laws and regulations in France;
 - e. the Hong Kong Covered Fund and the Hong Kong Covered Management Company shall comply with the additional rules released by the AMF governing the authorization, post authorization and ongoing compliance in the context of the offering, marketing and distribution of the Hong Kong Covered Fund to retail investors in France;
 - f. the Hong Kong Covered Management Company of the Hong Kong Covered Fund shall ensure holders in both Hong Kong and France receive fair treatment, including in respect of investor protection, exercise of rights, compensation and disclosure of information.
6. In general, funds that are seeking AMF authorization or have received AMF authorization for offering, marketing and distribution in France to retail investors pursuant to Section 1 of the Chapter IV of the Second Book of the French Monetary and Financial Code have to comply with the French Monetary and Financial Code, the General Regulation of the AMF, this Circular, guidelines and other requirements as may be issued by the AMF from time to time (together with the French Monetary and Financial Code, the French laws and regulations). On the basis of the principles set out above, if a Hong Kong Covered Fund complies with the relevant Hong Kong laws and regulations and the conditions described in this Circular, it will enjoy a streamlined process of authorization for offering, marketing and distribution in France to retail investors.

7. In view of the differences between the Hong Kong and the French regulatory regimes, to ensure proper investor protection and consistency with existing French AMF-authorized funds, this Circular sets out the additional requirements with which a Hong Kong Covered Fund has to comply when applying for AMF authorization for offering, marketing and distribution to retail investors in France under the MRF, as well as other requirements which a Hong Kong Covered Fund has to observe after obtaining AMF authorization.
8. The AMF will grant authorization to a Hong Kong Covered Fund for offering, marketing and distribution to retail investors in France within one month (the one-month period)⁷ provided that the Hong Kong Covered Fund meets all the applicable requirements set out in this Circular and that the AMF has received a complete and satisfactory set of Application Documents as described in paragraph 45 below in relation to the application process.

Eligibility Requirements and types of Hong Kong Covered Funds

9. The Eligibility Requirements are set out in Annex B to this Circular.
10. The SFC and the AMF may consider extending the MRF to include other types of funds in future in accordance with the MoU.
11. A Hong Kong Covered Fund must comply with the requirements set out under the “Requirements applicable to all Hong Kong Covered Funds” section below.

Requirements applicable to all Hong Kong Covered Funds

12. To ensure proper investor protection and consistency with existing French schemes authorized for offering, marketing and distribution to retail investors in France, Hong Kong Covered Funds are required to comply with the requirements set out in paragraphs 13 – 53 below, as well as the relevant requirements set out in Annex A to this Circular.

Requirements on Hong Kong Covered Management Companies

13. If the total amount of assets under management distributed in France pursuant to the MoU of a Hong Kong Covered Management Company represents more than 50% of the global amount of assets under management managed by such Hong Kong Covered Management Company, each of the Hong Kong Covered Management Company of Hong Kong Covered Fund(s), and its possible Delegate(s), is required to comply with the remuneration rules provided under Articles 14a and 14b of the Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities, as may be amended, supplemented or otherwise modified from time to time (Remuneration Rules).

If the total amount of assets under management distributed in France pursuant to the MoU of a Delegate represents more than 50% of the global amount of assets under management managed by such Delegate, the Delegate is required to comply with the Remuneration Rules.

Central agent in France

14. The Hong Kong Covered Fund must appoint a firm in France as its representative in compliance with article 421-27 of the General Regulation of the AMF. The applicant must provide to the AMF a proof that a central agent has been appointed for its Hong Kong Covered Fund among the Application Documents (as defined in paragraph 45 below) to be provided to the AMF to be authorized under the MOU.

⁷ Such period may be extended to two months should additional information be required by the AMF.

Operational and ongoing requirements

SFC supervision

15. The Hong Kong Covered Fund must, on an ongoing basis, remain authorized by the SFC for offering, marketing and distribution to the public in Hong Kong, be subject to the ongoing regulation and supervision of the SFC and comply with the Eligibility Requirements set out in Annex B to this Circular.

Reporting obligation

16. The Hong Kong Covered Fund shall have at least 20% of the Hong Kong Covered Fund's net asset value attributable to investors in Hong Kong on an ongoing basis for offering, marketing and distribution to retail investors in France.

The Hong Kong Covered Management Company shall confirm to the SFC semi-annually that at least 20% of the Hong Kong Covered Fund's net asset value is attributable to investors in Hong Kong at the end of each reporting period.

17. If the SFC becomes aware or is notified that the Hong Kong Covered Fund or its Hong Kong Covered Management Company fails to meet the requirements set out in paragraph 16 above, it shall notify the AMF as soon as possible.

Jurisdiction

18. The Hong Kong Covered Management Company shall ensure and procure its distributors to ensure that French investors are able to bring actions concerning the Hong Kong Covered Fund and the Hong Kong Covered Management Company in the courts of France.

Changes to Hong Kong Covered Funds

19. No change shall be made to a Hong Kong Covered Fund resulting in non-compliance with the Eligibility Requirements set out in Annex B to this Circular. If the SFC is aware of such change, it shall notify the AMF as soon as possible.
20. Changes to a Hong Kong Covered Fund shall be made in accordance with the applicable Hong Kong laws and regulations and the provisions of its constitutive documents⁸. Changes to a Hong Kong Covered Fund shall not contravene the applicable Hong Kong laws and regulations and the requirements set out in this Circular.
21. These changes shall be effective upon approval by the SFC or compliance with the appropriate procedures.
22. However, changes that affect French investors only and revisions made to the offering documents of a Hong Kong Covered Fund relating to such changes should be made in accordance with the requirements under the relevant French laws and regulations. Prior consultation with the AMF concerning such changes is encouraged.
23. The SFC shall notify the AMF of any change approved by the SFC in respect of a Hong Kong Covered Fund authorized by the AMF in France as soon as possible and in any event within one week from the date of approval.

In addition, the SFC will confirm to the AMF that the Hong Kong Covered Fund effecting such changes continues to meet the Eligibility Requirements set out in Annex B to this Circular.

24. The Hong Kong Covered Management Company shall ensure that the AMF is informed of any change filed with the SFC as soon as possible and in any event within one week from the date of filing with the SFC.

⁸ For the avoidance of doubt, change in Delegate(s) is subject to SFC's prior approval.

25. Holders in France shall be notified about the changes to the Hong Kong Covered Fund according to the relevant French laws and regulations.

Breach

26. In the event of a breach of Hong Kong laws and regulations or of the requirements set out or referred to in this Circular comes to the attention of the SFC, the SFC will notify promptly the AMF pursuant to the MoU. The Hong Kong Covered Management Company shall rectify the breach promptly. The SFC will notify the AMF when the Hong Kong Covered Management Company has rectified the breach.
27. Following AMF authorization, if a Hong Kong Covered Fund ceases to meet any of the requirements as set out in this Circular, the AMF may withdraw its authorization to offer, market and distribute the fund to retail investors in France, after informing the SFC. In any case, the Hong Kong Covered Fund shall cease to be offered to retail investors in France and shall not accept subscriptions from new investors in France without the AMF's prior approval.

Withdrawal of authorization

28. Following the authorization of a Hong Kong Covered Fund, if its Hong Kong Covered Management Company does not wish to maintain such authorization, it shall apply for withdrawal of authorization from the AMF in accordance with the applicable French laws and regulations.

Termination

29. Termination of a Hong Kong Covered Fund shall require the approval of the SFC with immediate notice from the SFC to the AMF. Termination notice to French investors should be submitted to the AMF for prior approval.

Sale/distribution, offering documents, ongoing disclosure and advertisements

Sale/distribution

30. The sale and distribution of a Hong Kong Covered Fund in France must be conducted by intermediaries properly licensed or registered to provide investment services (investment advice and/or reception and transmission of orders...) in France pursuant to the relevant French laws and regulations. The sale and distribution of a Hong Kong Covered Fund in France shall comply with the applicable French laws and regulations relating to distribution, sale and marketing of funds.

Offering documents

31. The disclosure of information relating to a Hong Kong Covered Fund shall be complete, accurate, fair, clear, effective, and shall be capable of being easily understood by investors.
32. The offering documents of a Hong Kong Covered Fund must be up-to-date and contain information necessary for investors to be able to make an informed judgement of the investment proposed to them.
33. The offering documents used to market a Hong Kong Covered Fund in France shall include the following statement:

“Ce fonds est autorisé par l'AMF pour être commercialisé auprès des investisseurs non professionnels en France. Il demeure régi par les lois, ordonnances ou autres réglementations applicables à Hong Kong et relève de la supervision de l'autorité hongkongaise *Securities and Futures Commission (SFC)*. Il est soumis à des règles (notamment de diversification) différentes de celles applicables aux organismes de placement collectifs à destination des investisseurs non professionnels et agréés en France.”⁹

⁹ French translation of: “This fund, authorized by the AMF for offering, marketing and distribution to retail investors in France, remains governed by laws, ordinances and other regulations or requirements applicable in Hong Kong and

34. A Hong Kong Covered Fund may utilize the prospectus authorized by the SFC. Unless otherwise provided in this Circular, matters such as the content of the prospectus, its format, the frequency of its update and the update procedures shall comply with the applicable Hong Kong laws and regulations and the provisions of its constitutive documents. In addition, the SFC-authorized prospectus may be supplemented by a French covering document to comply with the disclosure requirements set out in Annex A to this Circular and to disclose any other information which may have a material impact on investors in France. The prospectus and the French covering document shall not contain any information that would be inaccurate/misleading regarding the Hong Kong Covered Fund.
35. The Hong Kong Covered Management Company shall ensure fair treatment for investors in France and in Hong Kong in making available to them the offering documents of a Hong Kong Covered Fund and their possible changes. In any case, the Hong Kong Covered Management Company shall comply with the requirements regarding information to be provided to investors provided under relevant French laws and regulations. Subject to paragraph 22, the revised offering documents of a Hong Kong Covered Fund shall be filed with the AMF as soon as possible and in any event within one week after the revised offering documents have received SFC's authorization or are filed with the SFC.

Ongoing disclosure

36. The Hong Kong Covered Management Company shall provide ongoing disclosure of information (including periodic financial reports and notices) to retail investors in France regarding the Hong Kong Covered Fund as provided under relevant French laws and regulations, especially according to Instruction 2011-19 of the AMF¹⁰.
37. The Hong Kong Covered Management Company shall ensure fair treatment of investors in France and Hong Kong regarding the ongoing disclosure of information of a Hong Kong Covered Fund (including periodic financial reports and notices).
38. The ongoing disclosure should be filed with the AMF as soon as possible and in any event within one week after it has received SFC's authorization or is filed with the SFC.
39. Hong Kong Covered Funds shall comply with the requirements set out in Annex A to this Circular and on an ongoing basis, disclose any other information which may have a material impact on investors in France.
40. Subject to paragraph 42, a Hong Kong Covered Fund may use its Hong Kong financial reports as the basis for distribution in France, provided that it is supplemented by the additional information and meet the other requirements set out in Annex A to this Circular.

Language

41. The offering documents and notices to French investors of a Hong Kong Covered Fund shall be provided in French. The French translation of the offering documents must be certified by a duly authorized or acknowledged translator.
42. The constitutive documents and financial reports of a Hong Kong Covered Fund shall be made available to French investors in French.

Advertising guidelines

43. All advertisements and marketing materials in relation to the Hong Kong Covered Fund issued in France shall comply with the applicable French laws and regulations as set out in Annex A to this Circular.

is supervised by the Securities and Futures Commission in Hong Kong. It complies with rules (including investment restrictions) that are different from the requirements applicable to other French retail funds authorized by the AMF.”

¹⁰ It is expected that to the extent there are requirements on minimum notice period and content of or template for the notice to French investors under the relevant French laws and regulations, the Hong Kong Covered Fund should comply with these requirements.

Application process

44. The AMF will authorize the Hong Kong Covered Funds for offering, marketing and distribution to retail investors in France provided that it has received from the applicant a complete set of Application Documents (Application Documents as defined hereinafter).
45. The following Application Documents shall be provided to the AMF by the applicant directly (except for item b below which shall be provided by the SFC directly to the AMF) :
 - a. a duly signed and completed application form available on the [AMF website](#);
 - b. a certificate from the SFC confirming that the Eligibility Requirements listed in Annex B to this Circular are met;
 - c. the constitutive document (articles of association for example) in French or in English;
 - d. the prospectus in French or in English; and where they exist, the latest annual report and any subsequent half-yearly report, in French or in English;
 - e. a key information for investors document, as governed by Article L. 214-23 III of the French Financial and Monetary Code, in its version in force at the date of the entry into force of the MRF, or, as the European Regulation n°1286/2014¹¹ may require, a key information document;
 - f. any marketing material to be used for marketing the Hong Kong Covered Funds in France; and
 - g. a proof of payment made to the “*Autorité des Marchés Financiers*” in the amount of the applicable application fee according to Article L. 621-5-3, I, 4) and D. 621-27, 4) of the French Monetary and Financial Code.
46. Upon receipt of the Application Documents, the AMF will have five working days to assess that all Application Documents have been duly and properly submitted.
47. Provided that the Hong Kong Covered Fund meets all the applicable requirements set out in this Circular and if no request for information, as described in paragraph 48 below, is issued by the AMF, the AMF will grant authorization with conditions¹² to a Hong Kong Covered Fund within the one-month period. The one-month period will start from the date the AMF confirms that it has received, to its satisfaction, the Application Documents listed in paragraph 45 above. Should a request for information be issued by the AMF, the AMF will grant authorization to a Hong Kong Covered Fund within two months (the two-month period) provided that all outstanding issues have been addressed to the satisfaction of the AMF.
48. A request for information might be sent by the AMF for any clarifications relating only to matters relating to paragraphs 30 to 43 and in Annex A to this Circular that it considers necessary.
49. The AMF may refuse the application if outstanding issues are not addressed to the satisfaction of the AMF within the two-month period.
50. Once the AMF authorizes the application, it will notify the SFC.
51. The application process shall be made through the following address: gio@amf-france.org.

¹¹ Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)

¹² For the authorization of a Hong Kong Covered Fund to become effective, the conditions that are required to be fulfilled include: (i) the submission of offering documents properly addressing all the comments of the AMF, (ii) the submission of French version of offering documents together with the French translation certificate(s); (iii) the due appointment of a centralizing agent; and (iv) the payment of fees to the AMF.

52. The AMF encourages applicants to consult the Asset Management Division early for any clarification or guidance as to how the relevant requirements may apply and be complied with in light of their specific circumstances.
53. The AMF may issue other circulars or instructions, frequently asked questions and other documents from time to time to provide practical guidance to the industry. Please refer to the AMF's website or contact Asset Management Division.

Policy Regulation and International Affairs Division
Asset Management Division
Autorité des Marchés Financiers

Annex A

Requirements to be complied with by all Hong Kong Covered Funds

French statutory and regulatory measures applicable to the marketing of shares or units of Hong Kong Covered Funds in France

Hong Kong Covered Funds must comply with statutory and regulatory measures applicable to the marketing of shares or units of collective investment schemes¹³ in France. Hereafter are quoted France's main financial law provisions stemming from the Monetary and Financial Code, the General Regulation of the Autorité des Marchés Financiers (AMF), and the AMF's instructions, positions and recommendations applicable to the marketing in France of share or units of Hong Kong Covered Funds. It deals also with other requirements applicable to such marketing pursuant to the MRF.

However, this Annex does not refer to other applicable provisions arising, for example, from contract law or consumer law.

Pursuant to AMF Position AMF DOC-2014-04 (Guide to UCITS and AIF marketing regimes in France), the act of marketing units or shares of a UCITS or an AIF consists in presenting them on French territory by different means (advertising, direct marketing, advice...) with a view to encouraging an investor to subscribe to or purchase them.

However, under the conditions mentioned in the Position AMF DOC-2014-04, the following shall not be considered acts of marketing in France:

- i. the purchase, sale or subscription of units or shares of UCITS or AIF in response to a client's unsolicited request to purchase a specifically designated UCITS or AIF, provided that the investor is authorised to do so;
- ii. the purchase, sale or subscription of units or shares of UCITS or AIF under the terms of a third party portfolio management agreement, provided that such financial instruments are authorised in the investor's portfolio;
- iii. the purchase, sale or subscription of units or shares of a UCITS or AIF within the framework of the financial management of UCITS or AIF provided that such financial instruments are authorised in the assets of the UCITS or AIF.
- iv. the practice of management companies (or third parties acting on their behalf) to approach investors to assess their appetite prior to the launch of a UCITS or AIF when the followings are complied with:
 1. restriction to contacting 50 (i) professional investors or (ii) non-professional investors whose initial subscription is greater than or equal to 100,000 euros;
 2. the absence of provision of a subscription form and/or a document presenting definitive information about the fund's characteristics that would allow these investors to subscribe or undertake to subscribe for the units or shares of the UCITS or AIF. Such a presentation of the project then prevents application of the "reverse solicitation" exception
- v. the purchase, sale, or subscription of:
 1. UCITS or AIF units or shares as part of the remuneration policy of the Hong Kong Covered Management Company,
 2. UCITS or AIF units or shares for the benefit of the management team of the management company that manages them, its senior managers, or the management company itself, and
 3. Carried interest units;
- vi. over-the-counter sales between investors (professional or non-professional)
- vii. the participation of management companies in conferences or investor meetings without investors being solicited to invest in a specific product
- viii. the response by a management company to a call for tenders from an institutional investor for the establishment of a UCITS or AIF.

¹³ Under French law, a Hong Kong Covered Fund would be considered, for the purpose of the following circular, as an alternative investment fund (AIF), therefore, the marketing rules applicable to the AIF shall apply, except provided otherwise, to their full extent to Hong Kong Covered Funds.

Distributors of Hong Kong Covered Funds units or shares are responsible for determining, under the supervision of the competent authorities and courts, whether they are actually engaged in marketing activities in France.

When units or shares of a Hong Kong Covered Fund have been marketed as defined above, those units or shares shall be considered as being marketed in France whenever investors among whom marketing in France was carried out are unitholders or shareholders in the said Hong Kong Covered Fund.

Pursuant to the MRF, units or shares of Hong Kong Covered Funds may be marketed in France only to retail investors (including professional investors treated as retail investors according to Article 314-5 of the General Regulation of the AMF).

1. Relations between Hong Kong Covered Funds and the AMF

Appointment of a centralising correspondent for Hong Kong Covered Funds

Regulatory provisions

Article 421-27, AMF General Regulation

Instruction

Instruction AMF DOC-2014-03 on procedure for marketing units or shares of AIFs – Article 21

Rule overview: A Hong Kong Covered Fund marketed in France has to appoint one or more correspondents, including a centralising correspondent, established in France under the conditions set out in this AMF Instruction.

Fixed-sum AMF filing fee relating to marketing

Statutory provisions

Article L. 621-5-3 I 4°, Monetary and Financial Code

Regulatory provisions

Article D. 621-27 4, Monetary and Financial Code
Article 421-27, AMF General Regulation

Rule overview: Hong Kong Covered Funds are subject to a set fee, as provided in the above provisions. The Hong Kong Covered Fund centralising correspondent is responsible for paying the fee to the AMF. The amount is 2,000 euros per sub-fund or per Hong Kong Covered Fund with no sub-funds. The fee is payable on the day the authorisation application is filed with the AMF and on 30 April of each subsequent year.

Sending information to the AMF

Hong Kong Covered Funds must send the information relating to:

- Annual and half-yearly reports;
- Changes affecting the Hong Kong Covered Fund (change of name, creation of a new class of units or shares, creation of a new compartment, merger, demerger, liquidation, winding up, transfer), along with amendments to its key investor information document (KIID) and prospectus);
- Post-filing changes to the Hong Kong Covered Fund that will affect its marketing in France.

This information must be sent to the AMF at gio@amf-france.org.

2. Soliciting, establishing a relationship with and informing investors

General provision on investor solicitation

Soliciting the public to invest in Hong Kong Covered Funds is subject to the same provisions as those applicable to French UCITS (see. Article hereinabove), especially (i) Article 40 3° of AMF Instruction 2011-19, (ii) Article 8 of AMF Instruction 2011-19 and (iii) Annex XII of AMF Instruction 2011-19.

Direct marketing of banking or financial products and services

Statutory provisions

Articles L. 341-1 to L. 341-16, Monetary and Financial Code

Regulatory provisions

Articles D. 341-1 to R. 341-16, Monetary and Financial Code

Rule overview: Direct marketing of financial products or services is an active selling method regulated under the Monetary and Financial Code. This regime applies whenever banking or financial products and services are marketed directly in France, including where only the person solicited is based in France.

Advertisements: content and dissemination of advertisements

Provisions applicable to all distributors of Hong Kong Covered Funds

Regulatory provisions

Articles 314-30, 421-25, AMF General Regulation

Instruction

Instruction AMF DOC-2014-03 on procedure for marketing units or shares of AIFs – Article 23

AMF position-recommendation

Position-recommendation AMF DOC-2011-24: Guide to drafting commercial documents and marketing collective investment schemes

Specific provisions for investment services providers authorised in France or operating under the right of establishment

Statutory provisions

Article L. 533-12, Monetary and Financial Code

Regulatory provisions

Article 314-10 to 314-31, AMF General Regulation

Rule overview: By the terms of Article 421-25 of the AMF General Regulation, the AMF may exercise the prerogatives referred to in Article 314-30 with regard to any person distributing Hong Kong Covered Funds.

All advertisements from the Hong Kong Covered Fund aimed at investors shall be clearly identified as such. They shall be accurate, clear and not misleading. More specifically, if an advertisement containing an invitation to buy units or shares of a Hong Kong Covered Fund includes specific information about the Hong Kong Covered Fund, it may not contain information that contradicts the information provided in the information documents for investors, or that understates the importance of such information.

Such advertisements shall state whether information documents for investors are available.

They shall stipulate where and in which languages holders and potential investors in the Hong Kong Covered Fund can obtain this information and these documents, or how they can gain access to them.

By the terms of Article 314-10 of the AMF General Regulation, "*Investment services providers shall ensure that all information that they address to clients, including marketing information, satisfies the conditions laid down in I of Article L. 533-12 of the Monetary and Financial Code. Investment services providers shall ensure that all information, including marketing information, that they address to retail clients or that is likely to be received by retail clients, satisfies the conditions laid down in Articles 314-11 to 314-17 of the AMF General Regulation.*"

Finally, in accordance with Article 314-30 of the AMF General Regulation, "*The AMF may require investment services providers to submit to it their marketing communications for the investment services that they provide and the financial instruments that they offer prior to publication, distribution or broadcast. It may require changes to the presentation or the content to ensure that the information is accurate, clear and not misleading.*"

The abovementioned provisions of Articles 421-25, 314-10 and 314-30 and following of the AMF General Regulation apply notably to advertising for the Hong Kong Covered Funds.

If the AMF has asked to submit the marketing communications of the Hong Kong Covered Fund to it, such communications shall be sent to the following e-mail address: gio@amf-france.org

Distance marketing of consumer financial services

Statutory provisions

Articles L. 343-1 and L. 343-2 of the Monetary and Financial Code

Rule overview: These provisions result from implementation of Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services.

Language used in information documents

The constitutive document, the prospectus and the KIID of a Hong Kong Covered Fund marketed in France must be in French.

Information available to the public in France

Statutory provisions

Article L. 214-24-19, Monetary and Financial Code

Regulatory provisions

Article 421-27, AMF General Regulation

Instruction

Instruction AMF DOC-2014-03 on procedure for marketing units or shares of AIFs - Article 24 for the part referring to article 421-27 of the AMF General Regulation.

Position-Recommendation

Position-Recommendation AMF DOC-2011-05 on Guide to the regulatory documents governing collective investments schemes (section related to the KIID)

Rule overview: Hong Kong Covered Management Companies are required to inform shareholders or unitholders under the same conditions as those imposed by the domestic law of the country in which the Hong Kong Covered Fund is marketed.

Therefore, subject to paragraphs 19 – 25 of this Circular a Hong Kong Covered Fund must:

1. Make the French-language version of the key investor information document (KIID) available to the public during the subscription period.
2. Make the information that they are required to make available to their unitholders or shareholders available to the public on the premises of the institutions authorised to take subscription and redemption orders.
3. The Hong Kong Covered Management Company is bound by the same disclosure requirements towards unitholders or shareholders as it is under the domestic laws of the country where the Hong Kong Covered Fund is marketed, on the terms set out in Article 8 of Instruction AMF-DOC 2011-19 and using the standard template found in Annex XII of this Instruction, where appropriate.

Informing investors after they have made an investment

See point 5: Monitoring investor relations

3. Providing investment services when marketing share or units of Hong Kong Covered Funds

Supply of investment services by an investment services provider authorised in France or operating under the right of establishment when marketing shares or units of Hong Kong Covered Funds

Statutory provisions

Article L. 321-1, Monetary and Financial Code

Articles L. 533-11 to L. 533-13 and L. 533-14 to L. 533-20, Monetary and Financial Code

Regulatory provisions

Article D. 321-1, Monetary and Financial Code

Articles R. 533-11 to R. 533-14, Monetary and Financial Code

Articles 314-1 *et seq* (excluding provisions relating to portfolio management services and management of collective investment schemes) and 421-26, AMF General Regulation

AMF instruction, positions and recommendations

Instruction AMF DOC-2008-04 of 15 July 2008: Application of business conduct rules to marketing of units or shares in UCITS or AIFs by asset management companies, management companies or managers

Position-recommendation AMF DOC-2007-25: Q&A on the rules of conduct applicable to investment services providers

Rule overview: The AMF has noted that when financial instruments are marketed, the distributor generally provides at least one investment service, such as investment advice or order reception/transmission for third parties.

Accordingly investment services providers authorised in France or operating under the right of establishment, together with their tied agents if they have any, are required to comply with French conduct of business rules governing the supply of the investment service(s) concerned, notwithstanding the specific rules applicable to the marketing of Hong Kong Covered Funds hereinabove mentioned, where applicable¹⁴.

Use of a tied agent¹⁵

Rule overview: See the above measures applicable to investment services providers.

Use of a financial investment advisor¹⁶

Statutory provisions

Articles L. 541-8-1 and L. 541-9, Monetary and Financial Code

Regulatory provisions

Articles 325-3 to 325-9 and 325-13, AMF General Regulation

AMF position

Position AMF DOC-2006-23: Q&A on the regime applicable to financial investment advisors

Rule overview: A financial investment advisor may provide an investment advice service and receive a client's order for transmission purposes if, and only if, that order concerns one or more shares or units of collective investment schemes (listed exhaustively in Article L. 214-1 of the Monetary and Financial Code, i.e. "undertakings for collective investment in transferable securities, securitisation funds, real-property investment partnerships, forestry-linked savings companies, real-property collective investment undertakings" and fixed capital investment companies) for which the financial investment advisor has previously provided an investment advice service to the same client.

¹⁴ Foreign investment services providers operating in France under the freedom to provide services are subject to the conduct of business rules of their home state.

¹⁵ Within the meaning of Article 4(1)(25) of Directive 2004/39/EC of 21 April 2004 on markets in financial instruments (MiFID). The regime applicable to tied agents is set forth in Articles L. 545-1 *et seq* of the Monetary and Financial Code.

¹⁶ Within the meaning of Article L.541-1 of the Monetary and Financial Code.

4. Remuneration of Hong Kong Covered Funds distributors

Hong Kong Covered Funds with categories of units or shares reserved for a specific investor category

Regulatory provisions

Articles 422-23 and 421-26 II, AMF General Regulation

Rule overview: If a Hong Kong Covered Fund or the sub-fund of a Hong Kong Covered Fund has categories of units or shares reserved for a specific category of investor, as defined in the prospectus, the distributor must ensure that the investor fulfills the subscription requirements.

5. Monitoring investor relations

Informing investors after they have made an investment

Statutory provisions

Article L. 214-24-19, Monetary and Financial Code

Regulatory provisions

Article 421-27, AMF General Regulation

Instruction

AMF Instruction AMF DOC-2014-03 on procedure for marketing units or shares of AIFs – Article 24

Rule overview: the Hong Kong Covered Fund must send its annual report to investors and the documents referred to in Article L. 214-24-19 of the Monetary and Financial Code. Plus, certain changes that may occur during the life of a Hong Kong Covered Fund or a Hong Kong Covered Fund's sub-fund must be brought to the attention of shareholders or unitholders.

These changes and the arrangements for informing investors about them are described in Instruction AMF-DOC 2011-19.

Annex B

Eligibility Requirements

Hong Kong Covered Fund

1. The Hong Kong Covered Fund must be established, domiciled and managed in accordance with Hong Kong laws and regulations and its constitutive documents and authorized by the SFC under section 104 of the SFO for public offering in Hong Kong.
2. At least 20% of the Hong Kong Covered Fund's net asset value must be attributable to investors in Hong Kong.
3. The Hong Kong Covered Fund must be a general equity fund, bond fund or mixed fund as defined in Annex C to this Circular.
4. The Hong Kong Covered Fund must not use leverage exceeding 100% of the fund's net asset value as calculated under the commitment approach provided under 8.9(b) of the UT Code.
5. The Hong Kong Covered Fund must not invest in (i) physical commodities including precious metals or commodity based investments or real estate, or (ii) certificates representing them.
6. The Hong Kong Covered Fund must not be a money market fund, an exchange traded fund, an index fund, or a structured fund as defined in Annex C to this Circular.
7. The Hong Kong Covered Fund must not have share class with hedging arrangement other than currency hedging.
8. The Hong Kong Covered Fund must have at least one dealing day for redemption every two weeks.
9. Should a Hong Kong Covered Fund charge a performance fee, the fee:
 - a. can only be payable no more frequently than annually;
 - b. must be clearly disclosed in offering documents; and
 - c. must be calculated :
 - either, against a benchmark, which is consistent with the risk and reward profile of the fund; or
 - on a high-on-high principle (i.e, the fee can only be payable if the net asset value per unit/share exceeds the net asset value per unit/share on which the performance fee was last calculated and paid). In such case, if a performance fee is levied on the share class(es) offered to the investors in France by the Hong Kong Covered Fund, the reference to which the performance fee (commonly known as high water mark) is calculated must not be reset after AMF authorization of the Hong Kong Covered Fund.

Hong Kong Covered Management Company

10. The Hong Kong Covered Management Company must be domiciled in Hong Kong and licensed by the SFC for Type 9 regulated activity (asset management) in accordance with Part V of the SFO.
11. The Hong Kong Covered Management Company and its responsible officers (as defined in Part 1 of Schedule 1 to the SFO) who are licensed for Type 9 regulated activity have not been subject to any of the following disciplinary actions taken by the SFC, in the past 3 years or since the date of the establishment of the Hong Kong Covered Management Company if it has been established for less than 3 years:
 - a. with respect to the Hong Kong Covered Management Company, a revocation or suspension of its licence by the SFC pursuant to section 194 of the SFO; and

- b. with respect to the responsible officers of the Hong Kong Covered Management Company, a revocation or suspension of their licences by the SFC pursuant to section 194 of the SFO.
12. Where the Hong Kong Covered Management Company delegates the investment management decisions to another entity authorized to manage collective investment schemes, such entity is operating in one of the acceptable inspection regimes recognized under 5.1 of the UT Code (AIR Delegate)¹⁷.

Custodian

13. The custodian/trustee appointed by the Hong Kong Covered Fund must be a bank licensed under section 16 of the Banking Ordinance (Chapter 155 of the Laws of Hong Kong); or a subsidiary of such a bank; or a trust company approved by the Mandatory Provident Fund Schemes Authority.

¹⁷ For the purpose of providing confirmation on Eligibility Requirements pursuant to paragraphs 23 and 45 of this Circular, in addition to confirming the matters listed in Annex B to this Circular, where applicable, the SFC will also confirm to the AMF that it has conducted regulatory check with the authority primarily responsible for regulating the AIR Delegate and is not aware of any regulatory concerns.

Annex C

Types of Hong Kong Covered Funds

Terms used in the MRF	Hong Kong definition	Covered under the MRF arrangement
equity fund	<p>A Hong Kong-domiciled general equity fund should comply with the requirements under Chapter 7 of the Code on Unit Trusts and Mutual Funds of the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (UT Code).</p> <p>A Hong Kong-domiciled equity fund should invest at least 70% of its non-cash assets in equities.</p> <p>A Hong Kong-domiciled equity fund that invests in financial derivative instruments (FDIs) with commitment leverage of up to 100% of its NAV should comply with the requirements under Chapter 8.9 of the UT Code.</p>	√
bond fund	<p>A Hong Kong-domiciled bond fund should comply with the requirements under Chapter 7 of the UT Code.</p> <p>A Hong Kong-domiciled bond fund should invest at least 70% of its non-cash assets in fixed income securities.</p> <p>A Hong Kong-domiciled bond fund that invests in FDIs with commitment leverage of up to 100% of its NAV should comply with the requirements under Chapter 8.9 of the UT Code.</p>	√
mixed fund	<p>A Hong Kong-domiciled mixed fund should comply with the requirements under Chapter 7 of the UT Code.</p> <p>A Hong Kong-domiciled mixed fund should invest at least 70% of its non-cash assets in a combination of equities and fixed income securities.</p> <p>A Hong Kong-domiciled mixed fund that invests in FDIs with commitment leverage of up to 100% of its NAV should comply with the requirements under Chapter 8.9 of the UT Code.</p>	√
money market fund	<p>A Hong Kong-domiciled money market / cash management fund (MMF) means a collective investment scheme, the sole objective of which is to invest in short-term deposits and debt securities.</p> <p>A MMF should comply with the requirements under Chapter 8.2 of the UT Code.</p>	X

	<p>A MMF seeking SFC's authorization is expected to adopt a variable NAV. For a MMF which adopts a stable / constant NAV and/or use amortised cost accounting for valuation, the MMF should comply with the relevant principles set out in the "Policy Recommendations for Money Market Funds (Final Report)" issued by the International Organization of Securities Commissions dated October 2012.</p>	
<p>ETF</p>	<p>An ETF should comply with the requirements under Chapters 8.6, 8.8 (applicable to ETF which adopts a synthetic replication strategy) and Appendix I of the UT Code.</p> <p>A Hong Kong-domiciled ETF is a collective investment scheme, the principal objective of which is to track, replicate or correspond to a financial index or benchmark, with an aim of providing or achieving investment results or returns that closely match or correspond to the performance of the index or benchmark.</p> <p>A ETF may adopt one or more of the following strategies to achieve the fund's index tracking objective: (i) full replication by investing in a portfolio of securities that replicates the composition of the underlying index; (ii) representative sampling by investing in a portfolio of securities featuring a high correlation with the underlying index, but not exactly the same as those in the index; or (iii) synthetic replication through the use of financial derivative instruments (such as swaps and performance-linked structured products issued by counterparties) to replicate the index performance.</p> <p>SFC-authorized ETFs must be listed on The Stock Exchange of Hong Kong for trading.</p>	<p>X</p>
<p>index fund</p>	<p>An index fund should comply with the requirements under Chapters 8.6 and 8.8 (applicable to index fund which adopts a synthetic replication strategy) of the UT Code.</p> <p>A Hong Kong-domiciled index fund is a collective investment scheme, the principal objective of which is to track, replicate or correspond to a financial index or benchmark, with an aim of providing or achieving investment results or returns that closely match or correspond to the performance of the index or benchmark.</p> <p>An index fund may adopt one or more of the following strategies to achieve the fund's index tracking objective: (i) full replication by investing in a portfolio of securities that replicates the composition of the underlying index; (ii) representative sampling by investing in a portfolio of securities featuring a high correlation with the underlying index, but not exactly the same as those in the index; or (iii) synthetic replication through the use of financial derivative instruments (such as swaps and performance-linked structured products issued by counterparties) to replicate the index performance.</p>	<p>X</p>

structured fund	<p>A Hong Kong-domiciled structured fund (including index fund / ETF that adopts a synthetic replication strategy) is a collective investment scheme which seeks to achieve its investment objective primarily through investing substantially in FDIs, for example swap or market access products or similar arrangements. A structured fund is passively managed and usually tracks the performance of an index and / or offers structured pay-outs when certain pre-determined conditions are met.</p> <p>The fund should comply with the requirements under Chapter 8.8 of the UT Code.</p>	X
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