

# PRACTITIONER'S GUIDE TO THE COLLECTIVE INVESTMENT SCHEMES REGIME UNDER THE SECURITIES AND FUTURES ACT (CAP. 289)

(Last updated on 8 October 2018)

Offers of collective investment schemes, as defined in section 2 of the Securities and Futures Act (Cap. 289) (the SFA), are regulated under Division 2, Part XIII of the SFA.

Type of investors	Schemes constituted in Singapore	Schemes constituted outside Singapore
<p style="text-align: center;"><b>Offer to retail investors</b></p>	<p style="text-align: center;"><u>Authorised schemes</u></p> <p>[Use <a href="#">Form 1</a> in the SFR<sup>1</sup> to apply for authorisation of each scheme]*</p> <p>Manager must hold a Capital Markets Services (CMS) licence for fund management (or be exempted from a CMS licence, and be fit and proper.</p> <p>Trustee must be approved to act as trustee for CIS. Trust deed must comply with the prescribed requirements in the SFR.</p> <p>Scheme must comply with the <a href="#">Code on Collective Investment Schemes</a> (including any applicable investment guidelines).<sup>2</sup></p> <p>A prospectus in compliance with the SFA must be lodged and registered. (Use <a href="#">Form 6</a> in the SFR to lodge prospectus)</p>	<p style="text-align: center;"><u>Recognised schemes</u></p> <p>[Use <a href="#">Form 2</a> in the SFR to apply for recognition of each scheme]*</p> <p>Manager must be licensed or regulated in the jurisdiction of its principal place of business and be fit and proper.</p> <p>Laws and practices of the jurisdiction in which the scheme is constituted afford investors in Singapore protection at least equivalent to that provided by the SFA for comparable authorised schemes.</p> <p>The Authority would consider whether the (1) investment policy of the scheme; (2) provisions contained in the constituent documents; (3) roles, responsibilities and powers of the trustee or a person in an equivalent capacity; and (4) laws and practices of the jurisdiction under which the scheme is constituted; collectively or individually, afford to investors in Singapore equivalent protection.</p>

		<p>Examples of protection afforded to investors include a legal requirement for the manager to manage the scheme in the interests of investors, independent adequate safekeeping of scheme assets, an independent party (such as an independent trustee in the case of a unit trust, or independent directors in the case of a mutual fund company) which exercises oversight over the manager. Recognised schemes are not subject to the investment guidelines set out in the Code of Collective Investment Schemes. However, the Authority would only recognise a foreign scheme if the scheme is subject to investment guidelines in its home jurisdiction which are substantially similar to Singapore's.<sup>3</sup></p> <p>There must be a representative for the scheme in Singapore to act as a liaison between investors and the foreign manager. The representative must be an individual, a company incorporated in Singapore, or a foreign company registered in Singapore under the Companies Act. (Note that the representative is required to accept service of process, should the need arise.)</p> <p>A prospectus in compliance with SFA must be lodged and registered. (Use Form 6 in the SFR to lodge prospectus)</p> <p>The foreign prospectus can be used if it, together with a Singapore "wrapper", contains all the information required under the SFA.</p> <p>The Manager (together with its related companies) should be managing at least S\$500m of discretionary funds in Singapore.</p>
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	<p><u>Qualifying CIS under the ASEAN CIS Framework</u> [Use Form 1 (for new funds) or 1-A (for existing authorised funds) and <u>Questionnaire</u> to apply for approval of each scheme]*</p> <p>The Scheme, the Manager and the Trustee must also comply with the <u>Standards of Qualifying CIS</u>.</p>	<p><u>Qualifying CIS under the ASEAN CIS Framework</u> [Use Form 2 in the SFR to apply for approval of each scheme]*</p> <p>The Scheme, the Manager and the Trustee/Fund Supervisor must also comply with the <u>Standards of Qualifying CIS</u>.</p>
	<p><sup>1</sup> <i>In this guide, the SFR refers to the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005</i></p> <p><sup>2</sup> <i>Hedge funds are not subject to any investment guidelines. However, hedge funds which are authorised schemes offered to retail investors must comply with the Hedge Fund Guidelines in the Code, including the following minimum subscription requirements:</i></p> <ul style="list-style-type: none"> <li>- Single hedge funds: S\$100,000</li> <li>- Fund-of-Hedge-Funds: S\$20,000</li> <li>- Capital guaranteed hedge funds: No minimum</li> </ul> <p><i>For the avoidance of doubt, schemes that are able to comply with Appendix 1 of the CIS Code are not subject to Appendix 3 of the CIS Code (the Hedge Fund Guidelines). Such schemes are not allowed to market themselves as hedge funds.</i></p>	<p><sup>3</sup> <i>Hedge funds are not subject to any investment guidelines. The Authority would only recognise a foreign hedge fund offered to retail investors which complies substantially with the Hedge Fund Guidelines in the Code. Furthermore, a recognised hedge fund must comply with the following minimum subscription requirements:</i></p> <ul style="list-style-type: none"> <li>- Single hedge funds: S\$100,000</li> <li>- Fund-of-Hedge-Funds: S\$20,000</li> <li>- Capital guaranteed hedge funds: No minimum</li> </ul> <p><i>For the avoidance of doubt, schemes constituted in a jurisdiction where the laws and practices afford investors in Singapore protection at least equivalent to that provided by the SFA for comparable authorised schemes (that can comply with Appendix I of the CIS Code) are not subject to Appendix 3 of the CIS Code (the Hedge Fund Guidelines). Such schemes are not allowed to market themselves as hedge funds.</i></p>

<p style="text-align: center;"><b>Offer to accredited investors &amp; other relevant persons</b></p> <p>(as defined in s4A and s305 SFA; Reg. 2, Reg.3 3 and Reg. 4 Sixth Schedule SFR)</p>	<p style="text-align: center;"><u>Restricted Singapore schemes</u></p> <p>[Use online <b>Notification Form</b> for each restricted scheme to be entered into the list of restricted schemes]**</p> <p>Manager must be licensed or regulated to manage the assets of the restricted scheme in the jurisdiction of its principal place of business (or be a public company that is exempted from the requirement to hold a Capital Markets Services licence for fund management) and be fit and proper.</p> <p>In the case of a scheme constituted as a unit trust, the trustee must be approved to act as trustee for CIS under s289 of the SFA.</p> <p>Not required to comply with any investment guidelines.</p> <p>An offer of units in a restricted Singapore scheme must be made in or accompanied by an information memorandum that complies with the Sixth Schedule to the SFR. A copy of the information memorandum must be submitted the Authority for record purposes.</p>	<p style="text-align: center;"><u>Restricted foreign schemes</u></p> <p>[Use online <b>Notification Form</b> for each restricted scheme to be entered into the list of restricted schemes]**</p> <p>Manager must be licensed or regulated to manage the assets of the restricted scheme in the jurisdiction of its principal place of business and be fit and proper.</p> <p>Not required to comply with any investment guidelines.</p> <p>An offer of units in a restricted foreign scheme must be made in or accompanied by an information memorandum that complies with the Sixth Schedule to the SFR. A copy of the information memorandum must be submitted to the Authority for record purposes.</p>
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	<p><i>Restricted Singapore schemes may only be offered to certain types of investors listed in s305 SFA and to accredited investors whose total net assets or annual income exceed certain amounts (as set out in s4A SFA) or at a minimum of S\$200,000 per transaction.</i></p> <p><i>This applies to all restricted Singapore schemes, including hedge funds (whether single hedge funds, hedge fund-of-funds or capital protected/guaranteed hedge funds).</i></p>	<p><i>Restricted foreign schemes may only be offered to certain types of investors listed in s305 SFA and to accredited investors whose total net assets or annual income exceed certain amounts (as set out in s4A SFA) or at a minimum of S\$200,000 per transaction.</i></p> <p><i>This applies to all restricted foreign schemes, including hedge funds (whether single hedge funds, hedge fund-of-funds or capital protected/guaranteed hedge funds).</i></p>
<p><b>Offer of units in a scheme that does not invest in capital markets products to accredited investors &amp; other relevant persons</b></p> <p>(as defined in s4A and s305 SFA; Reg. 6A Sixth Schedule SFR)</p>	<p>[Use online <a href="#">Submission Form</a> for each scheme (Please note that the scheme will <u>not</u> be entered into the list of restricted schemes)]**</p> <p>Scheme <u>does not</u> invest in capital markets products. Not required to have a licensed or regulated manager.</p> <p>Not required to comply with any investment guidelines.</p> <p>An offer of units must be made in or accompanied by an information memorandum that complies with the Sixth Schedule to the SFR. A copy of the information memorandum must be submitted the Authority for record purposes.</p> <p>Responsible person must submit an annual declaration for every consecutive 12-month period.</p>	<p>[Use online <a href="#">Submission Form</a> for each scheme (Please note that the scheme will <u>not</u> be entered into the list of restricted schemes)]**</p> <p>Scheme <u>does not</u> invest in capital markets products. Not required to have a licensed or regulated manager.</p> <p>Not required to comply with any investment guidelines.</p> <p>An offer of units must be made in or accompanied by an information memorandum that complies with the Sixth Schedule to the SFR. A copy of the information memorandum must be submitted the Authority for record purposes.</p> <p>Responsible person must submit an annual declaration for every consecutive 12-month period.</p>

	<i>Restricted Schemes offered under paragraph 6A of the Sixth Schedule may only be offered to relevant persons as defined in s305(5) SFA, including accredited investors whose total net assets or annual income exceed certain amounts (as set out in s4A SFA).</i>	<i>Restricted Schemes offered under paragraph 6A of the Sixth Schedule may only be offered to relevant persons as defined in s305(5) SFA, including accredited investors whose total net assets or annual income exceed certain amounts (as set out in s4A SFA).</i>
<b>Offer to institutional investors</b>  (as defined in s4A SFA)	<p>CIS offered to the institutional investors as defined in section 4A of the SFA are exempted from all authorisation and prospectus requirements under the SFA.</p> <p>Unlike offers to retail investors, a prospectus is not required. Neither is there a requirement for any other offering document.</p>	<p>CIS offered to the institutional investors as defined in section 4A of the SFA are exempted from all recognition and prospectus requirements under the SFA.</p> <p>Unlike offers to retail investors, a prospectus is not required. Neither is there a requirement for any other offering document.</p>
	<i>There is no minimum subscription requirement for all funds, including hedge funds.</i>	<i>There is no minimum subscription requirement for all funds, including hedge funds.</i>

**\*Applications are to be made by the responsible person of the scheme. In the case of a scheme that is constituted as a corporation, the responsible person of the scheme is the corporation. In other cases, the responsible person of the scheme is the manager for the scheme.**

**\*\*Notifications and submissions for restricted schemes are to be made by the responsible person of the scheme via the online platform, CISNet. In the case of a scheme that is constituted as a corporation, the responsible person of the scheme is the corporation. In other cases, the responsible person of the scheme is the manager for the scheme.**

**THE SUMMARY TABLE ABOVE IS INTENDED AS A GUIDE ONLY. OFFERORS SHOULD REFER TO THE SFA AND SFR FOR DETAILS AND SHOULD SEEK LEGAL ADVICE IF THEY ARE UNCLEAR OF APPLICABLE REQUIREMENTS.**

### Additional Information Required for Authorisation as ASEAN CIS

<b>EXPERIENCE OF THE MANAGER</b>	
1.	Number of years manager has carried on business in managing funds
2.	Amount of assets under management <sup>1</sup> by the manager, together with its related companies, globally (as of a date no earlier than three months from the date of this application):
	USD as at (date):
<b>CAPITAL ADEQUACY OF THE MANAGER</b>	
3.	Amount of shareholders' equity (USD)
4.	Amount of additional capital in cash (USD)
5.	Amount of professional indemnity insurance coverage
<b>QUALIFICATIONS OF PERSONNEL OF THE MANAGER</b>	
6.	Name of Chief Executive Officer
7.	Number of years of experience Chief Executive Officer has in financial or capital markets
8.	Names of Executive Directors or equivalent
9.	Number of years of experience each Executive Director or equivalent respectively has in financial or capital markets
10.	Names of non-executive Directors or equivalent
11.	Number of years of experience each non-executive Director or equivalent respectively has
12.	Names of key executive officers
13.	Qualifications and number of years of experience each key executive officer respectively has in financial or capital markets
14.	Names of fund managers
15.	Qualifications and number of years of experience each fund manager respectively has in fund management

<sup>1</sup> Assets under management would include discretionary funds but exclude property funds or REITs.

DELEGATION/ OUTSOURCING		
16.	Will the fund management function be delegated to foreign submanagers/ delegates that are not regulated by a Signatory to the Framework?	Yes/No
If the answer to the question 16 is “Yes”, please provide the following details:		
17.	Names of sub-managers/ delegates	
18.	Percentage of NAV delegated in aggregate	
19.	Place of domicile of each submanager/ delegate	
INFORMATION OF THE TRUSTEE, CUSTODIAN AND SUB-CUSTODIANS		
20.	If the trustee/ custodian for the scheme intends to appoint any sub-custodians for the scheme, state the name of the sub-custodians:	
21.	Names of sub-custodians	
21.	Are the sub-custodians for the scheme currently licensed or approved or regulated by a competent regulatory authority in their Home Jurisdiction?	Yes/No
22.	Are the trustee, and, where applicable, custodian and subcustodians of the scheme independent <sup>2</sup> from the manager?	Yes/No
CONFIRMATIONS		
23.	<p>Please attach a copy of the confirmation from the manager and the trustee of the scheme respectively, that the trust deed contains covenants that:</p> <ul style="list-style-type: none"> <li>(a) binds the manager for the scheme to - <ul style="list-style-type: none"> <li>(i) fulfil its role, responsibilities and legal liabilities;</li> <li>(ii) subject itself to ongoing supervision by the Home Regulator; and</li> <li>(iii) appoint an independent reviewer to conduct compliance review of the operation of the Qualifying CIS in relation to each period for which it prepares, or is required, to prepare a financial statement and provide the independent reviewer’s report to the trustee for the scheme, the Home Regulator and the Host Regulator, in accordance with the Standards of Qualifying CIS;</li> </ul> </li> <li>(b) binds the trustee for the scheme to fulfil its roles, responsibilities and legal liabilities in accordance with the Standards of Qualifying CIS;</li> <li>(c) limits the liability of the unitholders of the scheme to their investments in the scheme; and</li> <li>(d) requires prior approval of unitholders of the scheme for any change to the trust deed, unless the trustee of the scheme certifies that the change to the trust deed is:</li> </ul>	

<sup>2</sup> A trustee will not be considered to be independent if —

(a) It holds directly or indirectly 10% or more of the total number of issued shares in the manager or vice versa;



- (i) non-material;
- (ii) beneficial to the interests of unitholders; or
- (iii) made for compliance with any applicable law and regulation.

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- (b) There is a common shareholder between the trustee and the manager, and the common shareholder holds directly or indirectly 10% or more of the total number of issued share capital of the trustee and the manager respectively; or
  - (c) The trustee has one or more directors who is or are also ultimately responsible for the manager.

## **Annex 1: Guidance on Real Estate Investment Trusts (REITs) from Developing Markets**

This annex provides guidance to practitioners seeking authorisation for a REIT that has a majority of its real estate assets located in a developing market<sup>3</sup>.

In REITs, the integrity of the property valuation process is a fundamental safeguard in enabling investors to make informed investment decisions. Ensuring that the REIT has proper legal and good marketable titles to its assets is critical in enabling the REIT to sustain its value over the long term.

In developing markets, laws and practices may differ in certain key aspects from those in developed markets, resulting in correspondingly different risk profiles.

Applicants seeking authorisation for REITs from developing markets should take steps to ensure that investors' interests are adequately protected, similar to pre-existing REITs in Singapore. These steps should include:

- Engaging internationally reputable property valuers who have the necessary experience and track record to provide impartial and robust valuations;
- Engaging internationally reputable foreign legal counsels who have the necessary experience and track record to provide accurate and credible legal advice; and
- Providing full disclosures of all material information which investors would reasonably require for the purpose of making an informed decision on the merits and risks of the REIT<sup>4</sup>.

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<sup>3</sup> Reference can be made to the list of “Developed Markets” under the SGX-ST’s Regulatory Framework for Secondary Listings to ascertain if a market is developed or developing. The list of “Developed Markets” is available at this link:

[http://www.sgx.com/wps/portal/sgxweb/home/regulation/listing/listing\\_mainboard\\_catalist/?WCM\\_PORTLET=PC\\_Z7\\_2AA4H0C0905090A0UAC5I01JG1017268\\_WCM&WCM\\_GLOBAL\\_CONTEXT=/wps/wcm/connect/sgx\\_en/home/regulation\\_v2/SA\\_Listing/SA\\_Mainboard\\_and\\_catalist/SA\\_Secondary\\_Listings](http://www.sgx.com/wps/portal/sgxweb/home/regulation/listing/listing_mainboard_catalist/?WCM_PORTLET=PC_Z7_2AA4H0C0905090A0UAC5I01JG1017268_WCM&WCM_GLOBAL_CONTEXT=/wps/wcm/connect/sgx_en/home/regulation_v2/SA_Listing/SA_Mainboard_and_catalist/SA_Secondary_Listings)

<sup>4</sup> See Paragraph 78 of the Third Schedule to the Securities and Futures (Offers of Investments)(Collective Investment Schemes) Regulations 2005.