

Frequently Asked Questions on Luxembourg-Hong Kong Mutual Recognition of Funds

These frequently asked questions (FAQs) are prepared by the Investment Products Division to provide guidance to market practitioners regarding the Luxembourg-Hong Kong Mutual Recognition of Funds (MRF) scheme. Firms are encouraged to contact the relevant case team in the Investment Products Division if they are in doubt on any specific issues arising from the application/interpretation of the matters relating to the MRF.

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

Unless otherwise defined herein, all capitalised terms shall have the meanings given to them in the Circular on Mutual Recognition of Funds between Luxembourg and Hong Kong issued by the SFC on 15 January 2019, as amended from time to time (SFC Circular) and the CSSF Streamlining requirements and process for mutual recognition of Hong Kong funds dated 15 January 2019, as amended from time to time (CSSF Circular).

	Question	Answer
Fund Authorization		
1.	How should Luxembourg Covered Funds that would like to seek SFC authorization submit their applications?	Applications of Luxembourg Covered Funds seeking authorization under the MRF received by the SFC will be processed under the revamped fund authorization process (Revamped 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), unless otherwise provided in the SFC Circular.

		<p>Applicants should submit soft copies of all Application Documents as provided under paragraph 34 of the SFC Circular (except for application fee) by email to the relevant case team in the Investment Products Division and to mrflux@sfc.hk. Applicants should clearly indicate the names of the applicants and the names of the Luxembourg Covered Funds under application in both the emails' subject and body.</p> <p>As provided under paragraph 36 of the SFC Circular, applicants shall request the CSSF to provide directly to the SFC a certificate confirming that the Eligibility Requirements listed in Annex B to the SFC Circular are met. The SFC will not take up the application if no such certificate is received from the CSSF.</p> <p>In general, the Investment Products Division will issue a letter (Take-up Letter) within 5 business days upon the receipt of all Application Documents (except for the application fee), to inform the applicant that the SFC will process the application. The date of the Take-up Letter (i.e. the Take-up Date) is the date on which the SFC formally takes up the application. The applicant is expected to submit the applicable application fee by cheque or by other means of payment acceptable to the SFC as soon as practicable upon receipt of the Take-up Letter from the SFC, and shall contact its SFC case team to discuss the payment arrangement. Once an application is taken up, the application fee will not be refunded.</p> <p>During the application process, all changes to any subsequent draft documentation must be properly and comprehensively marked up to facilitate review by the SFC.</p> <p>During the vetting process, the SFC may from time to time request for the submission of additional supporting information or documents which it deems necessary for facilitating its consideration as to whether authorization should be granted.</p>
1A.	What are the requirements for submitting documents and application fee in support of a new fund application to the SFC?	To commence an application, various documents, including, for example, offering documents, duly signed and completed application form, information checklist and confirmations, as well as the application fee are required to be submitted to the SFC.

		<p>A) <u>Submission of application documents by soft copy only</u></p> <p>Applicants are no longer required to submit hard copy of application-related documents. Instead, applicants shall submit all application-related documents by soft copy only.</p> <p>The official receipt date of a new fund application shall be a business day on which the full and complete set of soft copy documents is received by the SFC at or before 6 pm (after which the receipt date will be deemed as the following business day).</p> <p>B) <u>Alternatives for signing application documents</u></p> <p>Option 1: We will accept submission of un-signed copies of the relevant application forms, information checklists, confirmations and other relevant documents (the “Relevant Forms”), which are required to be completed, as applicable, by an applicant or other parties, provided that the Relevant Forms shall be submitted with an email confirmation (from a person who meets the signatory requirements) that all information and, where applicable, confirmations and undertakings contained in the Relevant Forms (and all documents submitted relating thereto) are true and accurate.</p> <p>Option 2: An applicant may submit scanned copies of the Relevant Forms signed by a person who meets the signatory requirements.</p> <p>For the avoidance of doubt, submission of hard copies of the Relevant Forms is not required under both options.</p> <p>C) <u>Taking up new fund application(s) with application fee(s) to follow</u></p> <p>The SFC will take up new fund applications if they are in good order and the application fee is the only outstanding matter. An applicant is expected to submit the application fee as soon as practicable upon receipt of the Take-up Letter from the SFC, and shall contact its SFC case team to discuss the payment arrangement.</p>
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2.	<p>Who can issue marketing materials in respect of Luxembourg Covered Funds? Will these marketing materials need SFC's prior authorization?</p>	<p>All advertisements and marketing materials in relation to a Luxembourg Covered Fund issued in Hong Kong shall comply with the relevant Hong Kong laws and regulations, including but not limited to the requirements set out in the Advertising Guidelines Applicable to Collective Investment Schemes Authorized under the Product Codes issued by the SFC (https://www.sfc.hk/web/EN/rules-and-standards/codes-and-guidelines/guidelines).</p> <p>Luxembourg Covered Funds should issue advertisement and marketing materials via a representative or distributor who is licensed or registered for Type 1, Type 4 or Type 6 regulated activity or based on other applicable exemptions under section 103 of the SFO. Such materials would not be subject to authorization/pre-vetting by the SFC but would be subject to post-vetting by the SFC. The representative or distributor should also take responsibility for the advertisements and marketing materials that it issues.</p>
3.	<p>Will the Hong Kong representative of a Luxembourg Covered Fund be required to be licensed by the SFC?</p>	<p>To be eligible to act as a Hong Kong representative, the UT Code requires a Hong Kong representative must be (a) licensed or registered under the SFO; or (b) a trust company registered under Part VIII of the Trustee Ordinance (Chapter 29 of the Laws of Hong Kong) and such company is an affiliate of an authorized financial institution defined under the SFO and is acceptable to the SFC.</p> <p>The UT Code does not mandate that the Hong Kong representative must be licensed or registered for any particular regulated activity. However, Hong Kong representatives that carry on regulated activities under the SFO must be licensed or registered accordingly. For example, if the Hong Kong representative would like to distribute the Luxembourg Covered Fund in Hong Kong, it would need to be licensed for Type 1 regulated activity.</p> <p>Please refer to Chapter 9 of the UT Code for further details.</p>
4.	<p>What are the language requirements for the Hong Kong offering documents of Luxembourg Covered Funds?</p>	<p>The Hong Kong offering documents of the Luxembourg Covered Funds should be prepared in English and Chinese.</p> <p>Applicants should submit the English version of the fund's Hong Kong offering documents at the time of application.</p>

		<p>The Chinese version of such offering documents should be submitted together with the completed Chinese translation confirmation(s) regarding the truth and accuracy of the Chinese translation (in prescribed form as set out in the Information Checklist for Application for Authorization of Luxembourg Funds under the Mutual Recognition of Funds Arrangement and the Revamped Process http://www.sfc.hk/web/EN/forms/products/forms.html) prior to the authorization becoming effective.</p> <p>The English and Chinese translation should take into account market practices and customary use of Chinese language in Hong Kong.</p>
5.	If the constitutive documents and financial statements of Luxembourg Covered Funds are prepared in French, German or Luxembourgish, are these documents required to be translated into English and Chinese when a Luxembourg Covered Funds seeks SFC authorization?	The constitutive documents and financial reports of a Luxembourg 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 Hong Kong offering documents.
6.	How should Luxembourg Covered Funds prepare the product key facts statement (KFS)?	<p>For the preparation of KFS, a Luxembourg Covered Fund should refer to the KFS illustrative template for General Funds or unlisted class of Active ETFs (http://www.sfc.hk/web/EN/regulatory-functions/products/product-authorization/products-key-facts-statements.html) for necessary guidance.</p> <p>In particular, the following statement is expected to be included in the KFS in an upfront and prominent manner:</p> <p>“This is a Luxembourg fund authorized for public offering in Hong Kong pursuant to Mutual Recognition of Funds between Luxembourg and Hong Kong arrangement.”</p>
7.	Will the Guide on Practices and Procedures for Application for Authorization of Unit Trusts and Mutual Funds (the Guide), as revised/updated from time to time, apply to	The Guide (http://www.sfc.hk/web/EN/faqs/product-authorization/guide-on-practices-and-procedures-for-application-for-authorization-of-unit-trusts-and-mutual-funds.html) contains detailed guidance to facilitate applicants' preparation of their applications seeking SFC's authorization of unit trusts and mutual funds and

	Luxembourg Covered Funds seeking SFC's authorization?	<p>compliance with the requirements under the SFC Handbook, the UT Code and other applicable regulatory requirements as may be issued by the SFC from time to time.</p> <p>Applicants should refer to the Guide for necessary information and reference and must exercise professional judgment at all times to ensure compliance with the applicable regulatory requirements as set out in the Guide.</p> <p>Applicants are encouraged to contact the relevant case team in the Investment Products Division if they have any questions.</p>
8.	How should Hong Kong Covered Funds that would like to seek CSSF's authorization submit their applications?	<p>Before starting an application with the CSSF, applicant should consult the SFC for the issuance of an eligibility certificate pursuant to paragraph 39 of the CSSF Circular. The SFC will notify the applicant upon the issuance of such certificate to the CSSF.</p>
Post-authorization obligations		
9.	How should a Luxembourg Covered Management Company proceed with a change to a Luxembourg Covered Fund falling within 11.1 of the UT Code under the MRF? Will there be any streamlining in approval process?	<p>As provided under paragraphs 13 and 14 of the SFC Circular, changes to a Luxembourg Covered Fund must be made in accordance with the applicable Luxembourg and Hong Kong laws and regulations and the provisions of its constitutive documents. Any proposed changes to a Luxembourg Covered Fund that fall within 11.1 of the UT Code and revisions made to its offering documents relating to such changes must be submitted by its Luxembourg Covered Management Company for approval by the SFC in accordance with the relevant requirements set out in Annex A to the SFC Circular.</p> <p>Save as provided below and in these FAQs, the application process (including the application documents) as set out in the Revamped Post Authorization Process (as defined in Question 1 Frequently Asked Questions on Revamped Post Authorization Process of SFC-authorized Unit Trusts and Mutual Funds) also applies to changes and revision of offering documents to Luxembourg Covered Funds:</p>

		<ul style="list-style-type: none"> • The Luxembourg Covered Management Company is required to confirm to the SFC whether the Eligibility Requirements listed in Annex B to the SFC Circular will continue to be met after the proposed change(s) take(s) effect. • Provided that the Eligibility Requirements are met, applications involving the appointment of new management company and/or investment delegate(s) (together, New Manager(s)) and/or depositary (New Depositary) which is/are not currently acting in such capacity in respect of any existing SFC-authorized funds (New Key Operator Change(s)) will be processed as “Simple Applications”. • For the New Key Operator Change(s), only the following relevant duly executed confirmation(s) set out in the List of Confirmations of Compliance related to Application for Approval of Scheme Change(s) pursuant to 11.1 of the Code on Unit Trusts and Mutual Funds has to be submitted to the SFC: <ul style="list-style-type: none"> • in respect of New Manager(s), Part 2 of Section 2.1; and • in respect of New Depositary, Part 2 of Section 3.2. • For the New Key Operator Change(s) to become effective, the Luxembourg Covered Management Company is required to request the CSSF to provide directly to the SFC an eligibility certificate in respect of the New Manager(s) and/or the New Depositary. If such eligibility certificate has not been received by the SFC before SFC’s approval is granted, the SFC may approve the New Key Operator Change(s), subject to the condition that the eligibility certificate should be received by the SFC generally within 2 months from the date of SFC’s approval letter (or such extended time limit(s) that may be agreed by the SFC upon submission of proper justification by the applicant).
10.	If a change to a Luxembourg Covered Fund also applies to other SFC-authorized Luxembourg non-MRF fund(s) housed under the same umbrella, will there be any streamlining in approval process?	Where a New Key Operator Change applies to both Luxembourg Covered Fund(s) and other SFC-authorized Luxembourg non-MRF fund(s) housed under the same umbrella, the proposed change to the Luxembourg non-MRF fund(s) will be processed under the same streamlined approach applicable to the Luxembourg Covered Fund(s) as set out in Question 9 above. Such change can be submitted to

		<p>the SFC under the same application in respect of the Luxembourg Covered Fund(s), using the same confirmation(s) applicable to New Key Operator Change(s).</p>
<p>11.</p>	<p>How should a Luxembourg Covered Management Company proceed with a change that may render a Luxembourg Covered Fund ineligible under the MRF (Eligibility Change) and the corresponding revision of offering documents?</p>	<p>As provided under paragraph 17 of the SFC Circular, the Eligibility Change and revisions made to its offering documents relating to such change must require SFC's prior approval. The Luxembourg Covered Management Company must notify the CSSF and the SFC of such change as soon as possible. Examples of the Eligibility Change(s) are as follows:</p> <ul style="list-style-type: none"> • Changes in fund strategy which brings the fund outside of the eligible fund types; • Ancillary investment in (i) crypto-assets or crypto-currencies, or (ii) certificates representing the assets referred to under (i), which is consistent with and within the existing investment objective, strategy or policy of the fund as disclosed in the offering documents; and • Introduction of share classes with hedging arrangements other than currency hedging. <p>For the Eligibility Change(s), the Luxembourg Covered Management Company should submit such change(s) to the SFC for prior approval by properly completing the "Application Form for Scheme Change(s)".</p> <p>For revision of offering documents relating to such change(s), the Luxembourg Covered Management Company should submit the revised offering documents to the SFC for prior approval together with a properly completed "Application Form for Revised Offering Documents that Incorporate Changes Falling within 11.1 of the UT Code that Require SFC's Prior Approval".</p> <p>Luxembourg Covered Management Companies are reminded to take note of the requirements as set out in Question 16B under Section 2 of the Frequently Asked Questions on Post Authorization Compliance Issues of SFC-Authorized Unit Trusts and Mutual Funds which provides, among other things, certain illustrative examples of information/disclosure that are expected to be included in notices to holders.</p>