

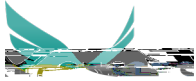


¹ and those in the Advertising Guidelines Applicable to Collective Investment Schemes Authorized under the Product Codes (the “Advertising Guidelines”).

The answers tend to be framed as general statements and do not consider your particular circumstances. Advertisement issuers are welcomed to contact the Division where there is any doubt on specific issues. While the Division will respond to questions on the interpretation of the Advertising Guidelines with reference to specified facts and circumst

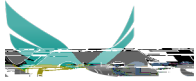


	Question	Answer
	SFO?	MPF schemes and constituent funds may invest in approved pooled investment funds ("APIF"), which may be constituted in the form of unit trusts, mutual funds or insurance policies. Such APIF may use the exemption under s103(2)(a) if they are constituted in the form of unit trusts or mutual funds, but they may not use it if they are constituted in the form of insurance policies. Another relevant exemption available under s103 of the SFO refers to the issue of any advertisement made in respect of interests in any scheme which are to be disposed of only to professional investors (s103(3)(k)).
2.	Our firm is an overseas management company, managing schemes authorized by the SFC. However, our firm is not licensed or registered for Type 1, Type 4 or Type 6 regulated activity in Hong Kong. How can we make use of the exemption under s103(2)(a) of the SFO and issue advertisements without seeking prior authorization?	The issue of advertisements of an authorized scheme managed by an overseas management company may benefit from the exemption under s103(2)(a) of the SFO if it is made by a representative or distributor who is licensed or registered for Type 1, Type 4 or Type 6 regulated activity. Such representative or distributor should take responsibility for the advertisements it issues.
3.	Are advertisements issued solely to professional investors required to comply with the Product Codes and the Advertising Guidelines?	As a matter of policy, the SFC will not seek to require those advertisements and other invitations of authorized schemes issued solely to professional investors, as defined under Schedule 1 of the SFO and the Securities and Futures (Professional Investor) Rules, to strictly comply with the Product Codes or the Advertising Guidelines. However, advertisement issuers should take note of s107 and s108 of the SFO which stipulates that a person commits an offence and incurs civil liability if he makes any fraudulent or reckless misrepresentation in the course of offering a product. Licensed and registered persons are also reminded to observe the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission at all times when they are carrying on their regulated activities.
4.	Can records of advertisements and their relevant supporting documents be kept in	Records of advertisements may be kept in their actual form by way of a copy of the final proof. Such copy, which may be in paper form (hard copy) or electronic format (soft copy),

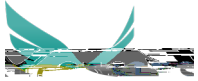


	Question	Answer
	electronic form?	should enable the issuer to reproduce the actual advertisement in the same form and content if necessary.
5.	Is it required to keep record of every issue of a regular publication?	Yes, records of all issues should be kept.
6.	Our firm is not eligible for taking the exemption under the SFO and we plan to publish a print ad in the newspaper, distribute a leaflet and put up a poster on buses. Do we need to submit every material for authorization if these materials contain the same information but are of different sizes?	Provided that the content and format (including the overall proportion) remain the same, an authorized advertisement may be used in different distribution media and published in different sizes.
6A.	Can you give some guidance to issuers of Advertising Materials in the Product Codes regarding the SFC's expectations on disclosure?	As a general principle, marketing materials issued must be clear, fair, and present a balanced picture with adequate and prominent risk disclosure in compliance with all applicable regulations.

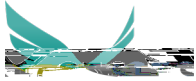
The SFC expects issuers of Advertising Materials in the Product Codes to pay attention to the following disclosure principles (21-PR-45) and the following (are equally applicable to all)



Question	Answer
	(iii) What is the worst case scenario that investors should be aware of. c. Presentation of benefits, returns and risks of the product should be fair, balanced and proportionate – presenting benefits and returns disproportionately larger than or without mentioning the risks of the product would not be fair and proportionate. d. Use of terms like “Guarantee” could be misleading unless what is being guaranteed is clearly spelt out. Also, if the guarantee is only available under very restrictive conditions and in limited circumstances, it may not be fair to use the word “guarantee” generally to describe the product. e. Financial or other incentives in investing in a product should not be used or presented in such a way that it is likely to divert or misleads f.2.6 (i)2.6 f3-11.261 0.5 (r)-5.9 (u5 (f)-6.6 (1 (g)1



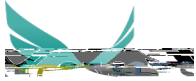
	Question	Answer
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Question		Answer																							
		<table><tr><td>2007</td><td>xx%</td><td>2006</td><td>xx%</td><td>2006</td><td>xx%</td></tr><tr><td>2008</td><td>xx%</td><td>2007</td><td>xx%</td><td>2007</td><td>xx%</td></tr><tr><td></td><td></td><td>Year-to-date up to no earlier than 31-May-08^</td><td>xx%</td><td>1-Oct-07 to no earlier than 31-May-08^</td><td>xx%</td></tr></table> * assuming 30-Sep is the financial year end of the scheme ^ 31-May-08 for print media advertisements, broadcasts or interactive systems and 28-Feb-08 for other advertisements						2007	xx%	2006	xx%	2006	xx%	2008	xx%	2007	xx%	2007	xx%			Year-to-date up to no earlier than 31-May-08^	xx%	1-Oct-07 to no earlier than 31-May-08^	xx%
2007	xx%	2006	xx%	2006	xx%																				
2008	xx%	2007	xx%	2007	xx%																				
		Year-to-date up to no earlier than 31-May-08^	xx%	1-Oct-07 to no earlier than 31-May-08^	xx%																				
17.	How should the minimum performance information be shown for a scheme with only 3-year track record?	Assuming a scheme, launched on 1 July 2005, prepares its performance information on a calendar year basis, an advertisement issued in August 2008 should disclose the performance for each of the following periods: f Since launch to 31 December 2005 f Year ended 31 December 2006 f Year ended 31 December 2007 f Year-to-date up to no earlier than 31 May 2008 for print media advertisements, broadcasts or interactive systems (or 28 February 2008 for other advertisements)																							
18.	Under paragraph 12 of the Advertising Guidelines, the minimum performance information is required to be presented on complete 12-month periods (or shorter periods for the earliest / latest period presented). Under what circumstances are such shorter periods applicable?	The presentation of shorter periods is only applicable under the following circumstances: f the year-to-date information presented to ensure that the information is up-to-date (as in case 2 in Q16 above); or f the since launch information for the year of launch if the scheme has been launched for less than 5 years (see Q17 above).																							
19.	For website presentation, is the minimum performance information required to be presented on every webpage that contains performance information?	Performance information, if presented, should include the minimum performance information (paragraph 12 of the Advertising Guidelines). In the context of a website, the minimum performance information may be contained in a particular section of the website such that where a webpage on the website presents performance information of a scheme, the requirement to provide minimum performance																							

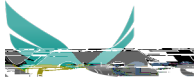


	Question	Answer
		information may be satisfied by the use of a prominent link to this minimum performance section.
20.	Is it still required to accompany since launch annualized return by all the individual years' returns?	Since launch annualized return needs not be accompanied by all the individual years' return. It may be presented if the minimum performance information is disclosed in the same advertisement. That means, the individual years' returns for periods preceding the recent 5 years are no longer required.
21.	Is it permitted to show the annualized return of a short term performance?	Additional performance information, on an annualized or cumulative basis, may be presented in addition to the minimum performance information, subject to the following: - f Performance information of less than 1 year should be accompanied by that of the most recent 1 year presented in the same format and prominence (paragraph 13 of the Advertising Guidelines). - f Additional performance information should be sufficiently up to date (paragraph 15 of the Advertising Guidelines). - f Performance information of less than 1 year may not be annualized (paragraph 16 of the Advertising Guidelines).
22.	Is performance information in offering documents required to be updated regularly for compliance with the up-to-date requirement under paragraph 15 of Advertising Guidelines?	Offering documents are required to comply with the Advertising Guidelines. Any performance information included therein should be updated regularly to ensure it is no more than 6 months old. Alternatively, an offering document including stale information may be distributed together with a fact sheet that contains up to date performance information.
23.	Hypothetical figures presented to explain the complicated mechanisms of a scheme are required to be conservative. Are there any guidelines to determine whether such figures are conservative or not?	Whether hypothetical figures presented are conservative or not depends on the specific circumstances of the case. Generally, in addition to the worst-case scenario of the payout mechanism, an advertisement issuer may disclose a scenario that offers an average payout of less than 5% per annum and another scenario that offers an average payout of less than 9% per annum.
24.	For a newly authorized scheme whose performance is linked to that of an index, is the presentation of (a) the historical performance of the index, and (b) the simulated performance of the scheme	Historical performance of an index is not considered as scheme performance and may be presented. Simulated performance of the scheme based on the historical performance of an index is not allowed (paragraph 16 of the Advertising Guidelines).

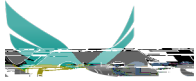


	Question	Answer
	based on the historical performance of the index permissible?	
Comparison of Performance and Use of Comparative Indices		

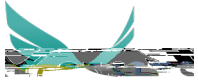
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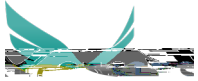
	Question	Answer
28.	We have created customized indices for our schemes (e.g. 40% MSCI Global Capital Markets + 40% Lehman Brothers Fixed Income US Aggregate + 20% Hang Seng Index), where not all of the indices use the same basis. What should we do?	The question is whether you are comparing “like with like”. As far as possible, the performance of each of the indices should use the same basis of calculation as the scheme’s performance. Thus, if the scheme performance relates to an accumulation class of shares or the scheme does not make distribution, managers / product issuers should choose to use total return indices. If there is no total return index for a particular component of the benchmark, this should be explained by way of clear disclosures.
29.	Our scheme is an index-tracking fund whose objective is to track a price return index which does not take into account dividend reinvestment (e.g. Hang Seng Index). Can we use the price return index as the benchmark for performance comparison in our marketing materials?	The general principle is that a comparison of performance figures should be fair, relevant, on a “like with like” basis. If the scheme shows performance relating to an accumulation share class or the scheme does not make distributions, and the manager / product issuer wishes to compare this performance against the price return index, the manager / product issuer must show the performance of the total return index in addition. The notes should disclose the basis of the calculation (i.e. the scheme performance and total return index include dividend reinvestment and the price return index does not take into account reinvestment of dividends.)
30.	Our scheme is a guaranteed fund, although the NAV of the fund fluctuates throughout its life, the return at maturity is calculated based on the performance of a pre- determined price return index (e.g. Hang Seng Index). We would like to show the fund’s NAV performance versus the performance of the index for reference. Is this permissible?	The SFC does not dictate the investment objective or policy of a scheme. Thus, the manager / product issuer is free to choose the index used in the formula to calculate maturity proceeds. As to whether it is permissible to compare scheme performance with that of the price return index depends on the calculation basis of the scheme performance and the nature of the underlying investments. For example, some guaranteed funds aim to achieve the objective by investing in options or in structured notes which do not distribute any income/dividends. In such cases, the scheme’s performance compared to a price return index is generally considered acceptable.
31.	Our scheme offers both accumulation and distribution share classes. We would like to show the performance of both classes against a benchmark index. Do we need to show the benchmark performance on both the total return basis and the price return basis?	Where the performance of both share classes are shown, at least the performance of the total return index should be shown. The performance of the price return index may be shown in addition.
Changes to a Scheme		



	Question	Answer
	group (to which this management company belongs) in managing a particular strategy, can they present the past performance information of the Other Scheme in the advertisements of the SFC-authorized scheme?	management company wishes to provide additional information regarding the investment experience of the fund management group (to which the management company belongs) in managing a particular investment strategy, the management company is only allowed to present the past performance information of an unauthorized scheme (i.e. the Other Scheme) prior to the launch of the SFC-authorized scheme in the advertisements of the SFC-authorized scheme ("Advertisements"), provided that the following require oauth()-6 (e -)Tj5tnn.002 T

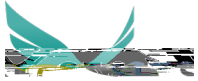


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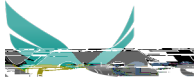


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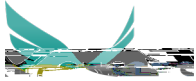
the following link:



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	Question	Answer
39D.	Can the fund highlight or advertise its rate of dividend in the marketing materials?	Pursuant to paragraph 10 of the Advertising Guidelines, a substantiated prospective yield may be disclosed in the fund's marketing materials. Issuers of marketing materials are 6.6 (e md i)rB60.44.04 467.28 46MC 5.9 (ar) (-tEMC /P #MC1D 31 (uant(3f)-2.1mel)2.1.d2 (ed (os)-2

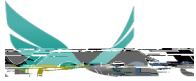


	Question	Answer
39E.	If the dividend rate / yield is highlighted / quoted in the marketing materials, does the fund need to disclose the calculation basis thereof?	



	Question	Answer
		As such, to give investors a balanced picture, a fund may highlight or advertise any fee incentives (e.g. a fee cut/waiver or zero/low management fee, subscription fee or redemption fee) in its marketing materials only if such statement is accompanied with disclosure of the fund's resulting ongoing charges figure² of similar prominence and in close proximity in the body of the marketing materials. Supplementary information such as the calculation basis (including the reference date if applicable) of the ongoing charges figure may be disclosed by way of footnotes in the fund's marketing materials. Where the fee incentives being advertised apply to multiple share classes, - a single ongoing charges figure can be shown for share classes sharing the same figure provided there is clear description to that effect; and - for share classes with varying ongoing charges figures, the issuer of the marketing materials are encouraged to show a separate ongoing charges figure for each share class for clarify. Alternatively, the issuer may disclose the ongoing charges figure of the share class which the management company has reasonably designated as the representative share class, with the basis of selection clearly stated and a statement that the ongoing charges figures of other share classes will be provided upon request by potential investors. Once selected, the representative share class should be adopted consistently.
Circular on streamlined requirements for eligible ETFs adopting a master-feeder structure		
40.	Are the marketing materials of the SFC-authorized feeder ETF allowed to contain information of the master ETF?	As the master ETF is not authorized by the SFC, it cannot be offered to the public in Hong Kong unless an exemption under section 103 of the SFO applies. The manager of the feeder ETF should exercise caution and where appropriate take professional legal advice to ensure

² Such ongoing charges figure as disclosed is expected to take into account the fee incentives being advertised and must be calculated in accordance with the Circular to Management Companies of SFC-authorized Funds entitled "Disclosure of the ongoing charges figure and past performance information in the Product Key Facts Statements" revised as of 3 March 2017 (as amended from time to time).



	Question	Answer
		that marketing materials of feeder ETF are in compliance with all applicable laws and regulations. In particular, the management company of the feeder ETF should take note of the following when they market the feeder ETF to Hong Kong investors: a) all the marketing materials should be for the purpose of promoting the feeder ETF, and not the master ETF; b) if the master ETF is being mentioned in any marketing materials, the marketing materials must not contain any language which suggests an invitation to the public to invest in the master ETF; c) only the factual information about the master ETF can be disclosed in the marketing materials; and d) there should be prominent warning statement in the marketing materials that the master ETF is not authorized by the SFC and is not available to the public in Hong Kong.

Last update: 1 April 2022