Frequently Asked Questions relating to Open-ended Fund Companies

This FAQ is prepared by the Investment Products Division and aims to provide basic information to market practitioners in respect of open-ended fund companies ("OFCs"), which are subject to the Securities and Futures Ordinance (the "SFO"), the Securities and Futures (Open-ended Fund Companies) Rules ("OFC Rules") and the Code on Open-ended Fund Companies (the "OFC Code") (collectively, the "OFC-related Laws and Regulations").

An applicant which seeks to establish a public OFC (as defined in the OFC Code) must also comply with all applicable requirements in the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products ("SFC Products Handbook") including the Code on Unit Trusts and Mutual Funds ("UT Code") for authorization by the Securities and Futures Commission ("SFC"). A public OFC and publicly offered sub-funds of an OFC must also comply with all applicable requirements in the SFC Products Handbook after registration.

Applicants are encouraged to contact the

	Question	Answer
2.	How do I start an application for registration?	New applicants without an e-IP Managing Company account have to contact the SFC's Investment Products Division to create an account before making an application via e-IP[1]. For further details, please refer to section 2 (Access to Corporate Administration (for e-IP)) of the User Guide: Corporate Administration (for e-IP). To start an application, you have to submit to the SFC via e-IP: i. a duly signed and completed **Application Form[2]** (also see Q.3 below in respect of a public OFC); ii. a duly signed and completed **Information Checklist[3]** (also see Q.3 below in respect of a public OFC); iii. a copy of the instrument of incorporation signed by each of the proposed directors; iv 11.04 Tf1 0 0 1 373.73 342.07 Tm0 G[;)]TJETQq291.41 195.89 485.47 294.41 F3 11.04 Tf1 0 0

	Question	Answer
3.	Do I have to make separate applications for registration and authorization of a public OFC?	The application documents required for registration and authorization of a proposed public OFC are expected to be submitted together to the SFC at the same time. The SFC will process the registration and authorization of a public OFC in tandem. To streamline the application process, the Application Form[2] for registration of a public OFC is set out in the Annex to the "Application Form for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products". Similarly, the Information Checklist[3] for the registration of a public OFC is set out in the Schedule to the "Information Checklist for Application for Authorization of Unit Trusts and Mutual Funds".
3A.	What are the requirements for submitting documents and application fee(s) in support of a new OFC application to the SFC?	**1. Application documents required by the SFC (see Q2 above):** *A) Submission of*

	Question	Answer
		documents (including the application form and the applicable information checklist(s)) in e-IP. Please see

	Question	Answer
		proposed directors which may be submitted in scanned copies, hard copy of documents and fees required by the CR for incorporation and business registration purposes (see Q1 above) should be submitted to the SFC before the registration of an OFC is granted.
4.	What are the fees payable for establishing an OFC?	<u>Fees payable to the SFC for registration of an OFC</u>

	Question	Answer
		For (i) fees for incorporation of an OFC; and (ii) fees for a business registration certificate (which vary depending on whether it is a one-year or three-year certificate), please refer to the websites of the CR and the IRD, which set out the current amount of fees for incorporation and business registration fees respectively and updates as to any fee waivers that may be applicable from time to time. Separate payments shall be made for the fees payable to the SFC (by way of cheque(s), or other means of payment acceptable to the SFC) and to the CR (by way of cheque(s)).
5.	What is the expected processing time for registration of a public OFC and private OFC?	As the SFC will process the registration and authorization of a public OFC in tandem, the processing time for registration of a proposed public OFC is expected to be the same as that for other public funds, generally ranging between one and three months from the take-up date of the application depending on whether it is a standard or "non-standard application (please refer to the FAQs on Application for Authorization). For private OFCs, where the documents are in order and the registration requirements are met, a registration would be granted as soon as practicable and is generally expected to take less than one month after the application is taken up by the SFC.
6.	Is there any template instrument of incorporation ("IoI")? Must the template be adopted by an OFC? Can revisions be made when adopting the template?	The templates of the IoI for public OFCs and private OFCs respectively are available on the SFC website. The templates set out the baseline contents of an IoI generally expected of an OFC. OFCs are free to include other provisions in their individual IoIs and make relevant variations as appropriate, provided that such additions and variations would not result in non-compliance with the OFC-related Laws and Regulations (e.g. the IoI must contain the provisions mandated under section 112K of the SFO). In the case of a public OFC, the requirements in the SFC Products Handbook must also be complied with.

	Question	Answer
6A.	Where a proposed custodian to be appointed by a private OFC is a	

	Question	Answer
		In respect of

	Question	Answer
7A.	What are the requirements for submitting documents and application fee(s) in support of an application for addition of sub-fund(s) to an existing umbrella OFC to the SFC?	*A) Submission of application documents by soft copy* Applicants shall submit all application-related documents by soft copy via e-IP. The official receipt date of a sub-fund application shall be a business day on which the full and complete set of soft copy documents is received by the SFC via e-IP at or before 6 pm (after which the receipt date will be deemed as the following business day). *B) Signing of application documents* During the application process, you must complete the signing process for certain application documents (including the application form and the applicable information checklist(s)) in e-IP, please refer to section 4.1.2.5. entitled – "Completing the signing process for the Ordinary Form(s) & Checklist(s) (where applicable)" of the e-IP (Investment Products Division) User Guide. For other application documents which are not covered in the signing process in e-IP, please refer to the options below: Option 1: We will accept submission of un-signed copies of the relevant confirmations and other relevant documents (the "Relevant Documents"), which are required to be completed, as applicable, by an applicant, director, custodian, investment manager of the OFC or other parties, provided that the Relevant Documents shall be submitted with an email confirmation or other equivalents (from a person who meets the signatory requirements) that all information and, where applicable, confirmations and undertakings contained in the Relevant Documents (and all documents submitted relating thereto) are true and accurate. Option 2: An applicant may submit scanned copies of the Relevant Documents signed by a person who meets the signatory requirements. *C) Taking up new sub-fund application(s) with application fee(s) to follow* The SFC will take up new sub-fund applications if they are in good order and the application fee

	Question	Answer
9.	What documents should be submitted to the SFC for a change of key operators of a public OFC?	For a change of key operators of a public OFC[8], the documents required are as follows:

	Change of Director	Change of Custodian or Investment Manager
Appointment	"Application Form for Approval of Appointment of Director, Custodian or Investment Manager of an Open-ended Fund Company"	
	(a) Duly signed and completed "Information Checklist for (i) a Change of Director of a Public Open-ended Fund Company; or (ii) a Change of Name of a Public Open-ended Fund Company or a Publicly Offered Sub-fund of an Open-ended Fund Company" ("Public OFC Director/ Name Change Information Checklist"); and (b) the notice to shareholders relating to the change (if any) after issuance. *(Note: no Filing Form for Notice of Scheme Change(s) falling within 11.1B of the Code on Unit Trusts and Mutual Funds (UT Code) and Do Not*	Only the following existing documents applicable to SFC-authorized funds for a 11.1 scheme change under the UT Code are required to be submitted: (a) Duly signed and completed "Application Form for Scheme Change(s)"; and (b) "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 (UT Code)", including the confirmation required in relation to an OFC in the Annex ((a) and (b) are collectively referred to as the "11.1 Scheme Change Documents").

[8] If a revision of document ("ROD") is involved in connection with the change for the public OFC, please be reminded to submit the relevant forms for ROD applicable to SFC-authorized funds.

	Question	Answer
		<table><tr><td></td><td>filed for any notice issued for such change where it falls within 11.1B of the UT Code.)</td><td></td></tr><tr><td>Cessation and other changes (if applicable)</td><td>For a cessation of directorship, the following documents are required to be submitted: (a) the above Public OFC Director/ Name Change Information Checklist (please also refer to the Note on 11.1B Filing above); and (b) notice to SFC of a resolution to remove a director.</td><td>The 11.1 Scheme Change Documents above[9].</td></tr></table>
10.	What documents should be submitted to the SFC for a change of name of a public OFC or its sub-fund(s)?	In respect of a change of name of a public OFC or its sub-fund, the following documents should be submitted to the SFC via e-IP: i. a duly signed and completed “Application Form for Approval of Change of Name of an Open-ended Fund Company or Sub-fund of an Open-ended Fund Company”; ii. a duly signed and completed Public OFC Director/ Name Change Information Checklist; and iii. the notice to shareholders relating to the change (if any) after issuance. *(Note: no 11.1B Filing Form is required, please refer to the Note on 11.1B Filing.)*

[9] These apply to changes which fall under 11.1 of the UT Code such as cessation of office, change of their regulatory status and change of investment delegate.

	Question	Answer
13.	What are the documents that need to be filed with the SFC for both public and private OFCs post-registration?	Filings with the SFC should be made in accordance with the OFC-related Laws and Regulations, including for example: • Annual report • Interim report (if any) • Offering documents • Alteration of instrument of incorporation • Statement of circumstances issued by auditor or custodian • Documents in relation to

	Question	Answer
		afterwards.

	Question	Answer
		Q. 12 above) is the only outstanding matter. An applicant is expected to submit the application fee as soon as practicable. **2. Application documents required by the CR** For the avoidance of doubt, the one-

	Question	Answer
		materials on the SFC website for information on application for authorization, including the Application Form and Information Checklist as well as the applicable fees. A public OFC may become a private OFC by applying to the SFC for a withdrawal of authorization and complying with the relevant requirements applicable to private OFCs under the OFC Code. An application should be made for such conversion by submitting the relevant documents to evidence compliance with the applicable requirements. Further, you may refer to the SFC Products Handbook for the requirements on withdrawal of authorization and other relevant materials on the SFC website including the Frequently Asked Questions on Post Authorization Compliance Issues of SFC-authorized Unit Trusts and Mutual Funds and Frequently Asked Questions on Revamped Post Authorization Process of SFC-authorized Unit Trusts and Mutual Funds. Applicants should consult the Investment Products Division of the SFC at the earliest opportunity should they wish to proceed with any such conversion.
19.	Can public OFCs be exchange-traded funds ("ETFs")?	Yes, where the public OFC meets the relevant requirements under the SFC Products Handbook with regards to ETFs.
19A.	Can OFCs be tokenised?	Yes. Tokenisation of investment products generally refers to the creation of blockchain-based tokens that represent or aim to represent ownership in an investment product. The tokenised product can then be recorded digitally on the blockchain. Investment managers seeking to tokenise the OFCs they manage should take note of the relevant guidance and requirements set out in the Circular on intermediaries engaging in tokenised securities-related activities and the OFC Code. Similar to other SFC-authorized investment products, investment managers of public OFCs seeking to tokenise the OFCs they manage should also refer to the requirements under the Circular on tokenisation of SFC-authorised investment products. Applicants or parties who are interested in tokenising an OFC should discuss or consult with the

	Question	Answer
		SFC at ofc-enquiry@sfc.hk in advance.
20.	Are OFCs qualified for the mutual fund recognition ("MRF") arrangements entered into by the SFC?	SFC-authorized funds structured in the form of OFCs are eligible under the scope of the MRF arrangements entered into by the SFC with

	Question	Answer
	Requirements relating to financial reports	
21A.	May an OFC be exempted from the requirement to prepare and publish an annual report?	Pursuant to rule 151 of the OFC Rules, on application by an OFC, the SFC may, if it considers appropriate in the circumstances, exempt the directors of an OFC from the requirement to prepare an annual report for a financial year and the OFC from the requirement to publish the annual report and provide a copy to any shareholder ("AR exemption"). In this connection, it is generally expected that for an application seeking an AR exemption, the OFC should meet the following conditions ("Conditions"): i. the relevant OFC has not been launched; and

	Question	Answer
		The AR exemption, if granted b

	Question	Answer

	Question	Answer