

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

III.5 Guidelines on Investment Managers

INTRODUCTION

The investment manager appointed by the approved trustee of a registered scheme must comply with the requirements stipulated in section 44 of the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”).

2. Section 45 of the Regulation provides that the investment manager may delegate its investment management functions to other companies that are solvent and, among other things, they are authorized by a regulatory authority recognized by the Mandatory Provident Fund Schemes Authority (“the Authority”) to carry on business as an investment adviser under the law of a place other than Hong Kong.

3. Section 17(2)(g) of Schedule 1 to the Regulation provides that one of the requirements of a pooled investment fund is that ... any investment manager ... appointed by the trustee in relation to the fund, must comply with such of the requirements of the Regulation, in so far as those requirements are relevant to the pooled investment fund.

4. Section 6H of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provides that the Authority may issue guidelines for the guidance of approved trustees, service providers and other persons concerned with the Ordinance.

5. The Authority hereby issues guidelines to: -
- (a) clarify the qualifications and requirements of the investment managers and their delegates in respect of registered schemes and approved pooled investment funds; and
 - (b) set out the list of regulatory authorities recognized by the Authority for the purposes of section 45(4) of the Regulation.

QUALIFICATIONS OF INVESTMENT MANAGERS AND THEIR DELEGATES

6. Investment managers appointed for registered schemes or approved pooled investment funds and the delegation of investment management functions must comply with the requirements as stipulated in Chapter 6 of the SFC Code on MPF Products.

LIST OF REGULATORY AUTHORITIES RECOGNIZED BY THE AUTHORITY

7. The list of regulatory authorities recognized by the Authority for the purposes of section 45(4) of the Regulation is as follows-

Jurisdiction	Regulatory Authority
France	Commission des Opérations de Bourse (COB)
Germany	Bundesanstalt für Finanzdienstleistungsaufsicht (BAFin) (German Financial Supervisory Authority)
Ireland	Central Bank of Ireland (CBI)
Luxembourg	The Commission du Surveillance du Secteur

Jurisdiction	Regulatory Authority
	Financier (CSSF)
United Kingdom	Financial Services Authority (FSA)
United States of America	Securities and Exchange Commission (SEC)

8. Approved trustees and investment managers may make application for other regulatory authorities to be added to the list. In order to be recognized by the Authority for the purposes of section 45(4) of the Regulation, an overseas regulatory authority must carry out inspections of investment managers within its jurisdiction in a manner generally consistent with that of the Securities and Futures Commission (“SFC”) in Hong Kong. This will generally be taken to be satisfied where the SFC has included the regulatory authority in Appendix C of the SFC Code on MPF Products. Generally, other regulatory authorities will not be added to the list unless they have been included in the list of regulatory authorities in Appendix C of the SFC Code on MPF Products.

DEFINITIONS OF TERMS

9. Except where otherwise specified in the Guidelines, the terms common to the Ordinance and the subsidiary legislation of the Ordinance carry the same meanings as defined in the Ordinance and the subsidiary legislation. References should be made to the Ordinance and the subsidiary legislation, where necessary.