

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

III.2 Guidelines on Equities and Other Securities

INTRODUCTION

Section 8 of Schedule 1 to the Mandatory Provident Fund Schemes (General) Regulation (“the Regulation”) provides that:

- (1) The funds of a constituent fund may be invested in –
 - (a) fully-paid up shares listed on an approved stock exchange other than the shares of a company which is a collective investment scheme;
 - (b) an index-tracking collective investment scheme approved by the Authority for the purposes of section 6A of Schedule 1 to the Regulation; or
 - (c) securities listed on an approved stock exchange that are approved, or are of a kind approved, by the Authority.
- (2) Not more than 10% in total of the funds of a constituent fund may be invested in the following:
 - (a) fully-paid up shares listed on a stock exchange that is not an approved stock exchange, other than the shares of a company that is a collective investment scheme;
 - (b) securities that are approved, or are of a kind approved, by the Authority, other than shares listed on an approved stock exchange; and
 - (c) an authorized unit trust or authorized mutual fund of a kind to which Part IV of Schedule 1 to the Regulation does not apply but which is approved by the Authority.

2. Section 6H of the Mandatory Provident Fund Schemes Ordinance (“the Ordinance”) provides that the Mandatory Provident Fund Schemes Authority (“the Authority”) may issue guidelines for the guidance of approved trustees, service providers, participating employers and their employees, self-employed persons, regulated persons and other persons concerned with the Ordinance.

3. The Authority hereby issues guidelines to:

- (a) set out the general criteria that will be applied by the Authority in considering applications for approval of investments under sections 8(1)(c) and 8(2)(b) of Schedule 1 to the Regulation;
- (b) specify the securities that are approved, or are of a kind approved by the Authority for the purposes of section 8(1)(c) of Schedule 1 to the Regulation;
- (c) specify securities that are approved, or are of a kind approved by the Authority for the purposes of section 8(2)(b) of Schedule 1 to the Regulation; and
- (d) specify the authorized unit trusts or authorized mutual funds approved by the Authority for the purposes of section 8(2)(c) of Schedule 1 to the Regulation.

4. The specification of securities, or a kind of securities, in these guidelines does not represent endorsement by the Authority of investment of the assets of a registered scheme in such securities and does not carry any implication as to the types of constituent fund within a registered scheme that the Authority might or might not approve.

ADDITIONAL TYPES OF PERMISSIBLE INVESTMENTS UNDER SECTION 8(1)(C) OF SCHEDULE 1 TO THE REGULATION

5. Pursuant to section 8(1)(c) of Schedule 1 to the Regulation, the Authority has approved the following securities and kinds of securities:

- (a) securities which are receipts or certificates entitling the holders (either directly or through another receipt or certificate) to the economic benefits (which may or may not include voting rights) of ownership of the underlying shares of a single company where:
 - (i) the receipts or certificates are listed on an approved stock exchange;
 - (ii) the underlying shares of the company are fully-paid up and are listed on an approved stock exchange; and
 - (iii) the receipts or certificates are fully-paid up and do not require any further or future payment;
- (b) fully-paid up depositary receipts (certificaten van aandelen) listed on Euronext Amsterdam;
- (c) non-voting equity securities (“NES”) issued by Roche Holdings Limited listed on SIX Swiss Exchange; and
- (d) fully-paid up receipts or certificates listed on an approved stock exchange where the underlying securities satisfy (b) or (c) above.

6. Receipts or certificates that satisfy paragraph 5(a) above do not require any separate approval and include, by way of illustration:

- (a) American Depositary Receipts (“ADRs”) and Global Depositary Receipts (“GDRs”) which are listed on an approved stock exchange where the respective underlying shares are fully-paid up and are listed on an approved stock exchange;
- (b) CHESS Depositary Interests (“CDIs”) listed on the Australian Securities Exchange where the respective underlying shares are

fully-paid up and are listed on a foreign (i.e. outside Australia) stock exchange which is an approved stock exchange; and

- (c) Non-Voting Depositary Receipts (“NVDRs”) listed on the Stock Exchange of Thailand where the respective underlying shares (but not warrants or transferable subscription rights) are fully-paid up and are listed on the same stock exchange.

CATEGORIES OF OTHER SECURITIES

Shares listed on a stock exchange that is not an approved stock exchange

7. Guidelines III.4 on Approved Exchanges set out a list of approved stock exchanges. References should be made to those guidelines for the purposes of section 8(2)(a) of Schedule 1 to the Regulation.

Securities approved by the Authority other than shares listed on an approved stock exchange

8. Pursuant to section 8(2)(b) of Schedule 1 to the Regulation, the Authority has approved the following securities:

- (a) securities which are receipts or certificates entitling the holders (either directly or through another receipt or certificate) to the economic benefits (which may or may not include voting rights) of ownership of the underlying shares of a single company where:
 - (i) the receipts or certificates are listed on an approved stock exchange;
 - (ii) the underlying shares of the company are fully-paid up and are listed on a stock exchange other than an approved stock exchange; and
 - (iii) the receipts or certificates are fully-paid up and do not require any further or future payment.

Receipts or certificates that satisfy paragraph 8(a) do not require any separate approval.

- (b) an interest in a real estate investment trust (“REIT”) which is listed on an approved stock exchange (as set out in Guidelines III.4 on Approved Exchanges) in the countries of Australia, the United Kingdom or the United States of America; and
- (c) a security that staples together two or more securities, each of which itself is permissible under Schedule 1 to the Regulation.

9. Securities other than those set out in paragraphs 5, 6 and 8 may be considered for approval under section 8(1)(c) or 8(2)(b) of Schedule 1 to the Regulation. In considering applications for approval, the Authority will apply the following criteria:

- (a) Securities would not be approved for inclusion if such inclusion would be contrary to a clear and express restriction in the law. The approval discretion would generally be limited to those cases where existing impermissibility was unintended, not contemplated or unclear.
- (b) The securities should be generally appropriate for MPF investments taking into account factors including the following:
 - (i) the nature of the securities is such that they are analogous to other permissible investments (e.g. for the purpose of section 8(1)(c), the proposed securities are similar in nature to other listed securities that are already permissible);
 - (ii) the securities could not be used as a means of by-passing existing restrictions such as those relating to borrowing money, securities lending or the use of derivatives;
 - (iii) the securities must be fully-paid up and do not require any further or future payment; and

- (iv) for securities to be approved under section 8(1)(c), it is not appropriate that the 10% limit in section 8(2) should apply by analogy with other permissible investments.

10. The Authority may waive any of the above criteria on a case-by-case basis, after considering whether such waiver furthers the objectives of the MPF System. Where it is consistent with the criteria set out above, and possible to do so, the Authority will approve securities by kind so that subsequent individual application is not needed.

11. Approved trustees and investment managers who wish to submit an application for approval of particular securities should provide the following information to the Authority for its consideration:

- (a) a detailed description of the characteristics of the relevant securities, including information on the issuer, product and legal structure, risks associated with investment in the securities, pricing, valuation, liquidity, etc;
- (b) a justification of the suitability of such securities as permissible investments for MPF purposes having regard to the underlying policy of Schedule 1 to the Regulation, the existing range of permissible investments, and the general approval criteria as set out in paragraph 9; and
- (c) any other information that may assist the Authority in considering the application.

Other authorized unit trusts and authorized mutual funds

12. Pursuant to section 8(2)(c) of Schedule 1 to the Regulation, the Authority has approved the following authorized unit trusts and authorized mutual funds:

- (a) those that are authorized by the Securities and Futures Commission (“the SFC”) under section 104(1) of the Securities and Futures Ordinance as meeting the requirements of:
 - (i) Chapter 7 of Section II of the SFC Handbook for Unit Trusts and Mutual Funds, Investment–Linked Assurance Schemes and Unlisted Structured Investment Products (“the SFC Handbook”), and the corresponding part of the former SFC Code on Unit Trusts and Mutual Funds (“the Code”); or
 - (ii) Chapter 8.1 of Section II (Unit Portfolio Management Funds) of the SFC Handbook or the corresponding part of the Code; or
 - (iii) Chapter 8.2 of Section II (Money Market/Cash Management Funds) of the SFC Handbook or the corresponding part of the Code; or
 - (iv) Chapter 8.5 of Section II (Guaranteed Funds) of the SFC Handbook or the corresponding part of the Code where the underlying investments meet the core investment requirements of Chapter 7 of Section II of the SFC Handbook; or
 - (v) Chapter 8.6 of Section II (Index Funds) of the SFC Handbook or the corresponding part of the Code, excepting:
 - (1) those index funds authorized under paragraph (b)(iii) of Chapter 8.6 or the corresponding part of the Code which adopt a synthetic replication strategy through the use of financial derivative instruments to replicate the index performance; and
 - (2) those which are approved by the Authority under section 6A of Schedule 1 to the Regulation; or
 - (vi) the SFC Code on Real Estate Investment Trusts;

- (b) the Value Gold ETF; and
- (c) the SPDR Gold Trust.

DEFINITION OF TERMS

13. Where a term used in the Guidelines is defined in the Ordinance or the subsidiary legislation then, except where specified in the Guidelines, that term carries the meaning as defined in the Ordinance or the subsidiary legislation.

14. “REIT” means a collective investment scheme that invests predominantly in real estate for the purpose of generating recurrent rental income, which does not engage in active trading of real estate, derives the majority of income from rentals of real estate and distributes a significant portion of income to holders in the form of regular dividends or other distributions however described.