

Chapter 21

INVESTMENT VEHICLES

INVESTMENT COMPANIES

21.04 The qualifications for listing contained in Chapter 8 shall apply, save for rules 8.05, 8.06, 8.07, 8.08(1) 8.09, 8.10 and 8.21 and save as otherwise agreed with the Exchange. However, the Exchange may be prepared to waive the guideline regarding the minimum number of shareholders which is set out in rule 8.08(2) in appropriate circumstances (for example, where the securities of the investment company are not marketed to the public in Hong Kong). The following additional conditions will apply in respect of an application made under this Chapter:—

- (1) the Exchange must be satisfied as to the character, experience and integrity of the directors of any investment company, its management company and/or its investment adviser (if any) and each of them must be able to demonstrate a standard of competence commensurate with their position in relation to the issuer. The Exchange must be satisfied as to the fitness and competence of each of the directors of the issuer, its management company and/or its investment adviser and must be satisfied that the executive management committee have had satisfactory experience in the professional management of investments on behalf of third party investors. The Exchange will reserve the right to request further information regarding any such proposed director's or adviser's background, experience or other business interests. The Exchange will not approve an application for listing under this Chapter unless the foregoing provisions are met to the satisfaction of the Exchange;
- (2) the investment company should generally have a custodian or trustee which must be acceptable to the Exchange;
- (3) the investment company and its management must normally be bound, either in its articles of association or trust deed or equivalent constitutive document or in such other manner as is acceptable to the Exchange, to ensure compliance at all times while it remains listed under this Chapter with the following requirements:—
 - (a) that the investment company will not either on its own

or in conjunction with any connected person take legal, or effective, management control of underlying investments and that in any event the investment company will not own or control more than ~~305%~~ per cent. (or such ~~lower~~ other percentage as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) of the voting rights in any one company or body;

- (b) that a reasonable spread of investments will be maintained by the investment company. Generally this will mean that the value of its holding of investments issued by any one company or body shall not exceed twenty per cent. of the investment company's net asset value at the time when such investment is made;
- (c) that shareholders' meetings are convened and conducted in a manner which is acceptable to the Exchange;
- (d) that any custodian, management company, any of their connected persons and every director of any investment company and management company is prohibited from voting their own shares at, or being part of a quorum for, any meeting to the extent that they have or any of their associates has, a material interest in the business to be conducted; and
- (e) that the investment company's auditors are independent of the investment company, any management company and any custodian, to the same extent as that required of an auditor under the Companies Ordinance and in accordance with the requirements guideline on independence (Statement 1.203A) issued by the Hong Kong Society of Accountants and that, in the case of an overseas investment company, the accounts of the investment company are audited to a standard comparable to that required in Hong Kong and all reports conform to International Financial Reporting Standards ~~international accounting standards as promulgated from time to time by the International Accounting Standards Committee~~;

- (4) it will normally be a condition of the listing that, in the case of a newly formed investment company, at the conclusion of the initial offering of shares or units or, in the case of an existing investment vehicle, at the time of listing, no person shall control ~~35~~⁵⁰ per cent. (or such lower amount as may from time to time be specified in the Takeover~~s~~^s Code as being the level for triggering a mandatory general offer) or more of the votes exercisable at any general meeting of the investment company. For these purposes, the interests of all the associates of a shareholder and any persons acting in concert (within the meaning of the Takeover~~s~~^s Code) with a shareholder will be aggregated;
- (5) in the case of a newly formed investment company, save to the extent agreed otherwise with the Exchange and set out in the listing document at the time of listing, the investment objectives, policies and restrictions set out in the listing document must not be changed for a minimum period of three years, without shareholders' consent and the restrictions required by rule 21.04(3)(a) and (b) must not be changed at all if the investment company wishes to retain its listing under this Chapter; and
- (6) in the case of an investment company which becomes a mutual fund at any time after its initial listing on the Exchange, it will normally be a condition of maintaining its listing that it obtains authorisation from the Commission under the Code and pursuant to section 104 of the Securities and Futures Ordinance not later than the time at which it becomes a mutual fund.

21.13 The Listing Agreement for an investment company will state that the provisions of Chapter 14 will not apply to investment companies save for rules 14.06(3), 14.06(4), 14.34 to 14.37, 14.40 to 14.47, 14.48 to 14.53 (for very substantial disposals), 14.58, 14.60 to 14.63, 14.66 to 14.68, 14.70 to 14.77, 14.85 and 14.86~~14.09, 14.10, 14.11, 14.23 to 14.34, 14.37 and 14.38~~. For the purposes of rule 14~~A.13~~^{A.13}~~23~~, any investment manager, investment adviser or custodian (or any connected person thereof) shall be regarded as a connected person of the issuer.