

**HKEX GUIDANCE LETTER
HKEX-GL109-20 (November 2020)**

Subject	Guidance on continuing obligations of authorised collective investment schemes (“CISs”) listed under Chapter 20 of the Main Board Listing Rules
Listing Rules	Main Board Chapter 20 and Part G of Appendix 7

Important note: *This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Division on a confidential basis for an interpretation of the Listing Rules or this letter.*

I. Purpose

1. This letter provides guidance to CIS issuers on their continuing obligations under the Listing Rules. This letter reflects guidance set out in the Exchange’s letter to issuers of 23 November 2009 (withdrawn).

II. Background and relevant Listing Rules

2. The primary authority for regulating CISs that are offered to the public in Hong Kong is the Securities and Futures Commission authorisation and its various Codes applicable to CISs. The Commission is the authority for monitoring compliance with these authorisation conditions and applicable Codes. The Exchange’s role in CIS regulation is primarily to maintain, as far as practicable, a fair and orderly market in the trading of CISs.
3. Every CIS is required to sign a Listing Agreement (in the form prescribed in Part G of Appendix 7 of the Listing Rules) with the Exchange by which it undertakes to comply with the continuing obligations to which it will be subject as a condition of the listing of the CIS interests. The major continuing obligations for CISs under the Listing Agreement are:
 - (a) disclosure of any information necessary to enable the holders of interests to appraise the position of the CIS and to avoid the establishment of a false market in the interests in the CIS;
 - (b) prompt response to enquiries made of it by the Exchange including those concerning unusual movements in the price or trading volume of the CIS’s listed interests or any other matters by giving such relevant information as is available to it or by issuing a “no-knowledge” statement; and

- (c) filing and forwarding of the specified number of copies of its corporate disclosure materials (e.g. circulars, notices, annual reports etc.) to the Exchange and authorising the Exchange to file these materials with the Commission under the Securities and Futures (Stock Market Listing) Rules.

III. Guidance

4. In light of the above, generally speaking, only the following sections of the Listing Rules are applicable to CISs:
 - Chapter 1
 - Chapter 2 (other than Rules 2.07A, 2.07B, 2.09 – 2.11, 2.15-2.17)
 - Chapter 2A
 - Chapter 2B
 - Chapter 6 (other than Rules 6.11 – 6.16)
 - Chapter 20
 - Practice Note 1
 - Practice Note 8
 - Practice Note 11
 - Appendix 5 - Form C3
 - Appendix 7G
 - Appendix 8
 - Appendix 24
5. Nevertheless the Listing Rules are not meant to be exhaustive and in appropriate circumstances the Exchange may waive, modify or not require compliance with the Listing Rules or impose additional requirements in individual cases to suit individual circumstances.
6. The Exchange and the Commission jointly issued a “Circular to Management Companies of SFC-authorized Exchange Traded Funds (“ETFs”)(Revised as of 17 December 2018)” to assist management companies of ETFs to comply with the disclosure obligations under the Code on Unit Trusts and Mutual Funds and the Listing Agreement for CISs (see Appendix).



Revised as of 17 December 2018

**Circular to Management Companies of
SFC-authorized Exchange Traded Funds (“ETFs”)¹**

List of Potential Events Triggering Ongoing Disclosure

1. Under 11.1B of the Code on Unit Trusts and Mutual Funds (“UT Code”), management companies should provide holders with reasonable prior notice, or inform holders as soon as reasonably practicable of any information concerning the scheme which is necessary to enable holders to appraise the position of the scheme.
2. Under the Listing Agreement for Collective Investment Schemes set out in Part G of Appendix 7 to the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited, a scheme shall inform the Exchange immediately of, among other things, any other information necessary to enable the holders of interests to appraise the position of the scheme and to avoid the establishment of a false market in the interests of the scheme.
3. To assist management companies of ETFs to comply with the disclosure obligations under the UT Code and Listing Agreement and without prejudice to the notification obligation under 11.1A of the UT Code, the following are non-exhaustive examples of events that may trigger the above on-going disclosure requirements where any of them would have a **material** impact on an ETF:
 - (a) Changes falling within 11.1 or 11.1B of the UT Code;

Note: This includes, for example, changes in the replication strategy of the ETF; changes in the collateral policy from that disclosed in the offering document of the ETF; and changes in the financial conditions or the regulatory status of the key operators of the ETF.
 - (b) Filing of winding up petitions, the issuing of winding up orders or the appointment of receivers or provisional liquidators, or the institution of disciplinary proceedings in respect of its licence or registration to conduct any regulated activity, or proceedings analogous to the above, against any of the trustee, custodian, or management company;
 - (c) Replacement of the underlying index or indices, or changes of the index calculation methodology;
 - (d) Litigation brought against the ETF or any of the trustee, custodian, or management company;

¹ Unless otherwise specified, the term “ETF” used in this circular shall cover passive ETF, active ETF, leveraged product, inverse product and fund with listed share class.

- (e) Where the ETF adopts a synthetic replication strategy:
- (i) default of any derivative instruments held by the ETF,
 - (ii) filing of winding up petitions, the issuing of winding up orders or the appointment of receivers or provisional liquidators against any derivative counterparty or guarantor of such counterparty, or
 - (iii) any material adverse change in the financial conditions or business of any derivative counterparty or guarantor of such counterparty;
- Note: This may, for example, include any credit downgrade or any change in the concentration of the default risks of the counterparties to products used by the derivative counterparty or its guarantor that could result in a material adverse change in the financial conditions or business of such derivative counterparty or guarantor of the ETF.*
- (f) the cessation of market making activity (including the resignation of the last market maker) for units (traded in any counter) of the ETF;
 - (g) Suspension of creation and / or redemption of units in the ETF;
 - (h) Changes in tax or regulatory requirements that may impact upon the net asset value of the ETF; or
 - (i) Material breaches of the constitutional documents of the ETF.
4. Please note that the obligations to disclose information depend upon the facts of each case and as the management company of the ETF, you have the duty and should make your own judgements as to what and when such information is required to be disclosed. The above examples are not meant to be exhaustive.
5. You are welcome to contact the relevant case officer of the SFC and the HKEX should you have any questions on the above.