

15 November 2022

### **Mutual Recognition of Funds (MRF) between Thailand and Hong Kong**

1. The Securities and Futures Commission (SFC) and the Securities and Exchange Commission of Thailand (SEC) signed a Memorandum of Understanding concerning Mutual Recognition of Covered Funds and Covered Management Companies and related cooperation (Memorandum) on 20 January 2021 (as amended from time to time).
2. In this circular, Thai domiciled funds that are eligible for SFC authorisation and/or have received SFC authorisation under the MRF are denoted as “Thai Covered Funds” while Thai management companies that are eligible to manage Thai Covered Funds are denoted as “Thai Covered Management Companies”.

### **General principles**

3. MRF operates on the principles that, in respect of a Thai Covered Fund that has been approved by the SEC and is seeking or has received authorisation for offering to the public in Hong Kong:
  - (a) the Thai Covered Fund shall meet the eligibility requirements in accordance with this circular and comply with all of the applicable requirements set out in this circular (see below);
  - (b) the Thai Covered Fund shall remain approved by the SEC and be allowed to be offered, marketed and distributed to the retail investors in Thailand;
  - (c) the Thai Covered Fund shall operate and be managed in accordance with the relevant laws and regulations in Thailand and its constitutive documents;
  - (d) the sale and distribution of units of the Thai Covered Fund in Hong Kong shall comply with the applicable laws and regulations in Hong Kong;
  - (e) where relevant, the Thai Covered Fund and the Thai Covered Management Company shall comply with the additional rules released by the SFC governing the authorisation, post-authorisation and ongoing compliance in the context of the offering, marketing and distribution of units of the Thai Covered Fund to the public in Hong Kong;
  - (f) the Thai Covered Management Company of the Thai Covered Fund shall ensure investors in both Thailand and Hong Kong receive fair treatment, including in respect of investor protection, exercise of rights, compensation and disclosure of information; and there must be no arrangements which provide an advantage for investors in Hong Kong or Thailand that would result in prejudice to investors in the other jurisdiction, and vice versa; and
  - (g) ongoing disclosure of information on the Thai Covered Fund shall be made available to investors in Thailand and Hong Kong at the same time (so far as is reasonably practicable given the different time zones and public holidays of the jurisdictions).

4. In general, funds that are seeking SFC authorisation or have received SFC authorisation for offering to the public in Hong Kong pursuant to Section 104 of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) (SFO) must comply with the SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products (SFC Handbook) and the circulars, guidelines and other requirements as may be issued by the SFC from time to time (together with the SFO, the relevant Hong Kong laws and regulations). On the basis of the principles set out above, if a Thai Covered Fund complies with the relevant Thai laws and regulations and the conditions as set out in this circular, it is generally deemed to have complied in substance with the relevant Hong Kong laws and regulations and will enjoy a streamlined process of authorisation for offering to the public in Hong Kong.
5. In view of the differences between the Hong Kong and the Thai regulatory regimes, and to ensure proper investor protection and consistency with the existing Hong Kong regime for authorised retail funds, this circular sets out the additional requirements with which a Thai Covered Fund must comply when applying for SFC authorisation pursuant to Section 104 of the SFO for offering its units to the public in Hong Kong, as well as other requirements which a Thai Covered Management Company and a Thai Covered Fund must observe after obtaining SFC authorisation. The SEC will issue a separate circular which sets out the eligibility and ongoing requirements, as well as SEC rules, which a Hong Kong Covered Fund and/or Hong Kong Covered Management Company<sup>1</sup> must satisfy when seeking approval for public offerings of units/shares of the Hong Kong Covered Fund in Thailand from the SEC pursuant to Sections 57, 65, 69, and 72 of Securities and Exchange Act B.E. 2535 (SEA).

### Eligibility requirements and types of eligible funds

6. The eligibility requirements (Eligibility Requirements) are set out in Annex B to this circular.
7. Thai Covered Funds applying for SFC authorisation must fall within one or more than one of the following eligible fund types<sup>2</sup>:
  - (a) general equity funds<sup>3</sup>, bond funds and mixed funds;
  - (b) feeder funds, where underlying fund is not itself a feeder fund and falls within one of the fund types in paragraphs 7(a), 7(c) and 7(d), and complies with the requirements in this circular;
  - (c) unlisted index funds; and

Amended

<sup>1</sup> "Hong Kong Covered Fund" means a Hong Kong domiciled fund that is eligible for SEC approval and/or has received SEC approval under the MRF and "Hong Kong Covered Management Company" means a Hong Kong management company that is eligible to manage Hong Kong Covered Funds.

<sup>2</sup> Please note that these are not legally defined categories. They have no statutory legal meaning but are merely indications. For the avoidance of doubt, the eligible fund types of Thai Covered Funds classified by Thai laws and regulations are defined in Annex C to this circular.

<sup>3</sup> For the avoidance of doubt, the eligible fund types under paragraph 7(a) of this circular also include funds of (i) listed real estate investment trusts; (ii) listed property funds; (iii) listed infrastructure funds, or some combination thereof, pursuant to the definition of "Alternative Investment Fund" under the Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds (as amended) provided that the funds comply with the requirements in this circular.

- (d) passively managed index tracking exchange-traded funds (ETFs) including physical gold ETFs<sup>4</sup>.

The SFC and SEC may consider extending the MRF to include other types of funds in future in accordance with the Memorandum.

8. The Thai Covered Management Company of a Thai Covered Fund that is seeking SFC authorisation must indicate to the SFC the fund type within which the Thai Covered Fund belongs pursuant to paragraph 7 above. All Thai Covered Funds must comply with the requirements set out under the “Requirements applicable to all Thai Covered Funds” section below, as well as the relevant requirements set out under the “Requirements applicable to each specific type of Thai Covered Funds” section below.

### **Requirements applicable to all Thai Covered Funds**

9. To ensure proper investor protection and consistency with the existing Hong Kong regime for authorised retail funds, all Thai Covered Funds are required to comply with requirements set out in paragraphs 10 – 42 below, as well as the relevant requirements as set out in Annex A to this circular. The following paragraphs are without prejudice to the requirements of Thai domestic laws which may also apply to Thai Covered Funds and Thai Covered Management Companies.

#### *Representatives in Hong Kong*

10. Each Thai Covered Fund must appoint a firm in Hong Kong as its representative in compliance with Chapter 9 and 11.1(b) of the Code on Unit Trusts and Mutual Funds (UT Code).

#### *Operational and ongoing requirements*

##### Home jurisdiction supervision

11. The Thai Covered Fund must, on an ongoing basis, remain approved by the SEC for offering its units to the public in Thailand. The Thai Covered Management Company of the Thai Covered Fund must also remain licensed by the Ministry of Finance upon the recommendation from the SEC to manage collective investment schemes (CIS) in accordance with Section 90 of the SEA. Both the Thai Covered Fund and its Thai Covered Management Company must be subject to ongoing regulation and supervision by the SEC.

##### Jurisdiction

12. The Thai Covered Management Company shall ensure and procure its distributors to ensure that Hong Kong investors are able to bring actions concerning the Thai Covered Fund and the Thai Covered Management Company in the courts of Hong Kong.

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<sup>4</sup> Physical gold invested by such gold ETFs must possess a standard and fineness recognized by the London Bullion Market Association.

### Changes to Thai Covered Funds

13. No change shall be made to a Thai Covered Fund resulting in non-compliance with the Eligibility Requirements set out in Annex B to this circular. If the SEC is aware of such change, it will notify the SFC as soon as possible.
14. Changes to a Thai Covered Fund must be made in accordance with the applicable Thai laws and regulations and the provisions of its constitutive documents<sup>5</sup>. Changes to a Thai Covered Fund shall not contravene the applicable Thai laws and regulations and the requirements set out in this circular.
15. These changes shall be effective upon approval by the SEC or compliance with the appropriate procedures.
16. However, changes that affect Hong Kong investors only and revisions made to the offering documents of a Thai Covered Fund relating to such changes should be made in accordance with the requirements under the relevant Hong Kong and Thai laws and regulations. Prior consultation with the SFC and SEC concerning such changes is encouraged.
17. The Thai Covered Management Company shall ensure that the SFC is informed of any change filed with or approved by the SEC in respect of a Thai Covered Fund authorised by the SFC in Hong Kong as soon as possible and in any event within one week (so far as is reasonably practicable given the different time zones and public holidays of the jurisdictions) from the date of filing with or approval by the SEC.
18. The SEC will confirm to the SFC that the Thai Covered Fund effecting (i) changes by way of holders' approval; (ii) change of trustee/custodian<sup>6</sup>; and (iii) change of investment delegate continues to meet the Eligibility Requirements set out in Annex B to this circular.
19. Investors in Thailand and Hong Kong must be notified at the same time (so far as is reasonably practicable given the different time zones and public holidays of the jurisdictions) about any changes to the Thai Covered Fund by the Thai Covered Management Company. Equal treatment should be given to investors in both jurisdictions in terms of the form which that notice takes<sup>7</sup>.
20. For avoidance of doubt, changes that render the Thai Covered Fund ineligible under this MRF (for example – the fund changes strategy and this fund no longer meets the eligible fund type definition) must be notified to the SEC and SFC as soon as possible, and subject to paragraph 22, an application for withdrawal of authorisation of the fund is expected to be submitted to the SFC.

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<sup>5</sup> For the avoidance of doubt, change in entity to which the Thai Covered Management Company delegates the investment management function of the Thai Covered Fund under its management is subject to SEC's prior approval.

<sup>6</sup> The trustee/custodian of Thai Covered Fund generally refers to the mutual fund supervisor of Thai Covered Fund.

<sup>7</sup> To the extent there are requirements on minimum notice period and content of or template for notice to Hong Kong investors under relevant Hong Kong laws and regulations, the Thai Covered Funds should comply with these requirements and ensure that investors in Thailand and Hong Kong receive equal treatment in terms of the notice period and information disclosed.

### Breach

21. In the event of a material breach of Thai domestic laws and regulations or the requirements set out or referred to in this circular, the Thai Covered Management Company must endeavour to notify the SEC and SFC at the same time and rectify the breach promptly. The Thai Covered Management Company will notify the SFC once the breach has been rectified.
22. Following SFC authorisation of a Thai Covered Fund under Section 104 of the SFO, if a Thai Covered Fund ceases to meet the requirements as set out in this circular, its Thai Covered Management Company must notify the SFC immediately. The units of Thai Covered Fund must not continue to be offered to the public in Hong Kong and the Thai Covered Fund must not accept subscriptions from investors in Hong Kong, without SFC's prior approval.

### Withdrawal of authorisation

23. Following SFC authorisation of a Thai Covered Fund, if its Thai Covered Management Company no longer wishes to maintain the authorisation of the fund, it should apply for withdrawal of authorisation of the fund from the SFC and provide notice to Hong Kong investors of its intention not to maintain such authorisation in accordance with the relevant Hong Kong laws and regulations.
24. The SFC may at any time review a Thai Covered Fund's authorisation and may modify, add to or withdraw any of the conditions of such authorisation, or withdraw the authorisation, as it considers appropriate.

### *Sale/distribution, offering documents, ongoing disclosure and advertisements*

#### Sale/distribution

25. The sale and distribution of units of a Thai Covered Fund in Hong Kong must be conducted by intermediaries properly licensed by or registered with the SFC and must comply with the relevant Hong Kong laws and regulations relating to the sale and distribution of units/shares of funds.

#### Offering documents

26. The disclosure of information relating to a Thai Covered Fund must be complete, accurate, fair, clear, and effective. It must be capable of being easily understood by investors.
27. The offering documents of a Thai Covered Fund must be up-to-date and contain information necessary for investors to be able to make an informed judgement of the investment proposed to them.
28. A Thai Covered Fund may use the prospectus approved by the SEC. Unless otherwise provided for in this circular, matters such as the type of documents, content, format, frequency of update and the updating procedures must comply with the applicable Thai laws and regulations and the provisions of its constitutive documents. The SEC-approved prospectus may be supplemented by a Hong Kong covering document to comply with the disclosure requirements set out in Annex A to

this circular<sup>8</sup>. The prospectus should also disclose any other information which may have a material impact on investors in Hong Kong. The offering documents and the Hong Kong covering document shall not contain any information that would be inconsistent with the offering documents approved by the SEC and/or inaccurate/misleading regarding the Thai Covered Fund.

29. The Thai Covered Management Company of a Thai Covered Fund must take reasonable steps and measures to ensure that any updated offering documents and their changes are made available to investors in Thailand and Hong Kong at the same time (so far as is reasonably practicable given the different time zones and public holidays of the jurisdictions). The revised offering documents of a Thai Covered Fund shall be filed with the SFC as soon as possible and in any event within one week after the revised offering documents have received SEC's approval or are filed with the SEC<sup>9</sup>.

#### Ongoing disclosure

30. The Thai Covered Management Company of a Thai Covered Fund must take reasonable steps and measures to ensure that the ongoing disclosure of information of the Thai Covered Fund (including periodic financial reports, notices and announcements) is despatched and made available to investors in Thailand and Hong Kong at the same time (so far as is reasonably practicable given the different time zones and public holidays of the jurisdictions) and, in the case of suspension of dealings, immediately notify the SFC. A Thai Covered Fund must comply with the requirements set out in Annex A to this circular and, on an ongoing basis, disclose any other information which may have a material impact on investors in Hong Kong. The ongoing disclosure should be filed with the SFC as soon as possible and in any event within one week after it has received SEC's approval or is filed with the SEC.
31. Subject to paragraph 33, a Thai Covered Fund may use its Thai financial reports as the basis for distribution in Hong Kong, provided that the reports are supplemented by the additional information and meet the other requirements set out in Annex A to this circular.

#### Language

32. The offering documents and notices to Hong Kong investors of a Thai Covered Fund must be provided in English and Chinese.
33. The constitutive documents and financial reports of a Thai Covered Fund must be made available to Hong Kong investors in either English or Chinese. The language in which these documents are made available to Hong Kong investors should be clearly disclosed in the offering documents.

#### Advertising

34. All advertisements in relation to a Thai Covered Fund of which the units are offered for sale in Hong Kong must comply with the relevant Hong Kong laws and

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<sup>8</sup> A disclosure requirement in Annex A to this circular would be considered met if the relevant disclosure is already included in the prospectus approved by the SEC. The Thai Covered Fund does not need to duplicate the disclosure in the Hong Kong covering document.

<sup>9</sup> For avoidance of doubt, revisions made to the Hong Kong covering document shall be filed with the SFC as soon as possible and in any event within one week from the date of issuance.

regulations, in particular, the Advertising Guidelines Applicable to Collective Investment Schemes Authorised under the Product Codes<sup>10</sup>.

### Fees

35. For offering to the public in Hong Kong, the Thai Covered Fund/Thai Covered Management Company will be subject to the applicable (i) application, (ii) authorisation and (iii) annual fees. The Thai Covered Management Company must ensure that any SFC invoiced fees in respect of the Thai Covered Fund are paid.

### **Requirements applicable to each specific type of Thai Covered Funds**

36. In general, the SFC will deem a Thai Covered Fund to have complied substantially with the requirements of the UT Code. There are, however, requirements with which each specific type of Thai Covered Funds must comply. Please refer to Annex A to this circular for details.

### **Application process**

37. The SFC understands that this marks the first time Thai Covered Funds may seek authorisation from the SFC. The SFC therefore encourages applicants to consult the Investment Products Division early for any clarification or guidance as to how the relevant requirements may apply and be complied with in light of their specific circumstances.
38. The SFC may issue other circulars, frequently asked questions and other documents from time to time to provide practical guidance to the industry. Please refer to the SFC's website or contact the Investment Products Division.
39. Applicants shall request the SEC to provide directly to the SFC a certificate confirming that the Eligibility Requirements listed in Annex B to this circular are met. The SFC will not be able to take up an application if no such certificate is received from the SEC. Further details of the MRF application process for a Thai Covered Fund seeking authorisation from the SFC are set out in the Information Checklist, which will be available at the SFC's website upon implementation of the MRF arrangement.
40. Upon receipt of the application documents, the SFC will have five working days to assess that all application documents have been duly and properly submitted.
41. The SFC will thereafter grant authorisation to a Thai Covered Fund for offering, marketing and distribution of its units to the public in Hong Kong within 21 calendar days provided that the Thai Covered Fund meets all the applicable requirements set out in this circular and all outstanding issues have been addressed to the satisfaction of the SFC.
42. The SFC may refuse the application if outstanding issues are not addressed to the satisfaction of the SFC within 21 calendar days.

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<sup>10</sup> <https://www.sfc.hk/web/EN/rules-and-standards/codes-and-guidelines/guidelines/>



## **Implementation**

43. The SFC and SEC will endeavour to take all actions necessary to implement the MRF arrangement within 6 to 12 months following the signing of the Memorandum and will publish separate announcements informing the industry of the effective implementation of the arrangement.

## **Investment Products Division Securities and Futures Commission**



## Annex A

### **Requirements in the Overarching Principles Section of the SFC Handbook (Overarching Principles Section) and UT Code to be complied with by all Thai Covered Funds<sup>11</sup>**

	<b>Relevant provisions in the Overarching Principles Section and UT Code</b>
<b>1. General requirements</b>	
Mention of SFC authorisation	1.10 of the Overarching Principles Section
Naming of a Thai Covered Fund	5.1 and 5.2 of the Overarching Principles Section
Availability of constitutive documents	5.10(c) of the UT Code
Jurisdiction	9.10 of the UT Code

<b>2. Operational requirements</b>	
Scheme documentation	6.2 – 6.5 of the UT Code
Member register	6.8 of the UT Code
Pricing, issue and redemption of units	Note 1 to 6.11A, 6.13 and 6.14 of the UT Code
Fees	6.16 – 6.18 of the UT Code
Pricing errors	10.2A of the UT Code
Suspension of dealings	10.7 of the UT Code

<b>3. Disclosure requirements in relation to offering documents</b>	
Language	5.6 of the Overarching Principles Section
Product key facts statement	6.5 – 6.8 of the Overarching Principles Section and 6.2A of the UT Code
Use of disclaimers	6.12 of the Overarching Principles Section
Enquiries and complaints handling	7.4 of the Overarching Principles Section
Information to be disclosed in the offering document	Appendix C to the UT Code, except for C5, C6, C11 and C17

<sup>11</sup> For the avoidance of doubt, Thai Covered Funds and the Thai Covered Management Companies should also comply with the Frequently Asked Questions (FAQs) on Thailand-Hong Kong Mutual Recognition of Funds which will be available upon implementation of the MRF arrangement and other relevant FAQs issued by the SFC from time to time, including, FAQs on Advertising Materials of Collective Investment Schemes Authorized under the Product Codes, FAQs on the Code on Unit Trusts and Mutual Funds and FAQs on Post Authorization Compliance Issues of SFC-authorized Unit Trusts and Mutual Funds.

<b>4. Disclosure and reporting requirements</b>	
Notice to holders	11.1A (notice period), 11.1B (notice period) of the UT Code, 11.2 (bilingual notice and notice period for unitholder meetings), 11.2A and 11.2B of the UT Code
Withdrawal of authorisation	11.4 of the UT Code
Merger or termination	11.5 of the UT Code
Reporting requirements	11.6 (notification of availability of financial reports), 11.7 and 11.8 of the UT Code
Other documents to be made available to Hong Kong investors as specified in the offering documents	Upon request by investors, specific information regarding these documents should be made available to Hong Kong investors in English or Chinese. Information regarding how investors can make such information requests should also be clearly disclosed in the Hong Kong offering documents.

<b>5. Disclosure requirements in relation to financial reports</b>	
Contents of financial reports	Appendix E to the UT Code <sup>12</sup>

***Requirements in the UT Code to be complied with by each specific type of Thai Covered Funds***

	<b>Relevant provisions in the UT Code</b>
Feeder funds	7.12(a) – (e) of the UT Code
Unlisted index funds	8.6(a)(c) – (b), 8.6(d) – (f), 8.6(j) – (k), 8.6(m) of the UT Code <sup>13</sup>
Funds that invest extensively in financial derivative instruments	8.9(j) of the UT Code
Passively managed index tracking ETFs	Requirements applicable to unlisted index funds as set out above 8.6(o) – (x) of the UT Code

*Note:* The relevant Hong Kong rules and regulations specified in this Annex represent the requirements to be complied with by Thai Covered Funds.

<sup>12</sup> Financial reports must be prepared in compliance with internationally recognized accounting standards, including Hong Kong Financial Reporting Standards or International Financial Reporting Standards or such other accounting standards acceptable to the SFC.

<sup>13</sup> 8.6(c)(a) of the UT Code is not applicable as structured funds under 8.8 of the UT Code are not eligible for the MRF arrangement.

## Annex B

### Eligibility Requirements

#### Thai Covered Fund

1. The Thai Covered Fund must be established, domiciled and managed in accordance with Thai laws and regulations and its constitutive documents. It must be a CIS which is formally approved by the SEC in accordance with Section 117 of the SEA.
2. The Thai Covered Fund applying for SFC authorisation must fall within one or more than one of the following eligible fund types<sup>14</sup>:
  - (a) general equity funds<sup>15</sup>, bond funds and mixed funds;
  - (b) feeder funds, where underlying fund is not itself a feeder fund and falls within one of the fund types in paragraphs 2(a), 2(c) and 2(d) of this Annex and complies with the requirements in paragraph 4(a) of this Annex;
  - (c) unlisted index funds; or
  - (d) passively managed index tracking ETFs including physical gold ETFs<sup>16</sup>.
3. The Thai Covered Fund's net exposure<sup>17</sup> resulting from the investment in derivatives must not exceed 100% of the fund's net asset value (NAV), as defined in Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds.
4. The Thai Covered Fund is subject to the following investment restrictions in respect of its investment in funds:
  - (a) the underlying funds may be Thai-domiciled funds (including ETFs) that are approved by the SEC and comply with the requirements in this circular;
  - (b) the underlying funds may be UCITS schemes (including ETFs) domiciled in Luxembourg and Ireland, and CIS domiciled in the UK authorised as UK UCITS;

Amended

<sup>14</sup> Please note that these are not legally defined categories. They have no statutory legal meaning but are merely indications. For the avoidance of doubt, the eligible fund types of Thai Covered Funds classified by Thai laws and regulations are defined in Annex C to this circular.

<sup>15</sup> For the avoidance of doubt, the eligible fund types under paragraph 2(a) of this Annex also include funds of (i) listed real estate investment trusts; (ii) listed property funds; (iii) listed infrastructure funds, or some combination thereof, pursuant to the definition of "Alternative Investment Fund" under the Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds (as amended) provided that the funds comply with the requirements in this circular.

<sup>16</sup> Physical gold invested by such gold ETFs must possess a standard and fineness recognized by the London Bullion Market Association.

<sup>17</sup> Such exposure limit should be calculated using commitment approach as prescribed in Notification of the Office of the Securities and Exchange Commission No. Sor. Nor. 92/2558 Re: Additional Regulation for a fund Investing in Derivatives and Structured Note.

- (c) the Thai Covered Fund may invest up to 10% of its NAV in unlisted funds<sup>18</sup> not falling within paragraphs 4(a) and 4(b) above;
  - (d) the Thai Covered Fund may have indirect exposure to restricted assets<sup>19</sup> via its investment in underlying funds falling within paragraphs 4(b) and 4(c) above not exceeding 20% of the Thai Covered Fund's NAV;
  - (e) investment in any single listed real estate investment trusts, single listed property funds, or single listed infrastructure funds must not exceed 10% of the Thai Covered Fund's NAV; and
  - (f) investment in any single ETF other than those set out in paragraphs 4(a) and 4(b) above must not exceed 10% of the Thai Covered Fund's NAV.
5. The Thai Covered Fund must not directly invest in digital assets<sup>20</sup> in any form, save for any indirect exposure via underlying funds as permitted in paragraph 4 above.
6. The Thai Covered Fund must not engage in a physical short sale transaction.
7. The Thai Covered Fund is subject to an aggregate limit of 10% of its NAV in respect of borrowings or engaging in repurchase transactions (including direct and indirect exposure via investment in underlying funds falling within paragraphs 4(a), 4(b) and 4(c) above), on a temporary basis for the purpose of liquidity management.

Amended

#### Thai Covered Management Company

- 8. The Thai Covered Fund must be managed by a Thai Covered Management Company that is licensed by the Ministry of Finance upon the recommendation from the SEC to manage CIS in accordance with Section 90 of the SEA.
- 9. The Thai Covered Management Company of a Thai Covered Fund must not have been the subject of any major regulatory or enforcement actions (i.e. the suspension of the Thai Covered Management Company's licence by the SEC pursuant to Sections 142 and 143 of the SEA) by the SEC in the past three years or, if it has been established for less than three years, since the date of its establishment.
- 10. The Thai Covered Management Company of a Thai Covered Fund may delegate the investment management functions to any entity, provided that such delegation is accepted under the Thai laws and regulations<sup>21</sup> for Thai CIS approved for public offering, the Thai Covered Management Company remains responsible for any action

<sup>18</sup> Such unlisted funds must be under supervision of a regulator who is a member of the International Organization of Securities Commission (IOSCO) and a signatory to the IOSCO Multilateral Memorandum of Understanding.

<sup>19</sup> Restricted assets include loan participation, loan assignment, digital assets, writing of credit default swap protection and writing of credit derivative. The list of restricted assets is available at: <https://www.sec.or.th/TH/Pages/LawandRegulations/MutualRecognitionFunds.aspx>. Additions or removals of restricted assets set out therein are subject to prior consultation of the SFC.

<sup>20</sup> Digital assets are such as cryptocurrencies, utility tokens, investment tokens and certificates representing the assets referred to digital assets, and other assets of essentially the same nature.

<sup>21</sup> The legal framework regarding the delegation of functions by a Thai management company is laid down in Notification of the Capital Market Supervisory Board No. Tor. Thor. 60/2561 Re: Rules, Conditions and Procedures for Outsourcing Function related to Business Operation to Third Party.



of its delegate(s), and such delegate operates in one of the acceptable inspection regimes recognized under 5.1 of the UT Code<sup>22</sup>.

#### Thai Covered Fund's trustee/custodian

11. The Thai Covered Fund must have a trustee/custodian that qualifies to act as mutual fund supervisor for Thai CIS approved for public offering.

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<sup>22</sup> The list of acceptable inspection regimes are available at: <https://www.sfc.hk/web/EN/regulatory-functions/products/list-of-publicly-offered-investment-products/list-of-recognised-jurisdiction-schemes-and-inspection-regimes.html>

**Annex C**  
**Types of Thai Covered Funds**

Labelling of Thai mutual fund	Determination by type of asset class invested by mutual fund	Covered under the MRF arrangement
Equity Fund	1.1 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Fixed Income Fund	1.2 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Alternative Investment Fund <sup>23</sup>	1.3 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Mixed Fund	1.4 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓

*Amended*

<sup>23</sup> For the avoidance of doubt, the eligible fund types include Thai alternative investment funds that are (1) funds of (i) listed real estate investment trusts; (ii) listed property funds; (iii) listed infrastructure funds, or some combination thereof; and (2) physical gold ETF in paragraph 7(d) of this circular, pursuant to the definition of "Alternative Investment Fund" under the Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds (as amended) provided that the funds comply with the requirements in this circular.

Labelling of Thai mutual fund	Determination by Special Characteristics of mutual fund	Covered under the MRF arrangement
Money Market Fund	2.1 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	X
Capital Protected Fund	2.2 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	X
Sector Fund <sup>24</sup>	2.3 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Fund of Funds	2.4 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Feeder Fund	2.5 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓

<sup>24</sup> For the avoidance of doubt, only Thai property sector fund that invests at least 80% of its NAV in shares of listed real estate / property companies and complies with the requirements in this circular is included in the eligible fund types.

Labelling of Thai mutual fund	Determination by Special Characteristics of mutual fund	Covered under the MRF arrangement
Long Term Equity Fund	2.6 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	X
Gold Fund <sup>25</sup>	2.7 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Index Fund	2.8 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Exchange Traded Fund	2.9 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Retirement Mutual Fund	2.10 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	X
Guarantee Fund	2.11 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	X
Country Fund	2.12 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	X
Vayupak Fund	2.13 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	X
Super Savings Fund	2.14 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	X

<sup>25</sup> For the avoidance of doubt, only Thai gold ETF that invests in physical gold possessing a standard and fineness recognized by the London Bullion Market Association and complies with the requirements in this circular is included in the eligible fund types.



Labelling of Thai mutual fund	Determination by risks concerning foreign countries by mutual fund	Covered under the MRF arrangement
Mutual fund focusing on investments <u>with foreign risk</u>	3.1 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Mutual fund which its investment possessed <u>no foreign risks</u>	3.2 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓
Mutual fund which its investment possessed <u>both local and foreign risks</u>	3.3 of Division 2, Appendix 2 of Notification of the Capital Market Supervisory Board No. Tor Nor. 87/2558 Re: Investment of Funds	✓