



SECURITIES AND  
FUTURES COMMISSION  
證券及期貨事務監察委員會

# Revamped Fund Authorization Process

13 & 20 October 2015

Investment Products

# Agenda

- **Launch of SFC's revamped fund authorization process**
- **Background**
- **Key components of the revamped process**
- **Some practical guidance for preparation of new fund applications**
- **Implementation**
- **Q&A**



# Launch of SFC's revamped fund authorization process

- **SFC announced the launch of the pilot revamped fund authorization process (“Revamped Process”) on 9 October 2015**
- **Documents published by the SFC:**
  - Press release
  - Circular to management companies of SFC-authorized unit trusts and mutual funds - Launch of pilot revamped fund authorization process
  - Guide on Practices and Procedures for Application for Authorization of Unit Trusts and Mutual Funds (“Guide”)
  - A new Information Checklist for Application for Authorization of Unit Trusts and Mutual Funds under the Revamped Process (For new fund applications received on or after 9 November 2015) (“New Information Checklist”)
  - Frequently Asked Questions on Application Procedures for Authorization of Unit Trusts and Mutual Funds under the Revamped Process (For new fund applications received on or after 9 November 2015)

# Background

## Existing application lapse policy

- Jan 2014 – Adopted a revised application lapse policy of 6 months
- Since adoption of the 6-month revised application lapse policy (“Application Lapse Policy”):
  - Average processing time was decreased by about 38% to less than 4.5 months on average while the number of funds authorized by the SFC increased by more than a third

## Rationale for the Revamped Process

- Promote fund providers’ self-compliance and reduce overall processing time without compromising investor protection
- More efficient use of SFC’s regulatory resources
- To meet fund provider’s wish to reduce the “time to market” of their funds for public offering
- Enhance competitiveness of Hong Kong as an international asset management centre
- Uphold investor protection in Hong Kong and no compromise on standards



# Background (cont'd)

- **Formulation of the Revamped Process**

- After due and careful consideration by the SFC
- Engagement with the industry for the enhanced initiative
- Advice from technical working group established in June 2015 comprising industry stakeholders in:
  - (i) devising a set of minimum disclosure requirements for offering documents and a set of minimum compliance requirements for relevant constitutive documents; and
  - (ii) compiling the Guide and the New Information Checklist

- **SFC's expectation to further reduce the processing time**

- Well-prepared and quality applications which are in compliance with the applicable regulatory requirements at the time of submission
- Co-operation and commitment from the applicants to put in place adequate and dedicated internal resources throughout the application process is expected by the SFC to enhance the overall authorization process



# Key components of the Revamped Process

- **A “two-stream” approach – “Standard Applications” & “Non-standard Applications”**
- **SFC’s revised performance pledges & response timeframe as required by applicants**
- **Authorization with conditions & post-vetting by the SFC**
- **Publication of the new Guide to facilitate applicants’ preparation of quality applications/submissions**
- **A New Information Checklist with standardized templates for confirmations on compliance**



# Key components of the Revamped Process (cont'd)

- **“Two-stream” approach in processing new fund applications**
  - **Standard Applications:** will be fast-tracked with an aim that SFC’s authorization (if granted) will be given on average between 1 to 2 months
  - **Non-standard Applications:** to be processed under an enhanced process with an aim that SFC’s authorization (if granted) will be given on average between 2 to 3 months
- **SFC’s revised performance pledges**
  - A **5-business day** take-up period to allow a more thorough initial screening: sub-standard / non-compliant applications will be returned and will not be taken-up
  - SFC to provide response / issue first requisition letter within **14 business days** after the take-up date
- **Response timeframe for applicants to provide proper, complete and substantive response to SFC’s requisition(s)**
  - **Standard Applications:** within **1 month** from SFC’s first requisition letter (if issued)
  - **Non-standard Applications:** within **14 business days** from SFC’s first requisition letter and **10 business days** from all SFC’s subsequent requisition(s), if any
  - Applicants’ duty to ensure quality and timely turn-around submissions
- **Refusal of applications (on time and/or merit)**
  - Refusal of applications by the SFC upon failure to meet response time limit(s) and/or non-compliance with any key requirements
  - The Application Lapse Policy will continue to apply

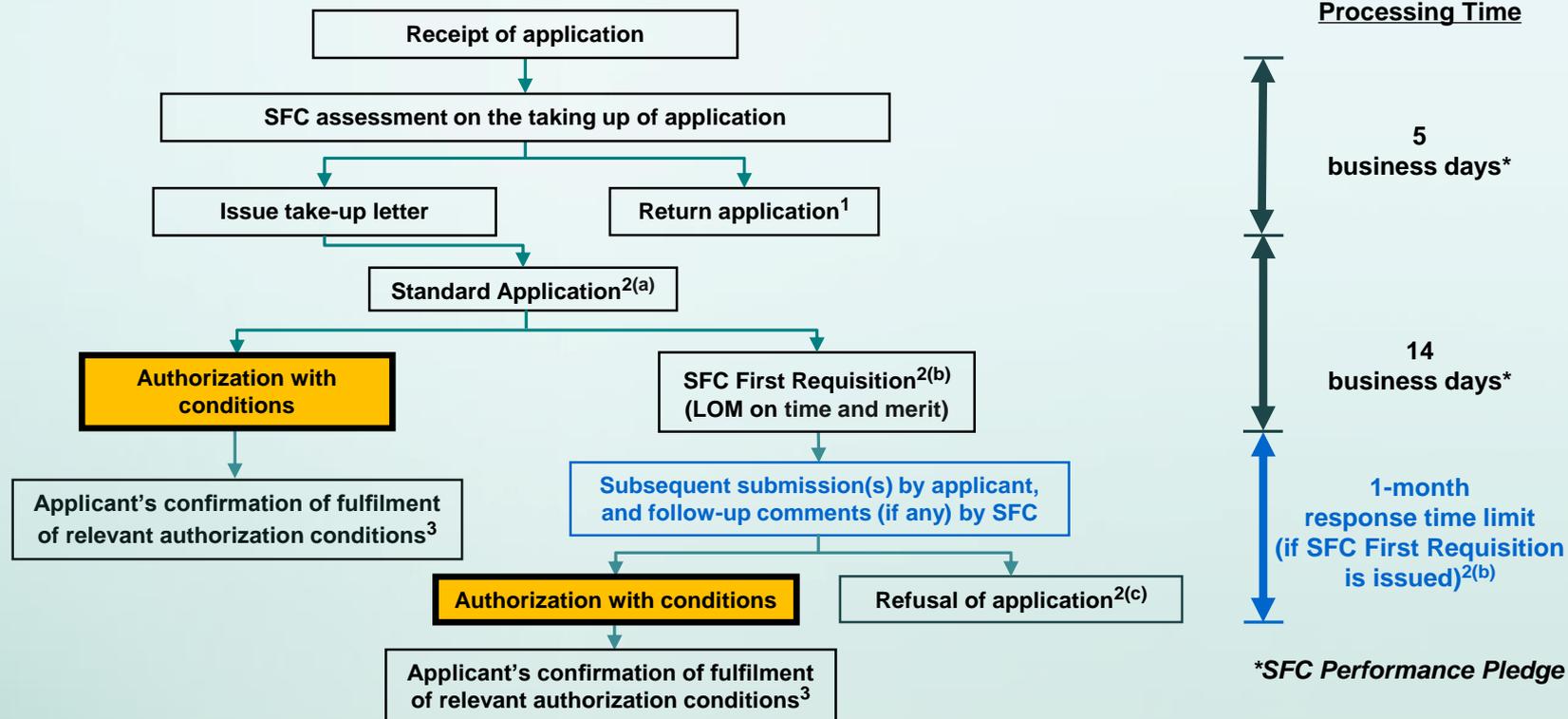


# Key components of the Revamped Process (cont'd)

- **Authorization with conditions**
  - The SFC may authorize a scheme and the issuance of the related offering documents subject to such conditions as the SFC considers appropriate
- **Post-vetting after authorization**
  - The SFC will conduct post vetting to safeguard investor interest



# Two-stream approach – Standard Applications



## Notes

- The SFC reserves the right not to take up a new fund application which is deemed to be an incomplete application and/or an application that fails to meet the applicable regulatory requirements.
- (a) In general, all applications should be well-prepared and in compliance with all applicable requirements for clearance by the SFC. Given that Standard Applications are intended to cover less complicated applications that are more simple in nature, the SFC expects that these applications will be fast-tracked with an aim that SFC authorization (if granted) will be given on average between 1-2 months from the take-up date.

(b) In the event that authorization is not granted within 14 business days, the SFC will issue its First Requisition. In the First Requisition, the applicant will be reminded of the 1-month response time limit within which the applicant is required to provide proper, complete and substantive responses to address all outstanding issues. Apart from the failure to meet the relevant response time limit in addressing the SFC's requisition(s), applicants will be reminded in the First Requisition (which includes a letter of mindedness (LOM) on merit) that in cases of non-compliance with any key requirement(s), the application is liable to be refused by the SFC where appropriate so that there is efficient use of resources for processing proper applications.

(c) To achieve the above, it is the SFC's policy intention to strictly refuse a Standard Application if the applicant fails to meet the 1-month response time limit, which is considered to be a reasonable period for an applicant to address all outstanding issues pertaining to the application.
- For the authorization (if granted by the SFC) to become effective, the applicant must submit to the SFC a duly completed and executed Confirmation of Fulfilment of Authorization Conditions (a standard form of which is set out in the Guide and posted on the SFC's website) together with the required documents generally within 2 months from the date of the authorization letter (or such extended time limit(s) that may be agreed by the SFC).



# Two-stream approach – Standard Applications (cont'd)

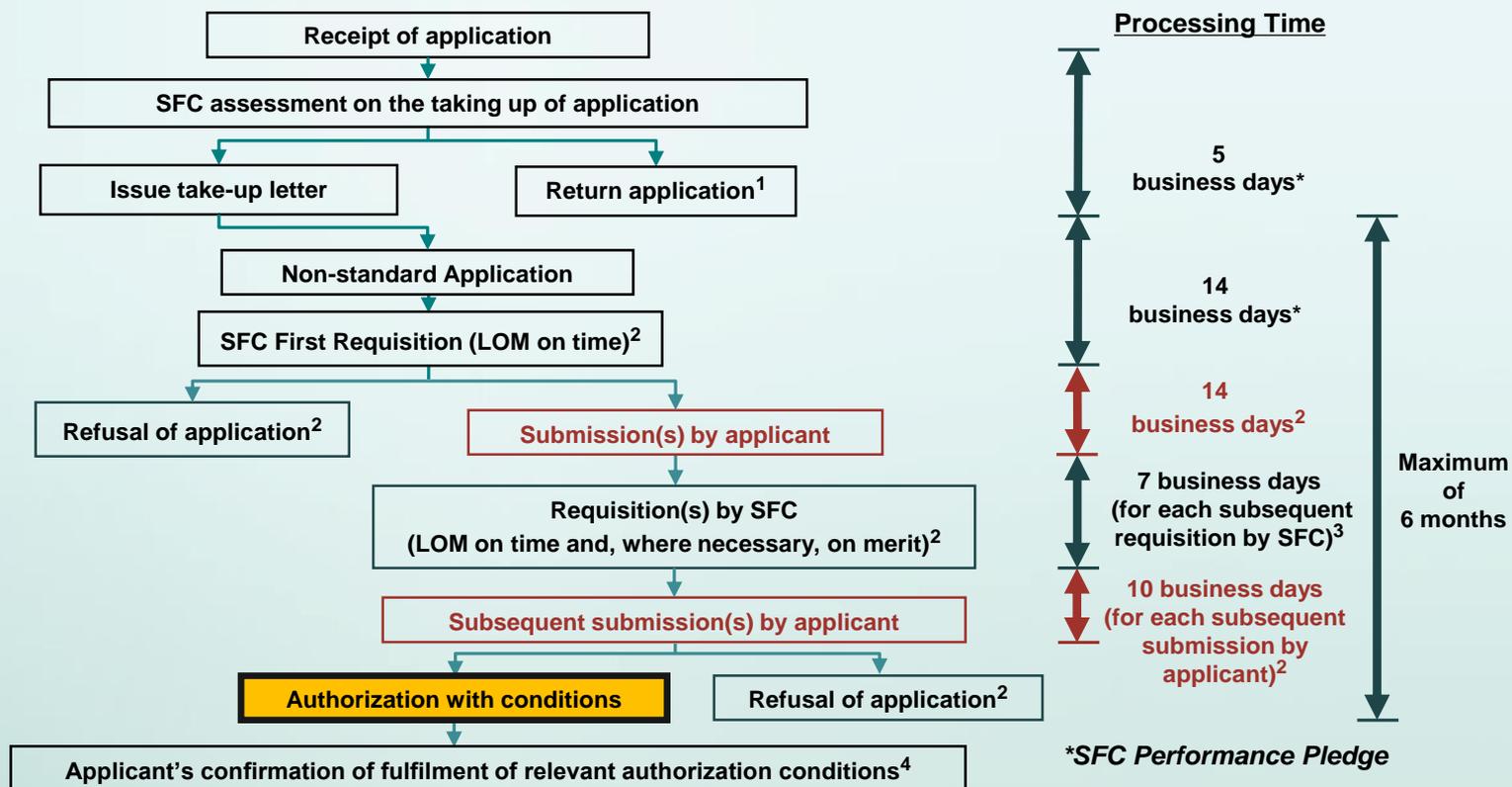
## ■ Criteria for Standard Applications

- the fund(s) under application is/are sub-funds(s) under an existing SFC-authorized umbrella fund;
- the relevant new sub-fund is (i) a fund which complies with Chapter 7 of the Code on Unit Trusts and Mutual Funds (“UT Code”) or a UCITS fund which does not use financial derivative instruments extensively for investment purposes; or (ii) a physical ETF or unlisted index fund tracking an index which is adopted by other existing SFC-authorized fund(s) or is a plain vanilla index (Note);
- the new sub-fund(s) is/are not seeking authorization as approved pooled investment fund(s) under the SFC Code on MPF Products;
- the new sub-funds(s) is/are managed by existing approved management company/delegated investment managers managing other existing SFC-authorized fund(s) with good regulatory records;
- the trustee/custodian of the new sub-fund(s) is acting as trustee/custodian of other existing SFC-authorized fund(s) which has confirmed its continuous compliance of the requirements applicable to trustee/custodian of SFC-authorized funds;
- the application documentation is complete and in good order and quality; and
- there are no material issues and/or policy implications relating to the application as considered by the SFC.

(Note: Plain vanilla index will generally include free float market capitalization weighted equities index and will generally exclude strategy index, smart-beta / value-based index, equal weighted equities index, equities index with covered call and/or hedging elements, etc.)



# Two-stream approach – Non-standard Applications



## Notes

- The SFC reserves the right not to take up a new fund application which is deemed to be an incomplete application and/or an application that fails to meet the applicable regulatory requirements.
- Applicants are required to provide proper, complete and substantive response(s) to the SFC (i) within 14 business days from the SFC's First Requisition; and (ii) within 10 business days from all SFC's subsequent requisition(s) (if any). Applicants will be reminded of the response time limit(s) in the SFC's First Requisition and subsequent requisition(s) (if any).
  - The SFC reserves the right to refuse the application if the applicant fails to address the SFC's requisition(s) to the SFC's satisfaction within the applicable response time limit(s).
  - Apart from the failure to meet the relevant response time limit(s) in addressing SFC's requisition(s), in cases of non-compliance with any key requirement(s), a letter of mindedness (LOM) on merit will be issued and the application is liable to be refused by the SFC where appropriate so that there is efficient use of resources for processing proper applications.
- This is in line with the general practice currently adopted by the SFC.
- For the authorization (if granted by the SFC) to become effective, the applicant must submit to the SFC a duly completed and executed Confirmation of Fulfilment of Authorization Conditions (a standard form of which is set out in the Guide and posted on the SFC's website) together with the required documents generally within 2 months from the date of the authorization letter (or such extended time limit(s) that may be agreed by the SFC).



# Authorization with conditions

- **Under sections 104 (1) and 105 (1) of the SFO, the SFC may authorize a scheme and the issuance of the related offering documents (“HKOD”) respectively subject to such conditions as the SFC considers appropriate**
- **For the authorization (if granted by the SFC) to become effective, the applicant must submit to the SFC a duly completed and executed Confirmation of Fulfilment of Authorization Conditions together with the required documents as stated in the SFC’s authorization letter generally within 2 months, which may include:**
  - The finalized draft of the English HKOD properly annotated against Appendix C of the UT Code;
  - Chinese HKOD and executed Chinese translation certificate(s);
  - Copy of duly executed constitutive documents with annotations (where applicable); and
  - payment of authorization fees and annual fees etc.
- **Non-fulfillment of relevant authorization conditions could result in the authorization being not effective and withdrawn**

# Post-vetting after authorization

- **Investor protection is a fundamental regulatory principle**
- **The SFC will conduct post-vetting of the SFC-authorized funds to ensure applicable authorization conditions are complied with**
- **Applicants must exercise their compliance responsibilities and ensure that their SFC-authorized funds are in compliance with all applicable requirements**
- **The SFC will, where applicable, take necessary regulatory actions in cases of non-compliance to ensure that investor protection is not compromised**



# Some practical guidance for preparation of new fund applications

- **New Information Checklist**
  - 5 Sections (i.e. Sections A to E) and 10 Annexures (i.e. Annex A to J)
  - Standardized templates for confirmations on compliance
  - No deletion, addition or amendment to the prescribed documents (unless otherwise allowed for in the New Information Checklist)
  - Use separate sheet(s) to provide additional information, if required
- **Basic information and mandatory documents required to be submitted**

Sections A and B	Basic information of the fund(s) under application
Section C	Confirmation from the applicant
Section D	Basic documentary requirements checklist (together with the relevant documents provided thereunder)

- **Additional information and documents (where applicable)**
  - For funds, for example, with new key operators and/or special features etc.

# Some practical guidance for preparation of new fund applications (cont'd)

## ■ Guide

- The Guide aims to provide general guidance to applicants in preparing their applications and their compliance with the applicable regulatory requirements, including the SFC Handbook\* and the UT Code
- Among other things, the Guide sets out the minimum disclosure requirements for the fund's HKOD (including the Product Key Facts Statements) covering, for example, the following:
  - the fund's objectives and investment strategy; and
  - common examples of risk disclosures
- The Guide has also set out the compliance requirements and the key provisions required for the constitutive documents of Hong Kong-domiciled funds and other non-UCITS funds

*\*SFC Handbook for Unit Trusts and Mutual Funds, Investment-Linked Assurance Schemes and Unlisted Structured Investment Products*



# Some practical guidance for preparation of new fund applications (cont'd)

- **The purpose of the Guide and the New Information Checklist is to facilitate applicants in preparing quality submissions which is a key attribute to reduce the overall processing time**
- **Applicants/management companies are reminded of their obligations and responsibilities to ensure that the applicable regulatory requirements (including that their funds' offering documents contain the information necessary for investors to make an informed judgment on their investments in the funds) have been complied with**
- **Applicants/management companies should exercise professional judgment and should take into account the specific circumstances pertaining to their funds**
- **If in doubt, applicants/management companies are encouraged to consult the SFC prior to making any formal application**

# Implementation

- **Effective date of the Revamped Process : 9 November 2015 (“Effective Date”) following 1 month from the announcement date**
- **6-month pilot period: ending 8 May 2016**
- **Formally adopted by the SFC as a policy after the pilot period**
- **The SFC will monitor the operation of the Revamped Process during the pilot period**
- **The SFC will continue to engage the industry in considering any suggestions for refinements or enhancements of the initiative**

# Implementation (cont'd)

- **All new fund applications received before the Effective Date will be processed in accordance with the existing process**
  - Duly completed and properly executed existing application form and existing Information Checklist should be submitted in support of the applications
  
- **All new fund applications received on or after the Effective Date will be processed under the Revamped Process**
  - Duly completed and properly executed existing application form and the New Information Checklist should be submitted in support of the applications



# Q&A



**THANK YOU**

