

Frequently Asked Questions on Advertising Materials of Collective Investment Schemes Authorized under the Product Codes

The answers to these frequently asked questions (“FAQ”) set out below are designed to assist you to understand the policy of the Investment Products Division on the practical applications of the provisions relating to Advertising Materials in the Product Codes¹ and those in the Advertising Guidelines Applicable to Collective Investment Schemes Authorized under the Product Codes (the “Advertising Guidelines”).

The answers tend to be framed as general statements and do not consider your particular circumstances. Advertisement issuers are welcomed to contact the Division where there is any doubt on specific issues. While the Division will respond to questions on the interpretation of the Advertising Guidelines with reference to specified facts and circumstances, it should not be expected to answer purely hypothetical questions. Each case will be considered on its particular facts and circumstances.

The information set out below is not meant to be exhaustive. This set of FAQ may be updated and revised from time to time.

Note: Unless otherwise specified, the term “exchange traded fund” or “ETF” used in this FAQ shall cover SFC-authorized passive ETF, active ETF and listed unit/share class of unlisted fund.

	Question	Answer
Advertising Materials		
1.	Pursuant to the Product Codes, all advertisements must be submitted to the SFC for authorization prior to their issue or publication in Hong Kong, unless exempted under s103 of the Securities and Futures Ordinance (“SFO”). What are the exemptions under s103 of the	An exemption available under s103 of the SFO refers to the issue of any advertisement made by or on behalf of an intermediary licensed or registered for Type 1, Type 4 or Type 6 regulated activity in respect of securities (s103(2)(a)), where the term “securities” includes interests in any collective investment schemes but excludes mandatory provident fund (“MPF”) schemes and their constituent funds, occupational retirement schemes and insurance contracts. Hence, advertisements of MPF schemes, pooled retirement funds and investment-linked assurance schemes are still required to be pre-vetted by the SFC, unless it falls within any other applicable exemption under s103 of the SFO.

¹ The Product Codes are (a) Code on Unit Trusts and Mutual Funds, (b) Code on Investment-Linked Assurance Schemes, (c) Code on Pooled Retirement Funds and (d) SFC Code on MPF Products.

	Question	Answer
	SFO?	<p>MPF schemes and constituent funds may invest in approved pooled investment funds (“APIF”), which may be constituted in the form of unit trusts, mutual funds or insurance policies. Such APIF may use the exemption under s103(2)(a) if they are constituted in the form of unit trusts or mutual funds, but they may not use it if they are constituted in the form of insurance policies.</p> <p>Another relevant exemption available under s103 of the SFO refers to the issue of any advertisement made in respect of interests in any scheme which are to be disposed of only to professional investors (s103(3)(k)).</p>
2.	Our firm is an overseas management company, managing schemes authorized by the SFC. However, our firm is not licensed or registered for Type 1, Type 4 or Type 6 regulated activity in Hong Kong. How can we make use of the exemption under s103(2)(a) of the SFO and issue advertisements without seeking prior authorization?	The issue of advertisements of an authorized scheme managed by an overseas management company may benefit from the exemption under s103(2)(a) of the SFO if it is made by a representative or distributor who is licensed or registered for Type 1, Type 4 or Type 6 regulated activity. Such representative or distributor should take responsibility for the advertisements it issues.
3.	Are advertisements issued solely to professional investors required to comply with the Product Codes and the Advertising Guidelines?	<p>As a matter of policy, the SFC will not seek to require those advertisements and other invitations of authorized schemes issued solely to professional investors, as defined under Schedule 1 of the SFO and the Securities and Futures (Professional Investor) Rules, to strictly comply with the Product Codes or the Advertising Guidelines.</p> <p>However, advertisement issuers should take note of s107 and s108 of the SFO which stipulates that a person commits an offence and incurs civil liability if he makes any fraudulent or reckless misrepresentation in the course of offering a product.</p> <p>Licensed and registered persons are also reminded to observe the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission at all times when they are carrying on their regulated activities.</p>
4.	Can records of advertisements and their relevant supporting documents be kept in	Records of advertisements may be kept in their actual form by way of a copy of the final proof. Such copy, which may be in paper form (hard copy) or electronic format (soft copy),

	Question	Answer
	electronic form?	should enable the issuer to reproduce the actual advertisement in the same form and content if necessary.
5.	Is it required to keep record of every issue of a regular publication?	Yes, records of all issues should be kept.
6.	Our firm is not eligible for taking the exemption under the SFO and we plan to publish a print ad in the newspaper, distribute a leaflet and put up a poster on buses. Do we need to submit every material for authorization if these materials contain the same information but are of different sizes?	Provided that the content and format (including the overall proportion) remain the same, an authorized advertisement may be used in different distribution media and published in different sizes.
6A.	Can you give some guidance to issuers of Advertising Materials in the Product Codes regarding the SFC's expectations on disclosure?	<p>As a general principle, marketing materials issued must be clear, fair, and present a balanced picture with adequate and prominent risk disclosure in compliance with all applicable regulations.</p> <p>The SFC expects issuers of Advertising Materials in the Product Codes to pay attention to the following when issuing marketing materials. The following are equally applicable to offering documents.</p> <ol style="list-style-type: none"> a. All principal risks should be prominently disclosed. Disclosures should be: <ol style="list-style-type: none"> (i) visually reader-friendly – e.g. densely packing complex and diverse information into a lumpy paragraph would not be visually reader-friendly; (ii) written in plain language so that investors can understand them – use of technical jargon or complex sentences would not be plain language. b. To ensure that the key features and risks are summarised for investors upfront, these should be presented prominently (e.g. in a window on the front cover of an offering document or advertising pamphlet) in a few key bullets. Crowding this upfront window with too many bullets would be counter effective. <ol style="list-style-type: none"> (i) What is the product and what does it do. (ii) What are the very key risks (e.g. that the product can invest up to a stated percentage in financial derivative instruments, such as swaps, collateralised debt obligations (CDOs); and any significant counterparty risks exposure etc.).

	Question	Answer
		<p>(iii) What is the worst case scenario that investors should be aware of.</p> <p>c. Presentation of benefits, returns and risks of the product should be fair, balanced and proportionate – presenting benefits and returns disproportionately larger than or without mentioning the risks of the product would not be fair and proportionate.</p> <p>d. Use of terms like “Guarantee” could be misleading unless what is being guaranteed is clearly spelt out. Also, if the guarantee is only available under very restrictive conditions and in limited circumstances, it may not be fair to use the word “guarantee” generally to describe the product.</p> <p>e. Financial or other incentives in investing in a product should not be used or presented in such a way that it is likely to divert or mislead investors’ focus from the proper consideration of the product.</p> <p>While the SFC does not pre-vet marketing materials of SFC-authorized collective investment schemes other than those where they are not exempt under s.103 of the SFO (such as ILAS, MPF and Pooled retirement fund products), the SFC conducts surveillance on all marketing materials, and will take all necessary action against issuers in respect of marketing materials that have not brought their product disclosure up-to-date in light of the new circumstances and concerns in the market.</p> <p>Certain examples illustrating the disclosure/presentation that would not be considered to be in accordance with the guidance set out in this FAQ 6A can be found at the following link http://www.sfc.hk/web/EN/files/PCIP/FAQ/Sharing_some_recent_topical_issues_re_SFC-authorized%20funds_15-Dec-2014_20150116.pdf. Please note that those examples are for illustrative purposes only and are not meant to be complete or exhaustive. Issuers of marketing materials are welcome to contact the relevant case officers in the Investment Products Division should they have any questions regarding the above.</p>
Applications of the Advertising Guidelines		
7. to 8.	These FAQs are obsolete and have been removed.	
9.	What constitutes an advertisement?	As defined under s102(1) of the SFO, an “advertisement” includes every form of advertising, whether made orally or produced mechanically, electronically, magnetically, optically, manually or by any other means.

	Question	Answer
		<p>In addition, issuers should also make reference to s103(10) of the SFO for determining whether a material constitutes an advertisement.</p> <p>In general, any material which contains information relating to authorized schemes with a marketing purpose is regarded as an advertisement.</p> <p>The following are some materials which may generally be excluded from being scheme advertisements unless they can be construed as such:</p> <ul style="list-style-type: none"> ▪ corporate advertisements which only advertise the expertise or services of the issuer without referring to any particular scheme; ▪ souvenirs or corporate gifts containing only the scheme name without any additional information of the scheme; and ▪ publication of scheme prices pursuant to relevant provisions of a Product Code without any additional information of the scheme.
10.	What materials are required to comply with the Advertising Guidelines?	All advertisements of schemes authorized under the Product Codes, no matter whether the issue of which are exempted from authorization under s103 of the SFO, must comply with the Advertising Guidelines. See also Question 3 above.
11.	Press releases and information provided to the press at interviews will not be directly published in its original form and content in the media. Are such releases required to comply with the Advertising Guidelines?	Information provided to the press in press releases, at press interviews or otherwise is expected to be distributed or reported to the public. Hence, information providers should ensure that such information does not contain product information which would contravene the provisions in the Advertising Guidelines.
General Principles		
12.	<p>The general principles require advertisements to contain information that is timely.</p> <p>What is the meaning of “timely”?</p>	<p>In general terms, advertisements should include timely information that is suitable for distribution or publication at the prevailing market conditions.</p> <p>Specifically, paragraph 15 of the Advertising Guidelines provides that any performance information presented in an advertisement should be up to date. It should be no more than 3 months old if presented in print media (e.g. newspapers, magazines), broadcasts (e.g. television, radio) or interactive systems (e.g. websites, interactive voice message systems) and no more than 6 months old in other media. In any event, however, the above is subject to</p>

Question		Answer																																										
		the caveat that performance information should be updated if more recent information is significantly different (e.g. varies by 10% or more).																																										
Performance information																																												
13.	May fund sector averages be used as peer group comparison?	Yes, provided that the comparison should be fair, relevant and comparing “like with like” and that the source of information and a description of the sector is disclosed clearly.																																										
14.	What information is required to be given in the peer group description?	The description of a peer group should generally include the name of the rating organization and the category of schemes.																																										
15.	For schemes with track record of less than 6 months, is it permissible to provide investors with performance information?	For schemes with a track record of less than 6 months, it is not permissible to present performance information in advertisements (paragraph 11 of the Advertising Guidelines). Notwithstanding the above, a price listing showing the scheme prices of all (but not selected) dealing days since launch may be presented.																																										
16.	On the presentation of minimum performance information pursuant to paragraph 12 of the Advertising Guidelines, is it mandatory to present the performance by calendar year?	<p>No, it is not necessary to present the minimum performance information by calendar year. Such information may be made up to a recent reference date or the last financial year end date of the scheme for the preceding five 12-month periods.</p> <p>For example, an advertisement issued in August 2008 may present minimum performance information in one of the following manners. Such disclosure may be included in the main body or the footnotes of the advertisement.</p> <table border="1" data-bbox="922 1161 2114 1469"> <thead> <tr> <th colspan="2">Case 1</th> <th colspan="2">Case 2</th> <th colspan="2">Case 3</th> </tr> <tr> <th colspan="2">Recent reference date</th> <th colspan="2">Calendar year basis</th> <th colspan="2">Financial year basis</th> </tr> <tr> <th>Year ended</th> <th>Returns</th> <th>Year</th> <th>Returns</th> <th>Year ended</th> <th>Returns</th> </tr> <tr> <th>31-Jul</th> <th></th> <th></th> <th></th> <th>30-Sep*</th> <th></th> </tr> </thead> <tbody> <tr> <td>2004</td> <td>xx%</td> <td>2003</td> <td>xx%</td> <td>2003</td> <td>xx%</td> </tr> <tr> <td>2005</td> <td>xx%</td> <td>2004</td> <td>xx%</td> <td>2004</td> <td>xx%</td> </tr> <tr> <td>2006</td> <td>xx%</td> <td>2005</td> <td>xx%</td> <td>2005</td> <td>xx%</td> </tr> </tbody> </table>	Case 1		Case 2		Case 3		Recent reference date		Calendar year basis		Financial year basis		Year ended	Returns	Year	Returns	Year ended	Returns	31-Jul				30-Sep*		2004	xx%	2003	xx%	2003	xx%	2005	xx%	2004	xx%	2004	xx%	2006	xx%	2005	xx%	2005	xx%
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Question		Answer					
		2007	xx%	2006	xx%	2006	xx%
		2008	xx%	2007	xx%	2007	xx%
				Year-to-date up to no earlier than 31-May-08 [^]	xx%	1-Oct-07 to no earlier than 31-May-08 [^]	xx%
		<p>* assuming 30-Sep is the financial year end of the scheme</p> <p>[^] 31-May-08 for print media advertisements, broadcasts or interactive systems and 28-Feb-08 for other advertisements</p>					
17.	How should the minimum performance information be shown for a scheme with only 3-year track record?	<p>Assuming a scheme, launched on 1 July 2005, prepares its performance information on a calendar year basis, an advertisement issued in August 2008 should disclose the performance for each of the following periods:</p> <ul style="list-style-type: none"> ▪ Since launch to 31 December 2005 ▪ Year ended 31 December 2006 ▪ Year ended 31 December 2007 ▪ Year-to-date up to no earlier than 31 May 2008 for print media advertisements, broadcasts or interactive systems (or 28 February 2008 for other advertisements) 					
18.	Under paragraph 12 of the Advertising Guidelines, the minimum performance information is required to be presented on complete 12-month periods (or shorter periods for the earliest / latest period presented). Under what circumstances are such shorter periods applicable?	<p>The presentation of shorter periods is only applicable under the following circumstances:</p> <ul style="list-style-type: none"> ▪ the year-to-date information presented to ensure that the information is up-to-date (as in case 2 in Q16 above); or ▪ the since launch information for the year of launch if the scheme has been launched for less than 5 years (see Q17 above). 					
19.	For website presentation, is the minimum performance information required to be presented on every webpage that contains performance information?	<p>Performance information, if presented, should include the minimum performance information (paragraph 12 of the Advertising Guidelines).</p> <p>In the context of a website, the minimum performance information may be contained in a particular section of the website such that where a webpage on the website presents performance information of a scheme, the requirement to provide minimum performance</p>					

	Question	Answer
		information may be satisfied by the use of a prominent link to this minimum performance section.
20.	Is it still required to accompany since launch annualized return by all the individual years' returns?	Since launch annualized return needs not be accompanied by all the individual years' return. It may be presented if the minimum performance information is disclosed in the same advertisement. That means, the individual years' returns for periods preceding the recent 5 years are no longer required.
21.	Is it permitted to show the annualized return of a short term performance?	Additional performance information, on an annualized or cumulative basis, may be presented in addition to the minimum performance information, subject to the following: <ul style="list-style-type: none"> ▪ Performance information of less than 1 year should be accompanied by that of the most recent 1 year presented in the same format and prominence (paragraph 13 of the Advertising Guidelines). ▪ Additional performance information should be sufficiently up to date (paragraph 15 of the Advertising Guidelines). ▪ Performance information of less than 1 year may not be annualized (paragraph 16 of the Advertising Guidelines).
22.	Is performance information in offering documents required to be updated regularly for compliance with the up-to-date requirement under paragraph 15 of Advertising Guidelines?	Offering documents are required to comply with the Advertising Guidelines. Any performance information included therein should be updated regularly to ensure it is no more than 6 months old. Alternatively, an offering document including stale information may be distributed together with a fact sheet that contains up to date performance information.
23.	Hypothetical figures presented to explain the complicated mechanisms of a scheme are required to be conservative. Are there any guidelines to determine whether such figures are conservative or not?	Whether hypothetical figures presented are conservative or not depends on the specific circumstances of the case. Generally, in addition to the worst-case scenario of the payout mechanism, an advertisement issuer may disclose a scenario that offers an average payout of less than 5% per annum and another scenario that offers an average payout of less than 9% per annum.
24.	For a newly authorized scheme whose performance is linked to that of an index, is the presentation of (a) the historical performance of the index, and (b) the simulated performance of the scheme	Historical performance of an index is not considered as scheme performance and may be presented. Simulated performance of the scheme based on the historical performance of an index is not allowed (paragraph 16 of the Advertising Guidelines).

	Question	Answer
	based on the historical performance of the index permissible?	
Comparison of Performance and Use of Comparative Indices		
25.	We use the Hang Seng Index as the benchmark for our scheme. The Hang Seng Index is a price return index whereas our scheme only offers an accumulation class of shares. Can we continue to use the Hang Seng Index?	We understand the Hang Seng Index provider presents the same index on a price return basis as well as a total return basis. For presenting performance of an accumulation share class, it would not be comparing “like with like” to use the Hang Seng price return index. Thus, the manager / product issuer is required to change the comparison to the total return index where the total return index is available.
26.	The benchmark which we consider as most appropriate for the scheme is a price return index which does not provide performance figures on a total return basis. Can we use this index?	<p>The SFC expects that any comparison should be on a “like with like” basis. However, where the benchmark considered by the manager / product issuer to be the most appropriate is not calculated on the same basis as the scheme, the following would be acceptable:</p> <ul style="list-style-type: none"> ▪ If the scheme has a distribution class of shares where all income / dividends received from the underlying holdings of the scheme are distributed, the manager / product issuer may choose to show performance of the distribution share class so that the basis of calculation of the scheme and the benchmark is the same. ▪ If the scheme only has accumulation class of shares or the scheme does not make distribution, then, the notes should clearly disclose the basis of the calculation (i.e. the scheme performance includes dividend / income reinvestment and the benchmark is a price return index that does not include reinvestment of dividends / income.)
27.	We use interest rates (e.g. 3-month HIBOR) as our benchmark. Is this permissible?	Benchmarks with reference to interest rate trends may not take into account compound interest / reinvestment of income. If the benchmark or index chosen has a calculation basis which takes into account compound interest / reinvestment of income, such basis should be used in comparing the performance of an accumulation share class. If the scheme’s performance is shown assuming accumulation or reinvestment of income, but the benchmark or index chosen does not take into account compound interest / reinvestment of income then, the notes should disclose the basis of the calculation (i.e. the scheme performance includes income reinvestment and that the benchmark (HIBOR) shows interest rate trends which do not take into account reinvestment of income.)

	Question	Answer
28.	We have created customized indices for our schemes (e.g. 40% MSCI Global Capital Markets + 40% Lehman Brothers Fixed Income US Aggregate + 20% Hang Seng Index), where not all of the indices use the same basis. What should we do?	The question is whether you are comparing “like with like”. As far as possible, the performance of each of the indices should use the same basis of calculation as the scheme’s performance. Thus, if the scheme performance relates to an accumulation class of shares or the scheme does not make distribution, managers / product issuers should choose to use total return indices. If there is no total return index for a particular component of the benchmark, this should be explained by way of clear disclosures.
29.	Our scheme is an index-tracking fund whose objective is to track a price return index which does not take into account dividend reinvestment (e.g. Hang Seng Index). Can we use the price return index as the benchmark for performance comparison in our marketing materials?	The general principle is that a comparison of performance figures should be fair, relevant, on a “like with like” basis. If the scheme shows performance relating to an accumulation share class or the scheme does not make distributions, and the manager / product issuer wishes to compare this performance against the price return index, the manager / product issuer must show the performance of the total return index in addition. The notes should disclose the basis of the calculation (i.e. the scheme performance and total return index include dividend reinvestment and the price return index does not take into account reinvestment of dividends.)
30.	Our scheme is a guaranteed fund, although the NAV of the fund fluctuates throughout its life, the return at maturity is calculated based on the performance of a pre- determined price return index (e.g. Hang Seng Index). We would like to show the fund’s NAV performance versus the performance of the index for reference. Is this permissible?	The SFC does not dictate the investment objective or policy of a scheme. Thus, the manager / product issuer is free to choose the index used in the formula to calculate maturity proceeds. As to whether it is permissible to compare scheme performance with that of the price return index depends on the calculation basis of the scheme performance and the nature of the underlying investments. For example, some guaranteed funds aim to achieve the objective by investing in options or in structured notes which do not distribute any income/dividends. In such cases, the scheme’s performance compared to a price return index is generally considered acceptable.
31.	Our scheme offers both accumulation and distribution share classes. We would like to show the performance of both classes against a benchmark index. Do we need to show the benchmark performance on both the total return basis and the price return basis?	Where the performance of both share classes are shown, at least the performance of the total return index should be shown. The performance of the price return index may be shown in addition.
Changes to a Scheme		

	Question	Answer
32.	What events constitute changes having a significant impact on scheme performance and hence require explanatory notes to be disclosed together with the performance information? What information should be included in the explanatory notes?	<p>Events that may require explanatory notes to accompany scheme performance include, but not limited to, the following:</p> <ul style="list-style-type: none"> ▪ significant change of investment objective and policies ▪ change of comparative indices ▪ scheme mergers where the pre-merger performance of the absorbed scheme is presented <p>Explanatory notes should be specifically tailored for the circumstances of the change so as to ensure that the presentation of performance information prior to the change is not misleading. For example, for a change of comparative indices, a clear description of the old and the new indices used and the effective date of change should be disclosed. In any event, advertisement issuers should use their professional judgement to determine the disclosure appropriate for their specific circumstances.</p>
33.	For how long are the explanatory notes regarding scheme changes required to be maintained in the advertisements? Is disclosure still required for changes that occurred 10 years ago?	There is no minimum or maximum time limit for disclosure of explanatory notes regarding scheme changes. Such notes should be disclosed for so long as they remain relevant (i.e. where performance information prior to the change is disclosed).
Performance Information of an Unauthorized Scheme		
34.	For newly authorized schemes, is it permissible to present the performance information of such schemes prior to their authorization?	Yes, performance information of newly authorized schemes may be presented so long as the schemes have attained a track record of not less than 6 months.
34A	An SFC-authorized scheme adopts the same investment strategy as another unauthorized scheme (“Other Scheme”) which is managed by the same fund management group. If the management company wishes to provide additional information to investors relating to the investment experience of the fund management	<p>Advertisements may not refer to unauthorized schemes, except in compliance with the Advertising Guidelines. Reference to past performance of an unauthorized scheme to indicate the management company’s past track record is allowed if the SFC-authorized scheme is newly launched with a past track record of less than 6 months and subject to the conditions contained in paragraph 22 of the Advertising Guidelines.</p> <p>For an SFC-authorized scheme which has attained a track record of 6 months, if the</p>

	Question	Answer
	<p>group (to which this management company belongs) in managing a particular strategy, can they present the past performance information of the Other Scheme in the advertisements of the SFC-authorized scheme?</p>	<p>management company wishes to provide additional information regarding the investment experience of the fund management group (to which the management company belongs) in managing a particular investment strategy, the management company is only allowed to present the past performance information of an unauthorized scheme (i.e. the Other Scheme) prior to the launch of the SFC-authorized scheme in the advertisements of the SFC-authorized scheme (“Advertisements”), provided that the following requirements can be fulfilled:</p> <ol style="list-style-type: none"> a. the Other Scheme must be managed by the same fund management group and must have the same investment strategy, restrictions and risk profile (“Same Features and Risks”) as the SFC-authorized scheme presented in the Advertisements; b. only the past performance information of the Other Scheme which should cover a minimum of 5 years (or the period since launch if shorter) immediately preceding the launch of the SFC-authorized scheme can be presented; c. presentation of performance information of the Other Scheme pertaining to the period after the launch date of the SFC-authorized scheme is not allowed; d. where the fees and charges of the Other Scheme were lower than the SFC-authorized scheme during the period presented, the past performance information of the Other Scheme presented must be adjusted downward to reflect the differences in all relevant fees and charges between the two schemes. However, upward adjustments of the past performance information of the Other Scheme is <u>not</u> allowed; e. the performance information of the SFC-authorized scheme must be presented in a more prominent manner and on a stand-alone format (e.g. the performance information of the Other Scheme shall not be presented in the same graph or table with that of the SFC-authorized scheme); f. once the Other Scheme has been selected for presentation in the Advertisements, it should be consistently applied in the advertisements for the SFC-authorized scheme where the investment experience of the fund management group is presented;

	Question	Answer
		<p>g. the name of the Other Scheme should not be disclosed in the Advertisements; and</p> <p>h. the Advertisements should contain warning statements / notes (if applicable) to the following effect in addition to the applicable warning statements as stated in the Advertising Guidelines:</p> <ul style="list-style-type: none"> (i) the Other Scheme is not authorized by the SFC and is not available to the public in Hong Kong; (ii) the Other Scheme has the same investment strategy, restrictions and risk profile as those of the SFC-authorized scheme; (iii) downward adjustments to the past performance information of the Other Scheme (if any) have been made to reflect the differences in all relevant fees and charges between the two schemes; (iv) the past performance information of the Other Scheme presented are not those of the SFC-authorized scheme; (v) the past performance information of the Other Scheme presented is not indicative of future performance of the SFC-authorized scheme; and (vi) the purpose of presenting the past performance information of the Other Scheme is to provide additional information to investors relating to the investment experience of a fund management group in managing the same strategy. <p>Please also note that the advertisements should comply with the General Principles and all relevant provisions in the Advertising Guidelines (including the requirements regarding presentation of performance information of a scheme).</p> <p>In the event of any changes to the circumstances set out above or when the information presented becomes misleading, the issuers shall cease to issue/publish any advertisements making reference to the past performance information of the Other Scheme.</p> <p>An example illustrating the disclosure requirements referred to in this FAQ 34A is set out at</p>

	Question	Answer
		<p>the following link: http://www.sfc.hk/web/EN/files/PCIP/FAQ-PDFS/Illustrative_Example_Advertising_Materials_20170918.pdf</p> <p>Please note that the above example is for illustrative purposes only and is not meant to be complete or exhaustive. Issuers of marketing materials are welcome to contact the relevant case officers in the Investment Products Division should they have any questions regarding the above.</p>
Warning Statements / Notes to Prospective Investors		
35.	<p>Display-only materials that are not for distribution and regular publications that include a listing of schemes and their factual information for comparison or information purposes only need not include warning statements or disclosures specific to a particular scheme.</p> <p>What warning statements are mandatory for these materials?</p>	<p>These materials are required to contain warning statements and notes as required under paragraph 23 of the Advertising Guidelines, which include statements:</p> <ul style="list-style-type: none"> ▪ to the effect that investment involves risks; ▪ that the offering document should be read for further details including the risk factors; ▪ where past performance is presented, to the effect that the past performance information presented is not indicative of future performance; ▪ where the material is exempted from authorization by the SFC pursuant to the SFO, that the advertisement has not been reviewed by the SFC. <p>Additional warning statements or notes are optional.</p>
36.	<p>Is any warning statement in addition to those required under paragraph 23 of the Advertising Guidelines for a listing of schemes with a common special feature published in a regular publication?</p>	<p>Only the basic warning statements under paragraph 23 of the Advertising Guidelines are required. Warning statements in relation to the specific risks associated with investments in schemes in the common special feature is recommended.</p>
37.	<p>Can you give us some examples for specific risk warnings and explanatory notes applicable for schemes with special features?</p>	<p>The SFC encourages advertisement issuers to use their professional expertise to consider what the most appropriate and applicable disclosures to be included in an advertisement should be.</p> <p>Here are some examples for reference only:</p> <ul style="list-style-type: none"> ▪ For schemes investing in financial derivative instruments for investment purposes – “Transactions in derivative instruments may be used to meet the investment objectives of

	Question	Answer
		<p>the scheme and may therefore lead to higher volatility to its net asset value.”</p> <ul style="list-style-type: none"> ▪ For schemes investing in emerging markets – “Investors should read the offering documents for details and the risk factors, in particular those associated with investments in emerging markets.” ▪ For schemes with exposure to short positions – “The scheme may take short positions and investors should note that the investment strategy and risks inherent in the scheme are not typically encountered in traditional equity long only schemes.” ▪ For exchange traded funds (ETF) – “The scheme is traded on the exchange at market price, which may be different from its net asset value.” A telephone number or the website where investors can obtain the offering documents of the scheme should also be disclosed. ▪ For listed close-ended funds – “The scheme is a close-ended fund and no investors may demand redemption of their shares / units. It is traded on the exchange at market price, which may be different from its net asset value. The listing of the scheme on the exchange does not guarantee a liquid market.”
Information on the Advertisement Issuer		
38.	For an advertisement issuer which is a subsidiary of an international group, is it acceptable to disclose only the global name or logo as the advertisement issuer?	The full name of the advertisement issuer must be disclosed, which may be presented in the footnotes. The global name and/or logo may be presented in the same advertisements with higher prominence.
Marketing materials that highlight or advertise the regular dividend payment / distribution feature of an SFC-authorized fund		
39.	Can a fund highlight or advertise the fund’s regular dividend payment / distribution feature in the marketing materials?	Investors may make their investment decisions based on prominent description of regular (e.g. monthly) dividend payment / distribution in advertisements of funds. Such prominent description would create an impression, and lead to a reasonable expectation by such investors, that a regular fixed dividend payment / distribution derived from income will be made by the funds. As such, management companies must observe the following overriding principles when issuing marketing materials which highlight or advertise this regular distribution feature of their funds / share classes:

	Question	Answer
		<p>a. any statement / description of regular (e.g. monthly) dividend payment / distribution by a fund must be made on the basis of a good faith and genuine intention and aim of the management company to make regular dividend payments / distributions;</p> <p>b. it must be within the reasonable contemplation of the management company to provide dividend payment as highlighted or advertised in the marketing materials. In this connection, the management company must be able to justify and demonstrate the fund's ability to provide regular dividend payment / distribution as advertised; and</p> <p>c. the management company should keep investors informed in a timely manner should there be any changes that may materially impair the fund's ability to make such distribution.</p> <p>Management companies should exercise their professional judgment in a prudent manner in this regard. In addition, they must ensure compliance of, among other applicable regulatory and legal requirements, the guidance under FAQ39A – 39E below in issuing marketing materials. The SFC reserves its right to take appropriate regulatory actions against issuers in respect of marketing materials that are in breach of applicable regulatory requirements in order to ensure investors' interests are safeguarded.</p>
39A.	Under what circumstances can a fund use and highlight a statement / description of “regular dividend payment / distribution” (定期派息) in the marketing materials?	If a management company wishes to highlight or advertise the regular dividend payment / distribution feature (or words to the similar effect) of a fund in its marketing materials, it can do so only if the fund's offering document has expressly and clearly disclosed that dividends will be made by the fund on a regular basis (e.g. on a monthly basis), without being subject to the management company's discretion.
39B.	For a fund that intends / aims to make regular dividend payment / distribution but the payment of dividend / distribution is subject to the management company's discretion, can the fund advertise or highlight its dividend / distribution policy as “regular dividend payment / distribution” in the marketing materials?	<p>For a fund that offers distributing share classes for which payment of dividends is subject to the management company's discretion (“Discretionary Distributing Share Classes”), the management company may occasionally exercise its discretion not to make any dividend payments due to specific reasons such as absence of net distributable income and / or decision not to make dividends out of the fund's capital etc. Therefore, in the case where the management company intends / aims to make regular dividend payment but wishes to maintain discretion as to whether or not to make any dividend payment (e.g. in respect of Discretionary Distributing Share Classes):</p> <p>a. it would not be appropriate to include any statement of “regular (e.g. monthly) dividend payment” in the fund's marketing materials. Instead, a statement of, for example, “[the fund] aim[(s)] to pay dividend on a regular (e.g. monthly) basis” (旨在[</p>

	Question	Answer
		<p>每月]派息) may be included; and</p> <p>b. any statement of “regular (e.g. monthly) distribution share class is available” should be accompanied with a statement of “[the fund] aim[(s)] to pay dividend on a regular (e.g.[monthly]) basis” (旨在[每月]派息) of similar prominence and close proximity.</p> <p>In addition, the warning statements referred to in FAQ39C and FAQ39D (where applicable) should be included prominently.</p>
39C.	<p>What warning statement(s) is / are required to be stated in the marketing materials with the following statements: (i) “regular dividend payment / distribution”; (ii) “[the fund] aim[(s)] to pay dividend on a regular basis” or (iii) “regular distribution share class is available” and “[the fund] aim[(s)] to pay dividend on a regular basis” (collectively, the “Dividend Statement(s)”) ?</p>	<p>Presentation of benefits, returns and risks of a fund should be fair, balanced and proportionate in the marketing materials. Benefits and returns should not be presented by the fund disproportionately larger than the associated risks of the fund. In addition, benefits and risks must be displayed in a clear and conspicuous manner and in close proximity. As such, disclosure of the warning statements mentioned in this FAQ39C below (“Warning Statement(s)”) must be of similar prominence and close proximity to the Dividend Statement(s), except where the relevant Warning Statement(s) have already been included in a prominent manner as referred to in FAQ39D below in the same marketing materials. They should <u>not</u> be disclosed in fine print only, in the risk disclosure box and/or by way of footnotes in the fund’s marketing materials.</p> <p>Except where the rate of dividend payment is fixed (i.e. the dividend rate is not subject to the management company’s discretion from time to time) (see Fixed Dividend Rate as defined in FAQ39D below), the Dividend Statement(s) in the funds’ marketing materials should always be accompanied with a warning statement of similar prominence and close proximity to the effect that “dividend amount or dividend rate is not guaranteed”(派息率不保證). Please refer to FAQ39D below for further guidance regarding the definition of Fixed Dividend Rate.</p> <p>In the case where a fund may distribute dividends out of / effectively out of its capital, a warning statement to the effect (可從股本中分派) of similar prominence and close proximity to the Dividend Statement(s) should also be included in the marketing materials. Information referred to in (b) and (c) under FAQ34 of the Frequently Asked Questions on the Code on Unit Trusts and Mutual Funds (“FAQ on UT Code”) should also be disclosed in the marketing materials of the fund in a prominent and upfront manner (e.g. in the risk disclosure box of the relevant marketing materials). See the FAQ on UT Code via the following link: http://www.sfc.hk/web/EN/faqs/product-authorization/code-of-unit-trusts-and-mutual-funds.html</p>

	Question	Answer
39D.	Can the fund highlight or advertise its rate of dividend in the marketing materials?	<p>Pursuant to paragraph 10 of the Advertising Guidelines, a substantiated prospective yield may be disclosed in the fund’s marketing materials. Issuers of marketing materials are reminded that they have the responsibility to ensure any prospective yield presented can be properly substantiated. Information concerning the rate of dividend typically in the form of an annualized yield of a fund, if any, may be presented in its marketing materials based on, for example, the actual historical dividend rate / payments made by the fund. For a brand new fund which, in accordance with its distribution policy, does not guarantee or make dividend payment at a Fixed Dividend Rate, it would generally not be acceptable for the fund to include prospective dividend yield in its marketing materials unless paragraph 10 of the Advertising Guidelines is complied with.</p> <p>In addition to the above, the fund may highlight or advertise its rate of dividend in the marketing materials if a fund’s distribution policy is to guarantee or make dividend payment at a fixed rate and that such relevant information regarding the rate of dividend and / or the manner in which investors will be notified of the rate of dividend has been clearly disclosed in the KFS or other parts of the offering document (i.e. the “Fixed Dividend Rate”). For the purpose of this FAQ39D and FAQ39C above, a Fixed Dividend Rate also refers to such rate of dividend that will be paid by the fund as reasonably determined by the management company in accordance with the funds’ offering documents and notified to investors from time to time, any change of the rate of dividend will require prior notification to investors. A Fixed Dividend Rate being highlighted / quoted in the marketing materials should be consistent with the disclosure in the KFS or other parts of the offering document (as the case may be).</p> <p>The disclosure / statement regarding the rate of dividend mentioned in this FAQ39D should always be accompanied with the Warning Statement(s) mentioned in FAQ39C above of similar prominence and close proximity in the marketing materials. They should <u>not</u> be disclosed in fine print only, in the risk disclosure box and / or by way of footnotes in the fund’s marketing materials. Where applicable, information referred to in (b) and (c) under FAQ34 of the FAQ on UT Code should also be disclosed in the marketing materials of the fund in a prominent and upfront manner (e.g. in the risk disclosure box of the relevant marketing materials). See the FAQ on UT Code via the following link: http://www.sfc.hk/web/EN/faqs/product-authorization/code-of-unit-trusts-and-mutual-funds.html</p>

	Question	Answer
39E.	If the dividend rate / yield is highlighted / quoted in the marketing materials, does the fund need to disclose the calculation basis thereof?	<p>The disclosure of dividend rate / yield (other than a Fixed Dividend Rate referred to in FAQ39C and FAQ39D above) of a fund, if any, must be accompanied by a disclosure of its calculation basis in the marketing materials which is reasonable, fair and not misleading and such calculation basis must be adopted by a particular fund on a consistent basis. For example, some funds may present the fund's dividend yield as an average rate for the previous 3, 6 or 12 months or since inception etc.</p> <p>Once a management company adopts a particular calculation basis / methodology in calculating the dividend rate / yield of a fund for marketing, it should be consistently applied to other funds under its management. Thus, it would not be acceptable for management company to cherry pick and to vary and adopt different calculation basis / methodologies from time to time by selecting the most profitable and / or beneficial figures from all the available data in presenting the dividend rate / yield. The management company should exercise its professional judgment, having taken into account the specific circumstance of the funds, when choosing the most appropriate calculation basis to ensure compliance.</p>
39F.	Can the SFC provide some illustrative examples regarding FAQ39A to FAQ39E above?	<p>Certain examples illustrating the disclosure requirements referred to in FAQ39A to FAQ39E above are set out at the following link: http://www.sfc.hk/web/EN/files/PCIP/FAQ/illustrative%20examples%20for%20FAQ39F%20on%20AD%20of%20CIS%20auth%20under%20Product%20Code.pdf</p> <p>Please note that the above examples are for illustrative purposes only and are not meant to be complete or exhaustive. Issuers of marketing materials are reminded to ensure marketing materials of SFC-authorized funds issued are in compliance with all applicable requirements, including the Advertising Guidelines and the guidance set out in FAQ39 to FAQ39E above. They are welcome to contact the relevant case officers in the Investment Products Division should they have any questions regarding these FAQ.</p>
Marketing materials that highlight or advertise the fees and charges of an SFC-authorized fund		
39G.	Under what circumstances can a fund highlight or advertise any incentives (e.g. reduction or waiver) of fees and charges in the marketing materials?	Financial or other incentives in investing in a product should not be used or presented in marketing materials in such a way that it is likely to divert or mislead investors' focus from the proper consideration of the product.

	Question	Answer
		<p>As such, to give investors a balanced picture, a fund may highlight or advertise any fee incentives (e.g. a fee cut/waiver or zero/low management fee, subscription fee or redemption fee) in its marketing materials only if such statement is accompanied with disclosure of the fund's resulting ongoing charges figure² of similar prominence and in close proximity in the body of the marketing materials.</p> <p>Supplementary information such as the calculation basis (including the reference date if applicable) of the ongoing charges figure may be disclosed by way of footnotes in the fund's marketing materials.</p> <p>Where the fee incentives being advertised apply to multiple share classes,</p> <ol style="list-style-type: none"> a. a single ongoing charges figure can be shown for share classes sharing the same figure provided there is clear description to that effect; and b. for share classes with varying ongoing charges figures, the issuer of the marketing materials are encouraged to show a separate ongoing charges figure for each share class for clarify. Alternatively, the issuer may disclose the ongoing charges figure of the share class which the management company has reasonably designated as the representative share class, with the basis of selection clearly stated and a statement that the ongoing charges figures of other share classes will be provided upon request by potential investors. Once selected, the representative share class should be adopted consistently.
Circular on streamlined requirements for eligible ETFs adopting a master-feeder structure		
40.	Are the marketing materials of the SFC-authorized feeder ETF allowed to contain information of the master ETF?	As the master ETF is not authorized by the SFC, it cannot be offered to the public in Hong Kong unless an exemption under section 103 of the SFO applies. The manager of the feeder ETF should exercise caution and where appropriate take professional legal advice to ensure

² Such ongoing charges figure as disclosed is expected to take into account the fee incentives being advertised and must be calculated in accordance with the Circular to Management Companies of SFC-authorized Funds entitled "Disclosure of the ongoing charges figure and past performance information in the Product Key Facts Statements" revised as of 3 March 2017 (as amended from time to time).

	Question	Answer
		<p>that marketing materials of feeder ETF are in compliance with all applicable laws and regulations. In particular, the management company of the feeder ETF should take note of the following when they market the feeder ETF to Hong Kong investors:</p> <ul style="list-style-type: none">a) all the marketing materials should be for the purpose of promoting the feeder ETF, and not the master ETF;b) if the master ETF is being mentioned in any marketing materials, the marketing materials must not contain any language which suggests an invitation to the public to invest in the master ETF;c) only the factual information about the master ETF can be disclosed in the marketing materials; andd) there should be prominent warning statement in the marketing materials that the master ETF is not authorized by the SFC and is not available to the public in Hong Kong.

Last update: 1 April 2022