

Chapter 11

APPLICATIONS, NOTIFICATIONS AND REPORTING TO THE SECURITIES COMMISSION MALAYSIA

Application for the SC's authorisation or approval

11.01 The SC provides for two authorisation processes for the establishment of a unit trust fund as follows:

- (a) Standard authorisation process; and
- (b) Expedited authorisation process.

11.02 A fund that would be subject to the standard authorisation process includes:

- (a) A feeder fund;
- (b) A fund-of-funds;
- (c) A fund that –
 - (i) can invest in derivatives other than for hedging purposes;
 - (ii) can invest in warrants and convertibles other than those which are capable of being converted into new shares;
 - (iii) can invest in transferable securities or money market instruments with embedded derivatives;

- (iv) can invest in other securities as described in chapter 6 of these Guidelines;
 - (v) does not provide daily dealing;
 - (vi) is permitted to undertake securities lending or repurchase transaction; or
 - (d) a cross-border fund, which is a fund that can be offered in a foreign jurisdiction under an arrangement between the SC and the securities regulator in that foreign jurisdiction.
- 11.03 A fund other than those specified in paragraph 11.02, would be considered under the expedited authorisation process.
- 11.04 Notwithstanding paragraph 11.03, the SC reserves the right to determine the eligibility of a fund to be considered under the expedited authorisation process.
- 11.05 For application under paragraph 1.06, in relation to a fund considered under the expedited authorisation process, the management company must first submit such application and procure the SC's decision prior to submitting an application for authorisation of the fund, unless specific clearance from the SC has been obtained otherwise.
- 11.06 All information, documents and notifications submitted to the SC must be true, complete and accurate. These information and documents must be in accordance with the requirements stipulated under this Chapter.

- 11.07 An application under the expedited authorisation process will lapse if an authorisation is not granted by the SC within six months from the date of first submission. The SC, at its sole discretion, may extend this period under limited circumstances.
- 11.08 When an application under the expedited authorisation process has lapsed, and the management company wishes to seek authorisation for the same fund again, the management company shall submit a fresh application together with the necessary fees.

Application for extension of time

- 11.09 An application for an extension of time must be submitted to the SC at least 30 days before the stipulated expiry date.
- 11.10 Where an application is submitted less than 30 days before the expiry date, the SC will not be responsible for any delay in considering the application.

Application to be a Qualifying CIS

- 11.11 A fund seeking to be assessed as suitable to be a Qualifying CIS must submit an application to the SC.

Application to register and lodge documents with SC

Deed

- 11.12 A deed of a fund must be submitted for registration and lodgement according to the requirements under these Guidelines.

- 11.13 The SC will not register a deed unless the submission is complete and accompanied by all required materials and documents. The SC reserves the right to refuse registration and return the application if the contents of the deed are inadequate and unsuitable, or if the submission is incomplete, as the case may be.
- 11.14 An application to register a deed of a fund must be submitted together with the application to establish a new unit trust fund.
- 11.15 The lodgement file must be submitted together with the registration file (the lodgement and registration file must be in separate folders).

Prospectus

- 11.16 An application to register and lodge a fund's prospectus must be made in accordance with the requirements set out in *Prospectus Guidelines for Collective Investment Schemes*.

Submission of documents prior to the application to establish a feeder fund

- 11.17 Prior to a management company submitting an application for authorisation of a feeder fund, the management company must submit to the SC a documentation on the following:
 - (a) The policy and procedures on how the management company selects its target fund (referred to as

'Target Fund Selection Process'), for SC's clearance;
and

- (b) The risk management policy and procedures of the feeder fund (referred to as 'Feeder Fund Risk Management Process'), which is comprehensive in managing all risks related to the feeder fund and its investment in the target fund.

11.18 Where any document is amended after the submission pursuant to paragraph 11.17, a management company must submit to the SC the marked-up copies, including deletions of information, together with the corresponding electronic copy.

Documents and notifications required to be submitted to the SC

11.19 A management company must submit the following to the SC:

- (a) The annual report of the fund;
- (b) The semi-annual report of the fund;
- (c) Notice issued or published after the registration of a prospectus;
- (d) Statistical Return and Compliance Return;
- (e) [Deleted];

- (f) Appointment of a fund manager to perform fund management function for the management company;
- (g) A special resolution passed to terminate a fund or a class of units and where applicable, a court order confirming the same;
- (h) Commencement and completion of the termination of a fund; and
- (i) Notification pursuant to paragraph 3.28.

Submission of applications, notifications or documents to the SC

- 11.20 All submissions to the SC, unless otherwise specified in these Guidelines, must be made in accordance with, and accompanied by documents, as specified on the SC's website.
- 11.21 Submission of applications which do not comply with the requirements or which are unsatisfactory will be returned.
- 11.22 The SC must be immediately informed of –
 - (a) any material change in circumstances that would affect the SC's consideration of the application; and/or
 - (b) any material change or development in circumstances relating to the application, occurring subsequent to the SC's approval or authorisation.

Launching of fund

11.23 A management company must launch its fund as follows:

- (a) Where a fund is subjected to the standard authorisation process, within 12 months from the date of authorisation.
- (b) Where a fund is subjected to the expedited authorisation process, within six months from the date of authorisation.