

FAQs on item 6.01 (i.e. on subsections 288(2) and 289(1) CMSA) of Technical Note No. 1/2014 ("the Technical Note")

1) **What is the purpose of the Technical Note? Are subsections 288(2) and 289(1) of the CMSA still applicable?**

*The Technical Note explains the operationalisation of the requirements of subsections 288(2) and 289(1) of the CMSA i.e. that a management company or a trustee only needs to obtain SC's approval **once** to act as:*

- (i) a management company or trustee respectively, of a unit trust fund ("UTF") or an exchange-traded fund ("ETF"); or*
- (ii) a management company or trustee respectively, of a real estate investment trust ("REIT").*

Therefore,

- *First time management company or trustee*

If you have never been approved as a management company or trustee as the case may be, you are required under subsection 288(2) of the CMSA to apply for SC's approval under subsection 289(1) of the CMSA. Once approved, you will be included in the relevant "List of approved management companies" or "List of approved trustees" as the case may be.

- *Management company or trustee from the relevant "List of approved management companies" or "List of approved trustees"*

*If you are on the above mentioned lists, you are deemed to have complied with subsection 288(2) of the CMSA and an application for approval under subsection 289(1) of the CMSA for the relevant unit trust scheme is **not** required.*

2) **In the case of a change of management company and/or trustee of an existing fund, do I need to apply to SC to be appointed as the new management company or new trustee as the case may be?**

- *First time management company or trustee*

*If the management company or trustee to be appointed for the existing fund is **not** from the relevant "List of approved management companies" or "List of approved trustees" as the case may be, you are required under subsection 288(2) of the CMSA to apply for SC's approval under subsection 289(1) of the CMSA.*

- *Management company or trustee from the relevant "List of approved management companies" or "List of approved trustees"*

*If the management company or trustee to be appointed for the existing fund is on the above mentioned lists, you are deemed to have complied with subsection 288(2) of the CMSA and an application for approval under subsection 289(1) of the CMSA for the relevant unit trust scheme is **not** required.*

Also, in effecting the change of management company and/or trustee, please note the requirements of subsection 295(4) of the CMSA in relation to an application for registration of a supplementary deed under subsection 295(2) i.e. that such application should be accompanied by the requisite-

- (a) unit holders resolution; or*
- (b) statement from the trustee.*

Please note that SC views that a change of management company or trustee may affect the decision of existing unit holders of a fund to stay invested in the fund. Therefore, the current management company should notify the existing unit holders of the fund of:

- (i) the proposed change of management company and/or trustee; and*
- (ii) their rights under section 305 of the CMSA to call for a meeting of unit holders to consider the matter. A sufficient period of time should be stated in the said notice within which the existing unit holders are to revert on whether they wish to call for a meeting.*

The above notice to unit holders should be submitted together with the application to register the supplemental deed effecting the change of management company and/or trustee under subsection 295(2) of the CMSA. If no meeting of unit holders was convened, to provide a confirmation of the same. Otherwise, to provide a copy of the minutes of the meeting.

3) **Where can I find the “List of approved management companies” or “List of approved trustees”?**

There are two (2) “List of approved management companies” as follows:

- (i) “List of approved management companies for UTF and ETF; and*
- (ii) “List of approved management companies for REIT*

There is one (1) “List of approved trustees”.

For the lists please refer to:

UTF and ETF

<http://www.sc.com.my/wp-content/uploads/eng/html/resources/stats/RUTFs.pdf>

REIT

http://www.sc.com.my/wp-content/uploads/eng/html/resources/stats/REIT_MC.pdf

Trustee

<http://www.sc.com.my/wp-content/uploads/eng/html/resources/stats/ApprovedTrustees.pdf>

4) **When is the effective date of the Technical Note?**

19 August 2014

5) **What is the status of applications for the appointment of management company or trustee which were submitted prior to 19 August 2014 and are yet to be approved by SC?**

For applications made by applicants who are on the “List of approved management companies” or “List of approved trustees”, you are deemed to have complied with subsection 288(2) of the CMSA.