



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

8th Floor, Chater House, 8 Connaught Road Central, Hong Kong

香港中環干諾道中八號遮打大廈八樓

31 January 2008

**Circular to Management Companies of SFC-authorized Real Estate Investment Trusts
("REITs")**

On-market Unit Repurchases by SFC-authorized REITs

1. As part of our initiatives to facilitate the development of the REIT market in Hong Kong, the SFC hereby clarifies the relevant requirements on SFC-authorized REITs purchasing their own units on The Stock Exchange of Hong Kong Limited (the "Exchange").
2. The SFC in general seeks to regulate on-market unit repurchases by REITs with reference to requirements applicable to listed companies as set out in Rule 10.06 of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the "Listing Rules"), except otherwise provided in the Code on REITs or the guidelines issued by the SFC from time to time.
3. An SFC-authorized REIT may purchase its own units on the Exchange provided that:
 - (a) the REIT manager has previously sent to unitholders an Explanatory Statement referred to in paragraph 4 below;
 - (b) the unitholders of the REIT have given a specific approval or a general mandate to the REIT manager to make such purchase(s), by way of an ordinary resolution which complies with paragraph 5 below and which has been passed at a general meeting of the unitholders duly convened and held; and
 - (c) such purchase is carried out in accordance with the provisions of the constitutive documents of the REIT, the laws of the jurisdiction in which the REIT is established, the Code on REITs and the guidelines issued by the SFC from time to time (including this circular).
4. The REIT manager must send to the unitholders of the REIT an Explanatory Statement (at the same time as the notice of the relevant unitholders' meeting) containing all the information reasonably necessary to enable those unitholders to make an informed decision on whether to vote for or against the ordinary resolution to approve the purchase by the REIT of units, including the information set out in the Checklist appended to this circular. The Explanatory Statement must be reviewed and approved by the SFC prior to its despatch.



5. The ordinary resolution proposed to unitholders to give the REIT manager a specific approval or general mandate to purchase units must include:
 - (a) the total number and description of the units which the REIT is authorised to purchase, provided that the number of units which the REIT is authorised to purchase on the Exchange may not exceed 10 per cent. of the total number of issued units of the REIT as at the date of the resolution granting the general mandate; and
 - (b) the dates on which the authority conferred by the resolution will commence and determine. Such authority may only continue in force until (i) the conclusion of the first annual general meeting of the unitholders following the passing of the resolution at which time it shall lapse unless, by ordinary resolution passed at that meeting, the authority is renewed, either unconditionally or subject to conditions; or (ii) revoked or varied by ordinary resolution of the unitholders in general meeting, whichever occurs first.
6. Any REIT proposing to repurchase its units shall also comply with the other restrictions and notification requirements applicable to listed companies purchasing their own shares on a stock exchange under Rule 10.06 of the Listing Rules, with necessary changes being made, as if the provisions therein were applicable to REITs. These include, but not limited to, the dealing restrictions, the restrictions on subsequent issues, the reporting requirements and status of purchased shares¹.
7. The REIT manager shall submit to the SFC a copy of the report on the repurchase(s) made required to be filed with the Exchange² at the same time as the report is submitted to the Exchange.
8. Any purchase by a REIT of its own units from a connected person to the REIT on the Exchange effected in accordance with this circular will be exempt from all the holders' prior approval, disclosure and reporting requirements for connected party transactions under Chapter 8 of the Code on REITs. However, this exemption will not apply if the connected person knowingly sells its units to the REIT.
9. Unless approved by the SFC, REIT managers must not repurchase or redeem any units of their REITs otherwise than any on-market repurchase effected in accordance with this circular.
10. REIT managers should satisfy themselves that a proposed purchase of units complies with all applicable requirements set out or referred to in this circular.

**Investment Products Department
Securities and Futures Commission**

¹ See Rule 10.06(2), (3), (4) and (5) of the Listing Rules

² Under Rule 10.06(4)(a) of the Listing Rules



Appendix

Compliance Checklist for Unit Repurchase Circular

Name of Scheme: _____

Name of Management Company: _____

Date submitted: _____

Proof number of circular: _____

Page

- (1) A statement of the total number of units which the Scheme proposes to purchase
- (2) A statement by the directors of the Management Company (the “Directors”) of the reasons for the proposed purchase of units
- (3) A statement by the Directors as to the proposed source of funds for making the proposed purchase, which shall be funds legally available for such purposes in accordance with the Scheme’s constitutive documents and the laws of the jurisdiction in which the Scheme is established
- (4) A statement as to any material adverse impact on the working capital or gearing position of the Scheme (as compared with the position disclosed in its most recent published audited accounts) in the event that the proposed purchases were to be carried out in full at any time during the proposed purchase period, or an appropriate negative statement
- (5) A statement of the name of any Directors, and to the best of the knowledge of the Directors having made all reasonable enquiries, any associates* of the Directors, who have a present intention, in the event that the proposal is approved by unitholders, to sell shares to the Scheme, or an appropriate negative statement
- (6) A statement that the Directors have undertaken to the SFC to exercise the power to make purchases pursuant to the proposed resolution in accordance with the provisions of the constitutive documents of the Scheme, the laws of the jurisdiction in which the Scheme is established, the Code on REITs and the guidelines issued by the SFC from time to time
- (7) A statement giving details of any purchases by the Scheme of units made in the previous six months (whether on the Exchange or otherwise), giving the date of each purchase and the purchase price per unit or the highest and lowest prices paid for such purchases, where relevant



- (8) A statement as to whether or not any connected persons* of the Scheme have notified the Scheme that they have a present intention to sell units to the Scheme or have undertaken not to sell any of the units held by them to the Scheme, in the event that the Scheme is authorised to make purchases of its own units
- (9) A statement giving the highest and lowest prices at which the relevant units have traded on the Exchange during each of the previous twelve months
- (10) Opinion from the Directors as to whether the granting of the specific approval or general mandate to the Management Company to purchase units is in the interests of the unitholders as a whole
- (11) Opinion from the trustee of the Scheme as to whether the granting of the specific approval or general mandate to the Management Company to purchase units complies with the constitutive documents of the Scheme
- (12) A statement as to whether the trustee of the Scheme has given its consent to the Management Company to proceed with the purchases pursuant proposed resolution
- (13) A statement on the front page as follows:

“The Securities and Futures Commission of Hong Kong takes no responsibility for the contents of this circular, makes no representation as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss however arising from or in reliance upon the whole or any part of the contents of this circular.”
- (14) Prominent warning statement:

“THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. IF IN DOUBT, PLEASE SEEK PROFESSIONAL ADVICE.”
- (15) Responsibility statement:

“The Management Company and its directors collectively and individually accept full responsibility for the accuracy of the information contained in this document and confirm, having made all reasonable enquiries, that to the best of their knowledge and belief there are no other facts the omission of which would make any statement herein misleading.”
- (16) Any additional information as may be requested by the SFC

* As defined in the Code on REITs as applicable to the relevant REIT



Signed by and on behalf of:

Management Company:

Name of authorised signatory:
