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

Consultation Conclusions on Proposed Amendments to the Code on Real Estate Investment Trusts

27 November 2020

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Executive summary

1. On 9 June 2020, the Securities and Futures Commission (SFC) issued a Consultation Paper on Proposed Amendments to the Code on Real Estate Investment Trusts (REITs) to provide Hong Kong REITs with more flexibility in making investments.

2. The proposed amendments to the Code on Real Estate Investment Trusts (REIT Code) include:

   (i) allowing REITs to make investments in minority-owned properties[1] (Minority-owned Properties) subject to various conditions;

   (ii) allowing REITs to make investments in property development projects in excess of the existing limit of 10% of gross asset value (GAV) subject to unitholders' approval and other conditions;

   (iii) increasing the borrowing limit for REITs from 45% to 50% of GAV; and

   (iv) broadly aligning the requirements for REITs' connected party transactions and notifiable transactions with the requirements for listed companies, in line with existing policy and practices.

3. The SFC received 28 written submissions, including from REIT managers, trustees, industry associations, investment banks, valuers, law firms and individuals. A list of respondents (other than those who requested anonymity) is shown in Appendix III.

4. The vast majority of respondents were supportive of the proposals. Their key comments mainly sought clarification of various technical issues, especially in relation to investments in Minority-owned Properties.

5. After carefully considering the comments received and for the reasons set out in this paper, the SFC has adopted the proposals with some clarifications and modifications of the application of specific requirements as set out and discussed in this paper. We will also provide further guidance to the industry by way of Frequently Asked Questions, which will be updated from time to time.

Key comments on the proposals

6. In view of the support received from the vast majority of respondents, we will adopt the proposal to allow flexibility for REITs to invest in Minority-owned Properties. We believe that this will help maintain the overall competitiveness of our regime in line with those in comparable overseas jurisdictions.

7. Some respondents sought clarification of how certain requirements in the REIT Code would apply to Minority-owned Properties, especially for Non-qualified Minority-owned Properties[2] the

[1] The term "Minority-owned Properties" refers to jointly owned properties in which a REIT does not have more than 50% ownership and control.
[2] As defined in 2.14C and 7.2C(b) of the REIT Code.

management of which may not be under the REIT manager's control, as well as investments in other listed REITs.

8. For the reasons set out in this paper, appropriate clarifications and modifications have been made in the REIT Code to clarify how certain requirements would apply to Minority-owned Properties and investments in other listed REITs taking into account the nature of the minority stake held by a REIT and the extent of control a REIT manager would have over such investments.

9. Broad support was expressed for the other proposals, namely to allow more flexibility in investments in property development projects, to increase the borrowing limit for REITs from 45% to 50% of GAV and to align the requirements for REITs' connected party transactions and notifiable transactions with the requirements applicable to listed companies.

10. Most respondents who responded to the question of whether to allow a higher borrowing limit considered either that 50% is the appropriate threshold or that a percentage above 50% would be excessive in view of the nature and characteristics of REITs. Thus, we will adopt the proposed borrowing limit of 50% of GAV which is in line with requirements in comparable overseas jurisdictions. We will keep this limit in view in light of future market developments.

11. Details of the key comments we received are set out in this paper along with our responses. We have made various modifications to and clarifications of the revised REIT Code. The marked-up texts of the REIT Code are set out in Appendix I.

Other matters

12. We also received comments which are not within the ambit of the consultation or the SFC's remit.

13. For example, some respondents called for the introduction of a compulsory acquisition and scheme of arrangement regime for Hong Kong REITs to facilitate privatisation or other corporate restructurings. We note that similar comments have been raised by the industry in the past, including during the SFC's 2010 consultation on a proposal to extend the application of the Codes on Takeovers and Mergers and Share Repurchases to SFC-authorised REITs and a paper issued by the Financial Services Development Council[3](FSDC). Given that any such changes are likely to involve legislative amendments, the SFC is consulting the Government on the next step regarding the suggestions.

14. The SFC notes other comments are mostly tax-related. The call for a pass-through tax structure for Hong Kong REITs, exempting REITs from payment of stamp duty on acquisition of property in Hong Kong and stamp duty exemption from trading of REIT units are outside the SFC's remit and the SFC has relayed them to the relevant authorities for consideration where appropriate.

[3] "Developing Hong Kong as a capital formation centre for Real Estate Investment Trusts", issued on 18 November 2013.

Implementation

15. The revised REIT Code will become effective upon its gazettal. To address respondents' suggestion that an appropriate transitional period be provided for the requirements for connected party transactions in order to assess their impact, a transitional period of six months will be allowed for existing REITs to comply with the revised connected party transactions requirements in relation to transactions entered into before the effective date of the revised REIT Code.

16. We would like to thank all respondents for their time and effort in reviewing the proposals and providing us with their detailed and thoughtful comments.

17. The Consultation Paper, the responses (other than those requested to be withheld from publication) and this paper are available on the SFC website (www.sfc.hk).

Proposed enhancements to the REIT Code

Minority holdings

Question:

1. Do you agree with the proposal to allow flexibility for REITs to invest in Minority-owned Properties? Please explain your view.

2. Do you consider that the proposed overarching principles and specific conditions for Qualified Minority-owned Properties are appropriate? Do you have any comments on the principles and conditions proposed? Please explain your view.

3. Do you have any comment on the proposed requirements for Non-qualified Minority-owned Properties? Please explain your view.

4. Do you have any comment on the proposed disclosure and other requirements for investments in Minority-owned Properties?

5. Do you agree with our proposal to align the diversification limit on the REIT's holdings of Relevant Investments issued by any single group of companies with the Single Investment Cap on Non-qualified Minority-owned Properties of 10% of GAV? Please explain your view.

Flexibility to invest in Minority-owned Properties

Public comments

18. The vast majority of respondents supported the proposal to remove the majority ownership and control requirements and allow flexibility for REITs to invest in Minority-owned Properties. They considered that this would bring Hong Kong in line with other comparable jurisdictions. The increased flexibility should also enable REITs to diversify and expand the scope of their real estate-related investments for the benefit of unitholders.

19. Some respondents sought clarification of whether additional investment limits or other requirements apply to Minority-owned Properties, such as a specific cap for each Qualified Minority-owned Property[4] and Non-qualified Minority-owned Property, an overall investment cap for Minority-owned Properties or a minimum percentage ownership in or income level for Minority-owned Properties.

The SFC's response

20. We will adopt our proposal to allow flexibility for REITs to invest in Minority-owned Properties in view of the overwhelming support and to maintain the overall competitiveness of our regime.

[4] As defined in 2.17A and 7.7C of the REIT Code.

21. As investments in Qualified Minority-owned Properties will be subject to the SFC's approval and various conditions to preserve the recurrent income generating nature of a REIT, we believe that additional investment caps would not be necessary. This would also be in line with the practice in some other comparable overseas jurisdictions[5].

Overarching principles and specific conditions for Qualified Minority-owned Properties

22. Respondents generally agreed with the overarching principles and specific conditions imposed on Qualified Minority-owned Properties. They broadly agreed that such principles and conditions are important measures to safeguard the interests of unitholders and are appropriate as they help ensure that the Qualified Minority-owned Properties are income generating. At the same time, the REIT can still maintain proportionate control. Other comments received mainly sought clarification of various technical issues in relation to the overarching principles and specific conditions, which are discussed below.

Freedom to dispose of Qualified Minority-owned Properties

Public comments

23. Two respondents sought clarification of whether a majority owner's "drag" option to force the disposal or sale of the minority investment held by a REIT would be regarded as a limitation on the REIT's freedom to dispose of the investment and thereby disqualify the investment as a Qualified Minority-owned Property. It was noted that such "drag" options are customary in joint venture transactions involving a minority partner.

The SFC's response

24. In general, a majority owner's contractual "drag" rights would not be considered inconsistent with the REIT's freedom to dispose of its minority investment and would not by itself make the investment a Non-qualified Minority-owned Property. Nevertheless, the REIT manager should make proper disclosures to inform investors about the existence of the "drag" option, its implications for the REIT and other relevant information.

Autonomy and influence over management of Qualified Minority-owned Properties

Public comments

25. One respondent suggested that the SFC should remove the overarching principle that there must be proper safeguards or measures to increase a REIT manager's autonomy and influence over matters relating to the management of Qualified Minority-owned Properties under 7.7C(e) of the REIT Code or relax this requirement to the extent allowed under the joint venture arrangement. The respondent noted that key operating matters are generally determined at the joint venture level which is not under the REIT manager's control. The respondent was of the view that a REIT manager's veto rights over certain key matters are sufficient protection under a minority investment structure.

[5] There are generally no explicit restrictions on investments in minority holdings for REITs in the US, UK, Australia, and Japan. Singapore allows REITs to invest in real estate as joint owner subject to certain conditions including veto rights over key operational issues.

26. Some respondents sought clarification of how to satisfy the requirements under 7.7C(e) of the REIT Code. For example, whether such requirements can be satisfied by meeting the specific conditions under 7.7C(g) on board representation and 7.7C(i) on good governance and adequate measures to avoid conflicts of interests and to ensure transactions are at arm's length and on normal commercial terms.

The SFC's response

27. We consider that the general principle under 7.7C(e) is an important one to be retained given Qualified Minority-owned Properties would be regarded as part of the Core Rental Income Generating Investments[6] of a REIT.

28. As noted in the Consultation Paper, this principle together with other overarching principles and specific conditions set out in 7.7C seek to ensure a REIT can maintain proportionate control to preserve the REIT's recurrent income generating nature and risk profile. REIT managers may demonstrate compliance with reference to the specific circumstances of individual cases, bearing in mind this important objective.

<u>Specified minimum percentage of annual distributable income</u>

Public comments

29. Two respondents suggested that the minimum distribution requirement of "not less than a majority" of the annual distributable income for a joint venture arrangement should be removed. They stated that flexibility should be allowed for the joint venture partners to determine the distribution amount at the joint venture level. In addition, imposing a minimum distribution requirement would adversely affect a REIT's leverage in potential joint venture negotiations and limit investment opportunities in the real estate market. One further noted that there are no similar minimum distribution requirements in other major overseas jurisdictions.

30. On the other hand, one respondent commented that the threshold of "not less than a majority" of annual distributable income is relatively low compared to the payment requirement of at least 90% of distributable profit for a REIT[7].

The SFC's response

31. Our proposed requirement of a specified minimum percentage[8] of annual distributable income at the joint venture level serves as an important safeguard to ensure that Qualified Minority-owned Properties are income generating. We will thus maintain the proposal to require a minimum distribution of "not less than a majority" of the annual distributable income for a joint venture arrangement.

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[6] Core Rental Income Generating Investments refer to recurrent rental income generating real estate, including Qualified Minority-owned Properties and real estate related assets (eg, plant and equipment). At least 75% of a REIT's GAV shall be invested in Core Rental Income Generating Investments under 7.1 of the REIT Code.
[7] Under 7.12 of the REIT Code.
[8] The specified minimum percentage being not less than the majority of the annual distributable income.

32. Properties failing to meet this requirement may still be acquired by a REIT as Non-qualified Minority-owned Properties and subject to the maximum cap of 25% of GAV.

Veto rights over key matters

Public comments

33. Some respondents were of the view that the proposed veto rights under 7.7C(h)(ii) of the REIT Code should focus on key matters at the joint venture level instead of operational matters. Two further suggested that certain veto rights should have a materiality threshold in order to reflect commercial realities.

34. Two respondents sought clarification of whether the key matters listed in 7.7C(h)(ii) of the REIT Code are only examples or are the minimum requirements with which a REIT must comply.

The SFC's response

35. The veto rights requirement aims to ensure that REIT managers can maintain autonomy and influence over matters relating to Qualified Minority-owned Properties. We will take a pragmatic approach to assessing whether a REIT manager has veto rights over the key matters set out in 7.7C(h)(ii) of the REIT Code taking into account the materiality and significance of the relevant matters.

SFC approval for investment in Qualified Minority-owned Investments

Public comments

36. Two respondents commented that it would be impracticable for a joint venture entity to obtain the SFC's approval each time it intends to acquire or dispose of properties as this is not under the REIT manager's control. The process would be unduly cumbersome and restrict a REIT's ability to invest in Minority-owned Properties.

The SFC's response

37. The SFC's approval is one of the fundamental safeguards to ensure that properties meet the overarching principles and specific conditions applicable to Qualified Minority-owned Properties which may be excluded from the calculation of the maximum cap on Non-Core Investments[9] of 25% of GAV. As such, we will retain the requirement for the SFC approval, which is expected to be granted upon clearance of the relevant announcement. REIT managers are encouraged to consult the SFC at an early stage about any such proposal. We also clarify that the SFC's prior approval is not required for the disposal of Qualified Minority-owned Properties.

[9] Non-Core Investments refer to the investments pursuant to 7.2C of the REIT Code and shall not exceed 25% of a REIT's GAV.

Investment limit for Non-qualified Minority-owned Properties

Public comments

38. The vast majority of respondents supported the proposed requirements for Non-qualified Minority-owned Properties. One respondent suggested that the aggregate value of all Non-qualified Minority-owned Properties should not exceed 10% of GAV, given that REIT managers would have relatively less influence and control over the management of these investments.

39. Another respondent suggested providing flexibility to REIT managers to allow for suitable allocation across different types of investments under the maximum cap on Non-Core Investments of 25% of GAV.

The SFC's response

40. We have considered the feedback on the proposed requirements for Non-qualified Minority-owned Properties. In view of the strong support, we will adopt our proposal and maintain the proposed single investment cap of 10% GAV and maximum aggregate investment cap of 25% GAV for Non-qualified Minority-owned Properties.

Disclosure and other requirements for Minority-owned Properties

Public comments

41. The proposed disclosure and other requirements for Minority-owned Properties received general support.

42. Given that a REIT would only hold a minority stake in a Minority-owned Property, typically through holding a minority interest in the joint venture entity holding the Minority-owned Property, some respondents sought clarification or other refinements in relation to the application of some of the existing and proposed REIT Code requirements for Minority-owned Properties.

43. They considered that some requirements (eg, the minimum two-year holding period requirement[10], the requirement for a REIT manager to remain the key decision-maker of all material matters relating to the management of its underlying properties[11], the proposed requirements to disclose certain property and financial information of each Minority-owned Property in the annual and interim reports[12] and the valuation report requirements[13]) should not apply given:

    (i) the REIT manager may not have control over these properties, particularly in the case of Non-qualified Minority-owned Properties;

[10] Under 7.8 of the REIT Code.
[11] Under 5.7A of the REIT Code.
[12] In Note (2) to 7.7C of the REIT Code.
[13] Under Chapter 6 of the REIT Code.

(ii) these requirements would be too complex and cumbersome and would restrict a REIT's ability to invest in Minority-owned Properties;

(iii) the valuation of a Minority-owned Property is often conducted by the property valuer of the joint venture entity holding the property (JV valuer);

(iv) the valuation of Minority-owned Properties would already be reflected in the audited accounts of a REIT as investments in associates or joint ventures; and

(v) certain commercial terms of the joint venture arrangement could be sensitive and disclosure of such information could be a deal-breaker for a joint venture project.

The SFC's response

44. In view of the nature of Non-qualified Minority-owned Properties and their investment limit, some clarifications and modifications have been made to the revised REIT Code to provide that the minimum holding period and certain disclosure, valuation and other relevant requirements would not apply to them.

45. On the other hand, a REIT should have control and veto rights over some key matters involving Qualified Minority-owned Properties. Since Qualified Minority-owned Properties would be regarded as the REIT's Core Rental Income Generating Investments, many of these modifications should not apply to Qualified Minority-owned Properties. This would serve to maintain Hong Kong REITs' nature and risk profile.

46. In Appendix II, we have set out the clarifications and modifications of the relevant requirements applicable to Minority-owned Properties.

<u>Investments in other listed REITs or property-related asset-backed securities (ABS)</u>

Public comments

47. Some respondents sought clarification concerning investments in other listed REITs. In particular, two respondents considered that the veto rights requirements under 7.7C(h)(ii) of the REIT Code may not be practicable where the target properties are owned by another Hong Kong REIT or an overseas listed REIT. They wished the SFC could clarify whether such investments would be considered as Non-qualified Minority-owned Properties and whether any exceptions would be given where joint ownership is attained through widely held or listed vehicles given minority investor protections are enshrined in the regulations in Hong Kong and overseas.

48. The same respondents also commented that the proposed increase of the diversification limit on a REIT's holdings of Relevant Investments[14] issued by any single group of companies from 5% to 10% of GAV does not go far enough to enable Hong Kong REITs to enjoy a level playing field with other listed companies. In order to facilitate merger and acquisition activities (including the acquisition of REITs listed in Hong Kong and elsewhere), they suggested that REITs should

[14] Certain liquid securities and financial instruments pursuant to 7.2B of the REIT Code.

be able to acquire a majority of a company or group of companies provided that certain criteria are met.

49. One respondent noted that the risk patterns and distribution policies of property-related ABS issued in the Mainland are similar to REITs' and investments in ABS are no different from holding regular income-generating properties. As such, the respondent sought clarification of whether investments in ABS may be counted as Core Rental Income Generating Investments, adopting the substance-over-form approach.

The SFC's response

50. Investments in other listed REITs or property-related ABS as Qualified Minority-owned Properties would have to be considered on a case-by-case basis having regard to factors such as the target's structure, underlying investments and whether it is subject to a regulatory regime comparable to that for Hong Kong REITs.

51. In general, where the regulatory regime governing the target REIT is substantially similar to that in Hong Kong, such investments may be regarded as Qualified Minority-owned Properties and may not be required to strictly comply with all the requirements in the REIT Code. For example, strict compliance with valuation requirements may not be required in the case of investments in other listed REITs. In particular, this would be the case where the other REIT is listed and traded on an internationally recognised stock exchange and its financial reports are prepared in accordance with comparable accounting standards[15].

52. Similarly, a substance-over-form approach would also be adopted in the case of property-related ABS. The SFC will review each case holistically and REIT managers are encouraged to consult the SFC at an early stage on any such proposal.

Relevant Investments

Public comments

53. The vast majority of respondents supported the proposal to increase the diversification limit applicable to Relevant Investments issued by any single group of companies under 7.2B of the REIT Code from 5% to 10% of GAV. Only one respondent disagreed with the proposal and suggested maintaining the 5% limit, commenting that the proposed 10% limit may be too high.

The SFC's response

54. In view of the general support received, we will adopt the proposal. We believe the amendment would give REIT managers more flexibility to invest in Relevant Investments and provide appropriate risk diversification.

[15] Under the REIT Code, REITs' financial statements are required to conform with either: (a) accounting standards approved by the Hong Kong Institute of Certified Public Accountants and laid down in the Hong Kong Financial Reporting Standards issued from time to time by that Institute; or (b) International Financial Reporting Standards as promulgated from time to time by the International Accounting Standards Board.

Property development

Question:

6. Do you have any comment on the proposal to adjust the 10% GAV Cap and the safeguards imposed? Please explain your view.

Public comments

55. Most respondents supported the proposal to allow REITs to make investments in property development projects in excess of the existing limit of 10% of GAV (10% GAV Cap), with the safeguards imposed, as the enhanced flexibility can provide REITs with more options in selecting acquisition targets and diversifying their investment strategies.

56. One respondent suggested imposing a diversification requirement for property development and three respondents suggested that the SFC consider additional safeguards. For example, an investment in a property development project cannot be disposed within three years after completion of the development, the property development activities in excess of the 10% GAV Cap must be used solely for development or redevelopment activities which meet specific public policy objectives for the property development market or must be confined to brown field investments (ie, acquisitions and transformation projects) and the resolution to give approval to exceed the 10% GAV Cap must be by means of an independent unitholders' vote.

57. Some respondents proposed removing the requirement to obtain the trustee's consent to adjust the property development limit. They commented that this requirement does not serve any purpose because unitholders' approval will need to be obtained eventually.

58. Respondents also sought clarification of whether the original property owner can transfer properties under development with a value exceeding 10% of GAV at the time of initial public offering and whether unitholders' consent in 7.2AA of the REIT Code should be by way of an ordinary or special resolution.

The SFC's response

59. We welcome the support for our proposal to increase the 10% GAV Cap and will adopt it. We considered that the various existing and proposed safeguards would be sufficient taking into account investor protection considerations and market development needs.

60. We expect that where a REIT undertakes a property development project, the relevant property would form part of the Core Rental Income Generating Investments after completion of the development and will not be subject to any single property diversification limit. However, if for any reasons the property would not qualify as part of the Core Rental Income Generating Investments after completion, the single investment cap of 10% of GAV per property will apply as investments in Non-qualified Minority-owned Properties.

61. We have revised the REIT Code to clarify that the property development cap applicable to a REIT seeking authorisation from the SFC may be up to 25% of the GAV of the REIT[16], provided that it is permissible under its constitutive documents and there is clear disclosure in the offering document.

62. A REIT manager should obtain unitholders' consent for an increase of the property development cap pursuant to the REIT's constitutive documents. Whether an ordinary resolution or a special resolution is required to give effect to the increase will depend on the terms of the constitutive documents. In general, unless amendments to a REIT's constitutive documents are required or a special resolution is specifically provided for under a REIT's constitutive documents, an increase of the property development cap from 10% to not more than 25% of the GAV may be by way of an ordinary resolution.

63. Taking into account the feedback and the trustee's oversight role and fiduciary duties, we consider that the REIT manager should obtain from the trustee at least a confirmation of "no objection" to increasing the property development cap.

Borrowing limit

Question:

7. Do you have any comments on the proposed increase of the borrowing limit from 45% to 50%? Do you think a higher borrowing limit above 50% should be allowed? Please explain your view. If you think a higher borrowing limit should be allowed, what should be the appropriate limit and what other conditions or safeguards (if any) should be imposed?

Public comments

64. Most respondents who responded to the question of whether to allow a higher borrowing limit considered either that 50% is the appropriate threshold or that a percentage above 50% would be excessive in view of the nature of REITs as defensive and stable income-generating products.

65. Two respondents suggested that the borrowing limit should be defined using a net borrowing limit which is based on the net debt position (ie, aggregate borrowing less cash, bank balances and treasury investments).

66. One respondent considered that a borrowing limit of 50% is high and safeguarding measures such as interest coverage should be included to ensure the quality of Hong Kong REITs. Another respondent suggested that REITs shall be allowed to further relax the borrowing limit to 60%, provided that certain safeguards are in place, such as (i) the issuer shall have an investment grade credit rating from a recognised institution; (ii) unitholders' approval is required, which would be effective for a maximum of 12 months; and (iii) any extra borrowing that

[16] This is subject to the maximum cap of 25% of GAV for Non-Core Investments.

exceeds the 50% limit could only be arranged from registered or regulated financial institutions in Hong Kong.

67. One respondent considered that the prohibition of further borrowing when the borrowing limit is exceeded might be too harsh as it would hinder the development and growth of the REIT market. The respondent suggested that the SFC should impose a period during which further borrowing will not be permitted.

The SFC's response

68. In view of the broad support received, we will adopt the proposal to increase the borrowing limit to 50% of GAV which is in line with other major markets in Asia[17].

69. As set out in the proposed amendments to the REIT Code[18], only the borrowings of the REIT's group (which is defined to mean the REIT and its subsidiaries) shall be aggregated for the purpose of calculating the borrowing limit.

70. For investor protection, no further borrowing should be allowed if the borrowing limit is exceeded. However, we have revised the REIT Code to clarify that refinancing existing borrowing for the purpose of repaying maturing borrowing would not generally be regarded as incurring further borrowing[19].

Connected party transactions and notifiable transactions

Question:

8. Do you have any comments on the proposed amendments to the definition of "connected persons"? Please explain your view.

9. Do you agree with the proposal to align the connected party transactions and notifiable transactions requirements for REITs with the Listing Rules? Please set out your reasons.

10. Do you have any comments on the other proposed amendments to Chapter 8 and Chapter 10 of the REIT Code?

Definition of connected persons

Public comments

71. The vast majority of respondents supported the proposed amendments to the definition of connected persons and considered that it is appropriate to align the definition with the relevant

[17] For example, Singapore, Malaysia, Taiwan and Philippines.
[18] In Note (3) to 7.9 of the REIT Code.
[19] In Note (1) to 7.9 of the REIT Code.

requirements under the Listing Rules, except for certain technical differences due to the REIT structure.

72. A few respondents suggested excluding the associates of a REIT's trustee from the definition of connected persons as long as there are sufficient Chinese wall or ring-fencing measures in place.

73. Clarification was sought on whether modifications of existing waivers will be permitted where additional connected persons are identified under the new rules and whether such modifications would require unitholders' approval.

The SFC's response

74. In view of the strong support received, we will adopt the proposal to align the definition of "connected persons" under the REIT Code with that of the Listing Rules. REIT managers are reminded to consult the SFC at an early stage if they are in any doubt as to the application of the requirements.

75. We maintain the view that associates of a REIT's trustee should be included in the definition of connected persons given the importance of the trustee's independent oversight role.

76. Waivers granted for existing connected party transactions shall continue to apply until expiry according to their terms or they are otherwise modified or revoked. REIT managers should consult the SFC at an early stage where additional connected persons are identified and exemptions are not available under the revised REIT Code.

Connected party transactions and notifiable transactions

Public comments

77. We received general support for the proposal to align the REIT Code requirements for connected party transactions and notifiable transactions with the Listing Rules as this would enable more consistency between REITs and companies listing in the same market.

78. Some respondents considered that in the spirit of REITs establishing regulatory parity, REITs should not be subject to disclosure obligations which are more onerous than listed companies. They suggested, for example, applying a 5% size test for disclosable transaction and removing the requirement to issue an announcement for an acquisition or disposal of real estate with a size of 1% or more of a REIT's GAV.

79. Some respondents asked whether all exemptions under the Listing Rules would apply to REITs (ie, insignificant subsidiaries, de minimis transactions and transactions with connected persons at the subsidiary level) and whether the pre-vetting and post-vetting requirements for announcements, circulars, notices and reports published by REITs will follow the practices for listed companies set out in the Listing Rules.

80. There were also suggestions to codify existing waivers granted by the SFC in relation to certain transactions with the trustee's banking group and the issuance of units for payment of REIT manager's fees.

The SFC's response

81. We will proceed with the proposal to align the REIT Code requirements for connected party transactions and notifiable transactions with the Listing Rules as set out in the Consultation Paper.

82. In view of the nature of REITs and to provide transparency, we maintain our view that as a separate disclosure requirement all proposed acquisitions or disposals of real estate should be announced subject to a de minimis exemption for transactions below 1% of GAV.

83. In line with our long-established policy to regulate REITs in the same manner as listed companies, all exemptions under the Listing Rules would generally be applicable to REITs. REIT managers are reminded to consult us at an early stage if they are in any doubt as to the application of the requirements.

84. Vetting arrangements would also be aligned with those under the Listing Rules except to the extent specifically provided under the REIT Code or other guidance published by the SFC from time to time. Further guidance on the list of documents subject to pre-vetting by the SFC will be provided in due course.

85. We have amended the REIT Code to codify waivers commonly granted by the SFC including, for example, in relation to ordinary banking and financial services, corporate finance, leasing or licensing transactions with the trustee's banking group and the issuance of units for payment of REIT manager's fees. We may provide further guidance on how the relevant exemptions may apply by way of Frequently Asked Questions.

Other proposed amendments to Chapter 8 and Chapter 10

Trustee's view

Public comments

86. Some respondents considered the proposed requirement to include the trustee's view in all announcements to be too onerous as it would cover all subject matter irrespective of the nature of the transaction. They suggested that the trustee's view should only be required in transactional or significant announcements.

87. For connected party transactions, a few respondents considered that the trustee's view should only be required for transactions which would necessitate the opinion of an independent financial advisor. They noted that the trustee's view shall primarily relate to compliance with the REIT Code and trust deed, and the trustee should not be required to opine on the commercial merits of connected party transactions.

The SFC's response

88. Taking into account the feedback, current practice and the trustee's oversight role and fiduciary duties, we have revised the REIT Code such that the trustee's view is required to be included in announcements of transactional or significant matters.

Miscellaneous and other amendments

Question:

11. Do you have any comments on the proposed miscellaneous amendments? Please explain your view.

Miscellaneous amendments

Public comments

89. Respondents generally supported the miscellaneous amendments to the REIT Code as set out in the Consultation Paper. Comments generally sought clarification of various technical matters, such as in relation to:

    (i) whether the announcement requirements should apply at the joint-venture entity level or the Minority-owned Property level;

    (ii) whether some flexibility may be allowed for the use of special purpose vehicles;

    (iii) whether the publication and distribution deadline for semi-annual reports should be changed from two months to three months after the end of the period covered, to align with the requirement applicable to listed companies under the Listing Rules;

    (iv) whether the requirement to include full valuation reports in annual reports may be removed to align with the practices of Hong Kong-listed property companies and other comparable overseas REITs;

    (v) the consequences of breaching various investment limits due to market or other factors (for example, due to the appreciation or depreciation of the relevant properties or investments, disposal of other assets and distribution of the proceeds);

    (vi) the disclosure requirement applicable to the unification of property ownership acquisitions; and

    (vii) whether unitholders' approval is required for changes made to the constitutive documents to reflect the latest changes in the revised REIT Code.

The SFC's response

90. In view of the support received, we will adopt the proposed miscellaneous amendments.

91. We wish to clarify that the announcement, circular, unitholders' approval, disclosure and reporting requirements under Chapters 8 and 10 of the REIT Code should not generally be applicable to acquisitions or disposals of properties undertaken by a joint venture entity in which the REIT holds a minority interest subject to the REIT manager's general disclosure obligation under Chapter 10 of the REIT Code.

92. In view of the comments received, we have revised 7.5(c) of the REIT Code to permit special purpose vehicles to be used for other purposes incidental to the REIT's investments, such as to engage employees in the case of a hotel REIT or provide services incidental to managing the REIT and its assets in the case of an internally managed REIT subject to prior consultation with the SFC. We have also aligned the publication and distribution deadline for semi-annual reports as in the Listing Rules. In addition, as an alternative to the inclusion in the annual report of the full valuation report issued by the Principal Valuer[20], a summary valuation report may be included in the annual report provided that the full valuation report is made available for inspection (eg, on the REIT's website)[21].

93. We will provide further guidance on other clarifications sought by way of Frequently Asked Questions which will be updated from time to time.

94. We have also taken the opportunity to codify some existing practices including unitholders' rights to hold and register units of the REIT in their own names and removing the requirement for the valuation of a REIT's real estate for the purposes of issuing new units.

Financial instruments, bank deposits and real estate related assets

Public comments

95. Clarification was sought on whether financial instruments for genuine hedging purposes, bank deposits and real estate related assets (eg, plant and equipment) should be included in the calculation of the 75% Core Rental Income Generating Investments. One respondent also questioned whether the value of bank deposits should be removed from the GAV of the REIT to be used as the denominator for the calculation of the 25% Non-Core Investments and 75% Core Rental Income Generating Investments.

The SFC's response

96. We have revised the REIT Code to clarify that real estate related assets (eg, plant and equipment) included as part of the real estate of the scheme in its valuation and financial statements may be regarded as part of the Core Rental Income Generating Investments and given their nature, financial instruments for genuine hedging purposes and cash will not be regarded as part of the Core Rental Income Generating Investments.

97. However, a REIT would not be considered in breach of 7.2C of the REIT Code where the maximum cap of 25% of GAV is exceeded on a short term basis as a result of its holding financial instruments for genuine hedging purposes or cash. For example, a REIT's cash holding may increase significantly on a temporary basis following the disposition of a property pending distribution or further acquisitions.

[20] Principal Valuer is defined in 2.17 and 6.1 of the REIT Code.
[21] Full valuation reports are only required for majority-owned properties.

Stapled securities structure

Public comments

98. Some respondents considered that the REIT Code should be amended to include clear rules or guidelines regarding the stapled securities structure and to clarify the business operations which may be conducted under the non-REIT component.

The SFC's response

99. Taking into account the feedback, we have revised the REIT Code to clarify that a stapled structure may be adopted by a REIT so long as similar governance and investor protection measures are in place and requirements in the REIT Code are complied with in substance. Given that the stapled securities structure may take different forms, potential applicants are welcome to consult the SFC on their proposals.

Implementation timeline

Question:

12. Do you have any comments on the proposed implementation timeline?

Public comments

100. A vast majority of respondents supported the proposed implementation timeline for the amendments to the REIT Code to take immediate effect upon gazettal. Some respondents suggested that a transitional period (eg, three to six months) may be required for amending constitutive documents and assessing the impact of the changes to the requirements for connected party transactions.

The SFC's response

101. Having considered the above comments, the proposed amendments to the REIT Code will take immediate effect upon gazettal and a transitional period of six months will be allowed for existing REITs to comply with the revised connected party transactions requirements in relation to transactions entered into before the effective date of the revised REIT Code.

102. For these transactions, REITs shall comply with the requirements for connected party transactions applicable at the time the agreements were entered into. All existing waivers shall continue to apply until expiry according to their terms or they are otherwise modified or revoked.

103. For existing continuing connected party transactions, the REIT may, with a proper announcement to unitholders, make use of the exemption for reporting or annual review requirements (if applicable) under the revised REIT Code.

Other comments

104. We received other comments which were not within the ambit of the consultation or the SFC's remit.

105. For example, some respondents called for the introduction of a compulsory acquisition and scheme of arrangement regime for Hong Kong REITs to facilitate privatisation or other corporate restructurings. We note that similar comments have been raised by the industry in the past, including during the SFC's 2010 consultation on a proposal to extend the application of the Codes on Takeovers and Mergers and Share Repurchases to SFC-authorised REITs and a paper issued by the FSDC[22]. Given that any such changes are likely to involve legislative amendments, the SFC is consulting the Government on the next step regarding the suggestions.

106. The SFC notes other comments are mainly tax-related. The call for a pass-through tax structure for Hong Kong REITs, exempting REITs from payment of stamp duty on acquisition of property in Hong Kong and stamp duty exemption from trading of REIT units are outside the SFC's remit and the SFC has relayed them to the relevant authorities for consideration where appropriate.

Conclusion and way forward

107. In view of the overwhelming support from respondents, the SFC will implement the revised REIT Code as set out in this paper. A marked-up version of the amendments to the REIT Code incorporating those discussed in this paper together with other minor amendments for greater clarity and consistency are set out in Appendix I. The SFC will proceed with the gazettal of the amendments to the REIT Code.

108. Once again, the SFC would like to take this opportunity to thank all the respondents for their submissions.

[22] "Developing Hong Kong as a capital formation centre for Real Estate Investment Trusts", issued on 18 November 2013.

Appendix I

Final form of the amendments to the REIT Code

The highlighted parts indicate revisions to the REIT Code which differ from the proposed amendments set out in the Consultation Paper.

Chapter 2: Interpretation

2.1 "associate" bears the meaning as defined in Chapter 14A of the Listing Rules (modified as appropriate pursuant to 2.26)~~the SFO for "associate" of a person~~.

2.2 ~~"associated company" – a company shall be deemed to be an associated company of another company if one of them owns or controls 20% or more of the voting rights of the other or if both are associated companies of another company.~~[deleted]

2.2A "chief executive" shall bear the meaning as defined in 8.1 of this Code.

2.3 "Code" means Code on Real Estate Investment Trusts issued by the Securities and Futures Commission.

2.4 "collective investment scheme" bears the meaning as stated in Schedule 1 of the SFO.

2.5 "Commission" or "SFC" refers to the Securities and Futures Commission as stated in section 3 of the SFO.

2.6 "Committee" means the Committee on REITs.

2.7 "connected persons" shall bear the meaning as defined in Chapter 8~~8.1~~ of this Code.

2.8 "constitutive documents" means the principal documents governing the formation of the scheme, and includes the trust deed and all material agreements.

2.9 "controlling unitholder~~entity~~" shall have the same meaning as "controlling shareholder" as defined under the Listing Rules (modified as appropriate pursuant to 2.26)~~bears the meaning as defined in the SFO for "controlling entity", other than (a)(ii) in its definition~~.

2.10 "dividend reinvestment plan" means an automatic reinvestment of holders' dividends in more units of a scheme.

2.11 "Exchange" means The Stock Exchange of Hong Kong Limited.

2.12 "holder" in relation to a unit in a scheme means the person who is entered in the register as the holder of that unit.

2.13 "Institute" means The Hong Kong Institute of Surveyors.

2.13A "joint venture entity" means an entity or any partnership or other arrangement in which or through which a scheme invests in any jointly owned property as contemplated under 7.7A of this Code and it may be majority-owned or minority-owned by the scheme.

2.13B "JV valuer" shall bear the meaning as defined in Note (2) to 6.2 of this Code.

2.13C~~B~~ "Listing Rules" shall mean the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (as amended from time to time).

2.14 "management company" means the entity appointed for a scheme pursuant to Chapter 5 of this Code and includes its delegates where applicable.

2.14A "Maximum Cap" shall bear the meaning as defined in 7.2C of this Code.

2.14B "Minority-owned Properties" shall bear the meaning as defined in 7.7B of this Code.

2.14C "Non-qualified Minority-owned Properties" shall bear the meaning as defined in 7.2C(b)~~7.7D~~ of this Code.

2.14D "notifiable transaction" shall bear the meaning as defined in the Listing Rules (modified as appropriate pursuant to 2.26).

2.15 "offering document" means the document, or documents issued together, containing information on a scheme to invite the public to buy units in the scheme.

2.16 "ordinary resolution" by holders of a scheme means a resolution passed by a simple majority of the votes of those present and entitled to vote in person or by proxy at a duly convened meeting and the votes shall be taken by way of a poll.

2.16A A "Property Development and Related Activities" refers to the acquisition of uncompleted units in a building by the scheme and property developments (including both new development projects and re-development of existing properties) undertaken in accordance with Chapter 7 in this Code.

2.16B "Property Development Cap" shall bear the meaning as defined in 7.2A of this Code.

2.17 "property valuer" or "Principal Valuer" refers to the property valuer appointed to a scheme pursuant to Chapter 6 of this Code.

2.17A "Qualified Minority-owned Propert~~ies~~y" shall bear the meaning as defined in 7.7C of this Code.

2.18 "real estate" or "property" refers to land or buildings, whether the interest is a freehold or leasehold interest, and includes carparks and assets incidental to the ownership of real estate (e.g. fittings, fixtures, etc).

2.18A "Relevant Investments" shall bear the meaning as defined in 7.2B of this Code.

2.19 "REIT" shall be a scheme authorised by the Commission under this Code.

2.20 "scheme" means a REIT authorised under this Code.

2.20AA "scheme's group" means the scheme and its subsidiaries, or any of them.

2.20A "SFO" means the Securities and Futures Ordinance (Cap. 571).

2.21 ~~"significant holder" bears the meaning as defined under 8.1 of this Code.~~[deleted]

2.22 "special purpose vehicles" or "SPVs" means the special purpose vehicles that are owned and controlled by a scheme in accordance with this Code and for the avoidance of doubt, does not include a joint venture entity minority-owned by the scheme.

2.23 "special resolution" by holders of a scheme may only be passed by 75% or more of the votes of those present and entitled to vote in person or by proxy at a duly convened meeting and the votes shall be taken by way of a poll.

2.23A "subsidiary" shall bear the meaning as defined in the Listing Rules (modified as appropriate pursuant to 2.26).

2.24 "substantial financial institution" means an authorized~~a licensed banking~~ institution as defined in section 2(1) of~~authorised under~~ the Banking Ordinance (Chapter 155 of the Laws of Hong Kong) or a financial institution which is subject to prudential regulation and supervision on an ongoing basis, with a minimum net asset value~~paid-up capital~~ of HK$2 billion ~~150,000,000~~ or its equivalent in foreign currency.

2.24AA "substantial holder" bears the meaning as defined under 8.1 of this Code.

2.24A "Takeovers Code" means ~~t~~The Codes on Takeovers and Mergers and Share Buy-backs~~Repurchases~~ issued by the Commission (as amended from time to time).

2.25 "trustee" means the entity appointed pursuant to Chapter 4 of this Code.

2.26 Where references are made to the requirements under the Listing Rules, unless the context otherwise requires, the following modifications shall apply in the context of a scheme:

(a) references to the "listed issuer" shall be construed as references to the scheme;

(b) references to the "directors" of the listed issuer shall be construed as references to the directors of the management company;

(c) references to the "board of directors" shall be construed as references to the board of directors of the management company;

(d) references to "controlling shareholders" shall be construed as references to "controlling unitholders";

(e) references to “general mandate” shall be construed as references to the 20% general mandate contemplated under 12.2 of this Code;

(f) references to “listed public companies” shall be construed to include REITs;

(g) references to “listed issuer’s group” shall be construed as references to the scheme’s group;

(h) references to “shares” in relation to a listed issuer, shall be construed as references to units of a scheme;

(i) references to “shareholders” shall be construed as references holders of the units of a scheme;

(j) references to “substantial shareholder” shall be construed as references to “substantial holder” as defined in 8.1 of this Code;

(k) “close associates” shall bear the same meaning as defined in the Listing Rules (modified as appropriate pursuant to this 2.26);

(l) save in relation to matters pertaining to the listing or trading of the units of a scheme on the Exchange, the Commission shall replace the Exchange in exercising the various discretion and powers in administering the requirements, including but not limited to those in relation to granting waivers, relaxing the application of any requirement, making determinations (such as classification of transactions, application of certain requirements, whether transactions shall be aggregated, whether to deem certain persons as connected persons, whether to accept a written holders’ approval and whether a group of holders shall be regarded as a “closely allied group of holders”), requiring any holder and his close associates to abstain from voting and imposing additional requirements;

(m) in view of (l) above, the Commission shall replace the Exchange as the party with whom the management company of the scheme shall contact and consult to, for example, provide notifications, seek guidance, obtain prior consent or approval, provide relevant information and document to demonstrate compliance and make relevant applications; and

(n) if there is any inconsistency between the requirements in this Code or any guidelines issued by the Commission from time to time on one hand and the requirements in the Listing Rules on the other hand, the former shall prevail.

Note: The management company should consult the Commission at an early stage if it is in any doubt as to the application of the relevant requirements.

Chapter 3: Basic Requirements for the Authorisation of a REIT

What is a REIT

3.1 A REIT is a collective investment scheme constituted as a trust that invests primarily in real estate with the aim to provide returns to holders derived from the rental income of the real estate. Funds obtained by a REIT from the sale of units in the REIT are used in accordance with the constitutive documents to maintain, manage and acquire real estate within its portfolio.

Note: A REIT may adopt a stapled structure by stapling its units with securities of another listed entity so long as similar governance and investor protection measures are in place and requirements in this Code are complied with in substance. Potential applicants may consult the Commission on their product proposals.

Requisite Conditions for REIT Authorisation

3.7 There shall be an open market in the units of a REIT. This will normally mean that at least 25% of the total issued and outstanding units of the scheme must at all times be held by the public.

Notes: (1) The management company shall promptly inform the Commission when it becomes aware that such percentage has fallen below 25% and use its best efforts to restore it to such minimum level as soon as practicable. Where a scheme is the subject of a general offer under the Takeovers Code (including a privatisation offer), the Commission may consider allowing such percentage to fall below 25% temporarily for a reasonable period after the close of the general offer. The scheme must restore the minimum percentage of units in public hands immediately after the expiration of such temporary period.

(2) In considering who will be regarded as a member of "the public", reference should be made to the requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time.

Chapter 4: Trustee

Appointment of Trustee

4.1 Every scheme for which authorisation is requested shall ~~be structured as a trust and~~ appoint a trustee acceptable to the Commission.

Note: This chapter lists the general obligations of the trustees. Trustees also have to fulfill the duties imposed on them by the general law of trusts.

General Obligations of Trustee

4.2 The trustee shall:

(c) appoint from time to time a Principal Valuer or another qualified valuer~~who meets the qualification requirements set out in Chapter 6~~ to value the real estate of the scheme and to produce valuation reports with respect to the real estate of the scheme in accordance with Chapter 6;

(o) be responsible for the appointment of the ~~board of~~ directors of all special purpose vehicles and joint venture entities to be appointed~~held~~ by the~~a~~ scheme.

Criteria for Acceptability of a Trustee

4.3 A trustee shall be:

(a) a bank licensed under s~~S~~ection 16 of the Banking Ordinance (Chapter 155 of Laws of Hong Kong); or

(b) a trust company registered under Part VIII of the Trustee Ordinance (Chapter 29 of the Laws of Hong Kong) which is a subsidiary of such a bank or a banking institution falling under 4.3(c) below; or

Note: In determining the acceptability of a subsidiary of a banking institution falling under 4.3(c), the Commission will take into account factors including the level of oversight and supervision from such banking institution.

(c) a banking institution ~~or trust company~~ incorporated outside Hong Kong which is subject to prudential regulation and supervision on an ongoing basis, or an entity which is authorized to act as trustee/custodian of a scheme and prudentially regulated and supervised by an overseas supervisory authority acceptable to the Commission.

4.4 A trustee shall be independently audited and shall have minimum ~~issued and~~ paid-up share capital and non-distributable capital reserves of HK$10 million or its equivalent in foreign currency.

4.5 Notwithstanding 4.4 above, the trustee's paid-up share capital and non-distributable capital reserves may be less than HK$10 million if the trustee is a wholly-owned subsidiary of a substantial financial institution (the "holding company") acceptable to the Commission; and

(a) the holding company issues a standing commitment to subscribe sufficient additional capital in the trustee up to the required amount, if so required by the Commission; or

(b) the holding company undertakes that it will not let its wholly-owned subsidiary

default and will not, without prior approval of the Commission, voluntarily dispose of, or permit the disposal or issue of any share capital of the trustee such that the trustee ceases to be a wholly-owned subsidiary of the holding company.

4.6 The trustee shall:

(a) possess key personnel with the knowledge, organizational resources and experience relevant to the holding of real estate under a scheme that operates in a manner similar to that of a scheme authorised under this Code; or

(b) belong to a corporate group that:

(i) is of good repute;
(ii) has acted as trustees for REITs or schemes of similar nature in overseas jurisdictions; and
(iii) is able to provide the trustee with adequate support in all material aspects to enable the trustee to discharge its functions in relation to the scheme.

Retirement of Trustee

4.7 The trustee shall not retire except upon the appointment of a new trustee whose appointment has been subject to the prior approval of the Commission. The retirement of the trustee shall take effect at the same time as the new trustee takes up office.

Independence of Trustee

4.8 The trustee and the management company shall be independent of each other.

4.9 Notwithstanding 4.8 above, if the trustee and the management company are both corporations having the same ultimate holding company, whether incorporated in Hong Kong or outside Hong Kong, the trustee and the management company are deemed to be independent of each other if:

(a) ~~they are both subsidiaries of a substantial financial institution;~~[deleted]

(b) neither the trustee nor the management company is a subsidiary of the other;

(c) no person is a director of both the trustee and the management company;

(d) both the trustee and the management company sign an undertaking that they will act independently of each other in their dealings with the scheme; and

Note: Among other things, there should be systems and controls in place to ensure that persons fulfilling the custodial function ~~/~~ safekeeping of the scheme's assets are functionally independent from persons fulfilling the scheme's management functions, for example, with an independent board, separate governance structure ~~/~~ lines of reporting to the management of the trustee and separate operational teams within the

same corporate group.

(e) the ultimate holding company of the trustee and the management company submits a declaration and an undertaking to the Commission that the trustee and the management company are, and that the ultimate holding company shall ensure that they continue to be, independent of each other, except as regards their relationship with each other as member companies in the same group.

Chapter 5: Management Company, Auditor, Listing Agent and Financial Adviser

General Obligations of a Management Company

5.2 A management company shall:

(f) ensure that all documents in relation to the scheme, (including those in relation to its listing but excluding such documents containing commercially sensitive information) are made available for inspection by the public in Hong Kong, free of charge at all times on the scheme's website or ~~during normal office hours~~ at the place of business of the management company and that of the approved person during normal office hours; and ensure that copies of such documents are available upon request by any person upon the payment of a reasonable fee;

Criteria for Acceptability of Management Company

5.7A The management company shall ensure that in managing a scheme, it has sufficient oversight of the daily operations and financial conditions of the scheme and its underlying properties (other than Non-qualified Minority-owned Properties). The management company shall remain the key decision-maker of all material matters relating to the management of such properties.

Appointment of Listing Agent and Financial Adviser

5.13 The management company shall disclose to holders of the scheme ~~of~~ the name of any substantial ~~significant~~ holder with which it has a relationship, and the nature of such relationship.

Chapter 6: Property Valuer

Appointment of a Principal Valuer

6.1 Every scheme for which authorisation is requested shall appoint an independent property valuer (the "Principal Valuer"), in accordance with 6.4.

Note: The agreement for such appointment shall clearly list the obligations and length of tenure of the Principal Valuer as set out in this Chapter.

General Obligations of a Principal Valuer

6.2 The Principal Valuer shall value all the real estate held under the scheme, on the basis of a full valuation with physical inspection in respect of the site of the real estate and an inspection of the building(s) and facilities erected thereon once a year~~, and in any event for the purposes of issuance of new units~~. The Principal Valuer shall also produce a valuation report on real estate to be acquired or sold by the scheme ~~or where new units are offered by the scheme~~ or in any other circumstances prescribed by the Code. The contents of the valuation report shall comply with 6.8.

Notes: (1) The Principal Valuer may appoint a competent business valuer or other qualified valuer to assist in preparing the valuation of a Minority-owned Property taking into account any impact or implications the specific ownership structure or any relevant divestment or other restrictions may have on the value of the property.

(2) Valuation of a Minority-owned Property is often conducted by a property valuer engaged by the joint venture entity holding the property (the "JV valuer"). In the case of annual valuation, the management company may adopt the valuation issued by the JV valuer provided that it is reasonably satisfied with the JV valuer's competence and independence having regard to its duties under this Code. In such case, the obligations on the Principal Valuer under 6.2 above would not apply to such Minority-owned Properties.

(3) Where a scheme proposes to invest in other listed real estate investment trusts, strict compliance with the valuation requirements in this Chapter may not be required, in particular where the other real estate investment trust is listed and traded on an internationally recognised stock exchange and its financial reports are prepared in accordance with comparable accounting standards. The management company should consult the Commission at an early stage on any such proposal.

6.3 The valuation methodology shall follow the HKIS Valuation Standards ~~"Valuation Standards on Properties"~~published from time to time by the Hong Kong Institute of Surveyors or the International Valuation Standards issued from time to time by the International Valuation Standards Council. Once adopted, the same valuation standards shall be applied consistently to all valuations of properties of the same REIT.

Criteria for Acceptability of the Principal Valuer

6.4 The Principal Valuer shall be a company that:

(a) provides property valuation services on a regular basis;

(b) carries on the business of valuing real estate in Hong Kong;

(c) has key personnel who are fellows or members of the Hong Kong Institute of

Surveyors or the Royal Institution of Chartered Surveyors (Hong Kong Branch) and who are qualified to perform property valuations;

(d) has sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities; in particular, it shall have a minimum issued and paid-up capital and capital reserves of HK$1 million or its equivalent in foreign currency, and its assets shall exceed its liabilities by HK$1 million or more as shown in the company's last audited balance sheet;

(e) has robust internal controls and checks and balances to ensure the integrity of valuation reports and that these reports are properly and professionally prepared in accordance with international best practice; and

(f) has adequate professional insurance to cover its usual risks.

6.5 The Principal Valuer shall be independent of the scheme, the trustee, the management company and each of the substantial ~~significant~~ holders of the scheme. The Principal Valuer is not considered independent if:

(a) it is the subsidiary or holding company of:
  (i) the management company of the scheme;
  (ii) the trustee of the scheme;
  (iii) any of the substantial ~~significant~~ holders of the scheme; or
  (iv) ~~the holding company, subsidiary or associated company~~ an associate of the scheme's management company, the scheme's trustee, or any of the substantial ~~significant~~ holders of the scheme; or

(b) any of its partners, directors or officers is an officer, servant, director or an associate of:
  (i) the management company of the scheme;
  (ii) the trustee of the scheme;
  (iii) any of the substantial ~~significant~~ holders of the scheme; or
  (iv) ~~the holding company, subsidiary or associated company~~ an associate of the scheme's management company, trustee or any of its substantial ~~significant~~ holders; or

(c) any of its directors or officers holds or controls 10% or more of the beneficial interest in, or the right to vote in the governing bodies of, any of the entities in (b)(i), (b)(ii), (b)(iii) or (b)(iv); or

(d) in the case where the scheme intends to acquire or dispose of a property (the "subject property"), the valuer or its associate:
  (i) is engaged whether as principal or agent by the scheme's counterparty that intends or has agreed to sell to or purchase from the scheme the subject property, in relation to the introduction or referral of the scheme to the subject property or vice versa;
  (ii) is engaged whether as principal or agent by the scheme in relation to the acquisition of the subject property;

(iii) acts as a broker for the property transaction for a fee; or
(iv) had, at any time during the one year immediately before the date of the agreement for such intended purchase or disposal, been retained to provide valuation of the subject property to the scheme's counterparty (or its associates~~d companies~~).

Notes: (1) In the circumstances described in 6.5(d), ~~the management company may appoint~~ another qualified valuer may be appointed to conduct valuation of the subject property provided that such valuer satisfies the acceptability criteria under 6.4 to 6.7 and the valuation report complies with the relevant requirements under 6.8 to 6.9. The management company should consult the Commission at the earliest opportunity should the appointment of another qualified valuer be necessary for any reasons.

(2) In determining its independence or whether there is any actual or potential conflict of interests, the Principal Valuer and other qualified valuers should ensure compliance with all applicable ethical requirements under the valuation standards published from time to time by the Hong Kong Institute of Surveyors or the International Valuation Standards Council. ~~It is~~ The Principal Valuer and other qualified valuers are also expected to put in place proper safeguards and measures to manage or minimise any actual or potential conflict of interests that may arise. In particular, there shall be full disclosure to the scheme of all financial benefits received or receivable by the Principal Valuer or its associates for the relevant engagement.

6.6 The Principal Valuer shall ensure that its opinion and valuation is independent of and unaffected by its business or commercial relationship with other persons.

Qualifications of Directors

6.7 The directors of the Principal Valuer shall be persons of good repute who possess the necessary experience for the performance of their duties.

Valuation Report

6.8 The Principal Valuer shall produce a valuation report which shall include as a minimum:

(a) all material details in relation to the basis of valuation and the assumptions used;

(b) describe and explain the valuation methodologies adopted;

(ba) overall structure and condition of the relevant market including an analysis of the supply/demand situation, the market trend and investment activities;

(c) the following particulars in respect of each property, such as:
(i) an address sufficient to identify the property, which shall generally include postal address, lot number and such further designation as is registered with the appropriate government authorities;

(ii) the nature of the interest the scheme holds in the property (e.g. if it is a freehold or leasehold, and the remainder of the term if it is a leasehold);
(iii) the existing use (e.g. shops, offices, factories, residential, etc.);
(iv) a brief description of the property, such as the age of the building, the site area, gross floor area, net lettable floor area, and the current zoning use;
(v) the options or rights of pre-emption and other incumbrances concerning or affecting the property;
(vi) the occupancy rate;
(vii) lease cycle duration;
(viii) lease expiry profile;
(ix) a summary of the terms of any sub-leases or tenancies, including repair obligation, granted to the tenants of the property;
(x) the capital value in existing state at the date the valuation was performed;
(xi) the existing monthly rental before profits tax if the property is wholly or partly let together with the amount and a description of any outgoings or disbursements from the rent, and, if materially different, the estimated current monthly market rental obtainable, on the basis that the property was available to let on the effective date as at which the property was valued;
(xii) the estimated current net yield;
(xiii) a summary of any rent review provisions, where material;
(xiv) the amount of vacant space, where material;
(xv) material information regarding the title of the subject property as contained in the relevant legal opinion, and a discussion as to whether any and how the legal opinions have been taken into consideration in the valuation of the relevant property; and
(xvi) any other matters which may affect the property or its value;

(d) particulars (as set out in (c)) of any real estate for which the scheme has an option to purchase;

(e) a letter stating the independent status of the valuer and that the valuation report is prepared on a fair and unbiased basis;

(f) a discussion of the valuation methodology and assumptions used, and justification of the assumptions; and

(g) an explanation of the rationale for choosing the particular valuation method if more than one method is adopted.

Notes: (1) Where a valuation report is allowed by the Commission or under this Code to be published in summary form, the full valuation report shall be made available for inspection at an address in Hong Kong or on the scheme's website. A statement has to be made in the published report to this effect.

(2) Where a legal opinion is required, such opinion together with copies of any document referred to therein shall be made available to the Principal Valuer and the relevant overseas valuer, if any, engaged in the valuation of the

relevant property prior to the completion of the valuation report.

6.9 Whenever a valuation report is prepared for the scheme, the date of the valuation report shall be:

(a) the date the scheme is valued, if such report is prepared for the purpose of calculating the net asset value of the scheme; or

(b) a date which is not more than three months before the date on which:
  (i) an offering document is issued; or
  (ii) a circular is issued, if the circular relates to a transaction that requires holders' approval; or
  (iii) a sale and purchase agreement (or other agreement to transfer legal title) is signed, if the transaction does not require holders' approval.

Note: Where the date of the valuation report precedes the end of the last period reported on by the auditor, it will be necessary for the offering document or circular to include a statement reconciling the valuation figure with the figure included in the balance sheet as at the end of the period in the event the two figures are different.

Retirement of the Principal Valuer

6.10 The Principal Valuer shall retire after it has conducted valuations of the real estate of the scheme for three consecutive years. Furthermore, the same valuer may only be re-appointed after another three years.

6.11 The Principal Valuer shall be subject to removal by notice in writing from the trustee in any of the following events:

(a) the Principal Valuer goes into liquidation, becomes bankrupt or has a receiver appointed over its assets; or

(b) for good and sufficient reason, the trustee states in writing that a change in the Principal Valuer is desirable in the interests of the holders; or

(c) an ordinary resolution is passed by the holders to dismiss the Principal Valuer.

Notes: The following persons shall abstain from voting:
  (i) the Principal Valuer;
  (ii) directors~~, senior executives or officers~~ and chief executive of the Principal Valuer;
  (iii) associates of the persons in (ii); and
  (iv) ~~controlling entity, holding company, subsidiary or associated company~~ associates of the Principal Valuer.

6.12 In addition, the Principal Valuer shall retire in all other cases provided for in the constitutive documents.

6.13 Upon the retirement or dismissal of the Principal Valuer, the trustee shall appoint a new Principal Valuer that meets the qualification requirements of this Chapter.

Chapter 7: Investment Limitations and Dividend Policy

Core Requirements

7.1 The scheme shall primarily invest in real estate.

Notes: (1) The real estate shall generally be income-generating. At least 75% of the gross asset value of the scheme shall be invested in real estate that generates recurrent rental income at all times.

(2) The scheme may acquire uncompleted units in a building which is unoccupied and non-income producing or in the course of substantial development, redevelopment or refurbishment, but subject to 7.2AA and 7.2C (a) the aggregate contract value of such real estate together with (b) the Property Development Costs described in 7.2A below shall not exceed 25~~10~~% of the gross asset value of the scheme ~~at the maximum~~ at any time. The aggregate contract value referred to under (a) above shall comprise all costs associated with the acquisition pursuant to the contracts entered into for such purpose.

(3) The offering document shall clearly disclose if the scheme intends to acquire further properties during the first 12 months from listing.

7.2 The scheme is prohibited from investing in vacant land unless the management company has demonstrated that such investment is part-and-parcel of the property development which may be undertaken pursuant to 7.2A below and within the investment objective or policy of the scheme.

7.2A A scheme shall not engage or participate in Property Development and Related Activities unless the aggregate investments in all property developments undertaken by the scheme ("Property Development Costs"), together with the aggregate contract value of the uncompleted units of real estate acquired pursuant to Note (2) to 7.1 above, shall not exceed 10% of the gross asset value ~~("10% GAV Cap")~~ of the scheme at any time. This cap may be increased provided that the conditions in 7.2AA below are satisfied ("Property Development Cap"). For this purpose, investment in Property Development and Related Activities do not include refurbishment, retrofitting and renovations.

Notes: (1) Property Development Costs refers to the total project costs borne and to be borne by the scheme, inclusive of the costs for the acquisition of land (if any), and the development or construction costs and financing costs. The upfront calculation of Property Development Costs and where necessary any subsequent increase should be based on a fair estimate made by the management company in good faith and supported by the opinion of an independent expert acceptable to the Commission.

(2) *The management company is expected to include a prudent buffer in line with best industry standards and practice to cater for cost overruns that may arise during the course of development.*

(3) *Any decision made by the management company to invest in Property Development and Related Activities must be made solely in the best interests of unitholders.*

(4) *The investments in Property Development and Related Activities should not result in a material change in the overall risk profile of the scheme.*

(5) *To invest in Property Development and Related Activities, the management company must have the requisite resources, competence, expertise, effective internal controls and risk management system for conducting such investments or activities.*

(6) *Generally, the management company is expected to consult the trustee and issue an announcement to inform unitholders upon the scheme entering into a contract to invest in Property Development and Related Activities and to provide periodic updates in the interim and annual reports of the scheme. The management company shall ensure that all material information concerning these property development investments and related activities is set out in such announcements and periodic updates. The periodic updates shall also include the extent, in percentage terms, to which the Property Development Cap~~10% GAV Cap~~ has been applied. Such disclosure in the annual reports shall be reviewed by the audit committee of the management company.*

7.2AA Subject to 7.2C below, the Property Development Cap may be increased ~~from 10% of the gross asset value of the scheme~~ to ~~up to~~ not more than 25% of the gross asset value of the scheme at any time provided that:

(a) holders' have given their consent to such increase by way of resolution at a general meeting;

(b) the increase is permitted and effected pursuant to the constitutive documents of the scheme; and

(c) no objection from the trustee~~'s consent~~ has been obtained.

Note: Subject to 7.2C below, the Property Development Cap applicable to a REIT seeking authorization from the Commission may be up to 25% of the gross asset value of the REIT provided that it is permissible under its constitutive documents and there is clear disclosure in the offering document.

7.2B The scheme may, subject to 7.2C below and the provisions in its constitutive documents, invest in the following financial instruments ("Relevant Investments"):

a. securities listed on the Exchange or other internationally recognized stock exchanges;

b. unlisted debt securities;

c. government and other public securities; and

d. local or overseas property funds;

provided that:

(i) the value of a scheme's holding of the Relevant Investments issued by any single group of companies would not exceed 10~~5~~% of the gross asset value of the scheme;

(ii) the Relevant Investments should be sufficiently liquid, could be readily acquired/ disposed of under normal market conditions and in the absence of trading restrictions, and has transparent pricing; and

(iii) at least 75% of the gross asset value of a scheme shall be invested in real estate that generates recurrent rental income at all times.

Notes: *(1) ~~The combined value of the Relevant Investments, together with other non-real estate assets of the scheme, when aggregated with (a) all of the Property Development Costs pursuant to 7.2A and (b) the aggregate contract value of the uncompleted units of real estate acquired pursuant to Note (2) to 7.1, should not exceed 25% of the gross asset value ("Maximum Cap") of the scheme at any time. The management company is expected to manage the Relevant Investments and monitor them on an on-going basis to ensure that the Maximum Cap should be observed. Hedging instruments for genuine hedging purpose as well as real estate related assets (e.g. plant and equipment) included as part of the real estate of the scheme in its valuation and financial statements may be disregarded as "other non-real estate assets" above.~~[Deleted]*

(2) To provide transparency on the Relevant Investments which may be made by a scheme, the management company shall publish the full investment portfolio of the Relevant Investments of the scheme with key information relevant to such Relevant Investments (e.g. credit ratings of the instruments invested, if applicable) on its website on an ongoing basis which shall be updated monthly within five business days of each calendar month end. The annual and interim reports of the schemes shall also include such information together with the extent, in percentage terms, to which the Maximum Cap has been applied. Such disclosure in the annual reports shall be reviewed by the audit committee of the management company.

(3) *Investments in the Relevant Investments should not result in any material change in the overall risk profile of the scheme. Accordingly, it is generally expected that management companies should not invest in any high risk, speculative, or complex financial instruments, structured products or enter into any securities lending, repurchase transactions or other similar over-the-counter transactions. In assessing the risks involved, the management company should take into account all relevant factors including but not limited to the creditworthiness of the issuer of the Relevant Investments. The management company should also monitor these investments on an ongoing basis to ensure compliance with all applicable requirements.*

(4) *The Relevant Investments of the scheme must be independently and fairly valued on a regular basis in accordance with the scheme's constitutive documents, in consultation with the trustee. In particular, valuation of the Relevant Investments should be made in accordance with applicable accounting standards adopted for preparing the scheme's financial statements as well as best industry standards and practice.*

7.2C The combined value of:

(a) all Relevant Investments under 7.2B;

(b) all Minority-owned Properties other than Qualified Minority-owned Properties under 7.7C ("Non-qualified Minority-owned Properties");

(c) other ancillary investments of the scheme; and

(d) all of the Property Development Costs pursuant to 7.2A and 7.2AA together with the aggregate contract value of the uncompleted units of real estate acquired pursuant to Note (2) to 7.1,

shall not exceed 25% of the gross asset value ("Maximum Cap") of the scheme at any time. The management company shall manage these investments on an on-going basis to ensure that the Maximum Cap should be observed.

Notes: (1) ~~Financial instruments for genuine hedging purpose, bank deposits, as well as r~~Real estate related assets (e.g. plant and equipment) included as part of the real estate of the scheme in its valuation and financial statements may be disregarded as "other ancillary investments" above and may be included as part and parcel of the scheme's recurrent rental income-generating real estate.

(2) The aggregate value of a scheme's holding in all other ancillary investments (other than financial instruments for genuine hedging purposes and cash) shall not exceed 10% of the gross asset value of the scheme at any time.

(3) The value of a scheme's holding of any Non-qualified Minority-owned Property must not exceed 10% of the gross asset value of the scheme at all times.

(4) Where a scheme undertakes a property development project and the relevant property would be a Non-qualified Minority-owned Property after completion, the 10% diversification limit applicable to each Non-qualified Minority-owned Property under Note (3) above will apply.

(5) In general, a scheme would not be considered in breach of 7.2C where the Maximum Cap is exceeded on a short term basis as a result of its holding financial instruments for genuine hedging purposes or cash. For example, a scheme's cash holding may increase significantly resulting in the Maximum Cap exceeding the 25% limit on a temporary basis following the disposition of a property pending distribution or further acquisitions.

7.3 A scheme shall not lend, assume, guarantee, endorse or otherwise become directly or contingently liable for or in connection with any obligation or indebtedness of any person nor shall it use any assets of the scheme to secure the indebtedness of any person nor shall it use any assets of the scheme to secure any obligations, liabilities or indebtedness without the prior written consent of the trustee.

7.4 A scheme shall not acquire any asset which involves the assumption of any liability that is unlimited.

Use of Special Purpose Vehicles

7.5 The scheme may hold real estate through special purpose vehicles only if:

(a) the special purpose vehicles are legally and beneficially owned by the scheme;

(aa) the scheme has majority ownership and control of the special purpose vehicles;

Note: The Commission expects the special purpose vehicles to be wholly owned by the scheme, except in special and limited circumstances, such as the need to comply with regulatory requirements in an overseas jurisdiction where such requirements are relevant to the scheme and/or its portfolio.

(b) the special purpose vehicles are incorporated in jurisdictions which have established laws and corporate governance standards which are commensurate with those observed by companies incorporated in Hong Kong;

(c) ~~the~~re ~~is either:~~

~~(i) one layer of~~ special purpose vehicles ~~which~~ are established for the sole purpose of ~~directly~~ holding real estate for the scheme and/or arranging financing for the scheme; ~~or~~

~~(ii) two layers of special purpose vehicles, comprising a top-layer special~~

~~purpose vehicle which is formed solely for the purpose of holding interests in one or more special purpose vehicles described in (i);~~

Note: Notwithstanding the above, special purpose vehicles may be used for other purposes incidental to a scheme's investments subject to prior consultation with the Commission. These may include, for example, engagement of employees in the case of a hotel REIT or providing services incidental to managing the scheme and its assets in the case of an internally managed scheme.

(d) [deleted] ~~the scheme has no more than two layers of special purpose vehicles;~~

~~*Note: Additional layer(s) of special purpose vehicles may be allowed by the Commission under limited circumstances, such as where the management company could demonstrate to the Commission's satisfaction that the arrangement is necessary for the purpose of meeting the legal or regulatory requirements of an overseas jurisdiction or in special situations with valid justifications.*~~

(e) neither the memorandum or articles of association or equivalent constitutional documents of the special purpose vehicles nor the organization, transactions or activities of such vehicles shall under any circumstance contravene any requirements of this Code;

(f) the ~~board of~~ directors of each of the special purpose vehicle and joint venture entity to be appointed by the scheme shall be appointed by the trustee of the scheme; and

(g) both the scheme and the special purpose vehicles shall appoint the same auditor and adopt the same accounting principles and policies.

Note: Where the scheme invests in hotels, recreation parks or serviced apartments, such investments shall be held by special purpose vehicles or joint venture entities.

7.6 If the scheme acquires real estate through the acquisition of a special purpose vehicle, the following shall be complied with for the purpose of the purchase:

(a) a report made by accountants (who shall be named in the offering document or circular) shall be prepared on:

(i) the profit and loss of the special purpose vehicle in respect of each of the three financial years (or such other shorter period as appropriate) immediately preceding the transaction; and

(ii) the assets and liabilities of the special purpose vehicle as at the last date (which cannot be more than 6 months old from the date of the report) to which the accounts of the special purpose vehicle were made up;

Note: The accountant shall be qualified under the Professional Accountants Ordinance for appointment as auditor of a company and shall not be an officer or servant, or a partner of or in the employment of an officer or servant, of the special purpose vehicle or of the vehicle's subsidiary or holding company or of a subsidiary of the vehicle's holding company; and the expression "officer" shall include a proposed director but not an auditor.

(b) the report required under (a) shall:

(i) indicate how the profits and losses of the special purpose vehicle would, in respect of the shares to be acquired, have concerned the scheme, if the scheme had at all material times held the shares to be acquired; and

(ii) where the special purpose vehicle has subsidiaries, deal with the profits or losses and the assets and liabilities of the special purpose vehicle and its subsidiaries, either as a whole, or separately; and

(c) a valuation report in respect of the special purpose vehicle's interest in real estate shall be prepared, and such report shall comply with the requirements set out in Chapter 6.

7.7 The scheme shall hold good marketable legal and beneficial title in all its real estate, whether directly, ~~or~~ via a special purpose vehicles controlled by the scheme or via a joint venture entity. ~~However, t~~The scheme may hold such title whether as joint tenants or tenants-in-common with one or more third parties ~~provided that the scheme shall hold majority interest and control and the scheme has freedom to dispose of its interest (subject to complying with applicable requirement of this Code)~~.

Joint Ownership Arrangement

7.7A The ~~management company~~ scheme may invest in jointly owned properties via a joint venture entity. ~~shall ensure that the scheme has majority (more than 50%) ownership and control in each property at all times.~~ In making ~~any~~ such an investment, the management company shall comply with the following conditions:

(a) the management company shall be able to demonstrate that such joint ownership arrangement (including the decision of owning less than a 100% interest in the property) is in the best interests of the holders;

(b) a legal opinion stating that the scheme will have a good and marketable legal and beneficial interest in the property;

(c) the legal opinion on the arrangement shall include:

(i) ~~a description of the significant terms of the joint ownership arrangement;~~[deleted]

(ii) ~~a description of the equity and profit sharing arrangements of the parties to the agreement;~~[deleted]

(iii) a legal opinion that the relevant contract and joint ownership

arrangements are legal, valid, binding and enforceable under applicable law; and

(iv) a statement that all necessary licences and consents required in the location where the subject property is located have been obtained by the scheme or the joint venture entity. ~~its SPV;~~ ~~and~~

(v) ~~any restriction on divestment by the scheme of its interest, in whole or in part, in the property (including matters such as valuation, right of first refusal, lock-up periods, etc).~~[deleted]

Notes: (1) ~~*The management company shall ensure that proper due diligence is conducted in identifying restrictions and constraints that may limit a scheme's direct ownership of a 100% interest in a property.*~~[deleted]

(2) The liability of or assumed by a scheme shall not exceed the percentage of its interest in the joint ownership arrangement and there shall be no assumption of unlimited liability by the scheme.

(3) Where disclosure to investors is required (whether in the offering document, circular or announcements to investors/holders, as the case may be, and except in respect of Non-qualified Minority-owned Properties), ~~T~~the management company shall disclose to investors ~~(whether in the offering document, circular or announcements to investors/holders, as the case may be)~~:

(a) the ownership structure of the property interest and the material terms of the joint ownership arrangement ~~thereof~~, including the equity and profit sharing arrangements, any restrictions on divestments ~~as described in 7.7A(c)(v)~~ by the scheme of its interest (in whole or in part) in the property (including matters such as right of first refusal~~,~~ and lock-up periods ~~etc.~~) and the impact or implication of such restrictions on the divestment value of the interest in the property;

(b) the identity, background and ownership of the remaining ~~legal and beneficial~~ owners in the property, transactional history of these owners with the scheme in relation to the property and their relationship with any connected persons to the scheme of the joint ownership arrangement;

(c) financial, remuneration, fee-sharing or other material arrangements that have been or will be entered into between the scheme and the other owners of that property or their associates;

(d) the management company's analysis of the advantages and disadvantages of investing in that ~~overseas~~ property via this type of ownership structure;

(e) a summary of the contents of the legal opinion in relation to the property;

(f) management company's analysis of the financial impact of such acquisition arrangement;

(g) the source of funding of the property investment;

(h) where appropriate:

(i) the nature of restrictions on foreign ownership and the duration of them, and the impact of such restrictions on the operations and financial position of the scheme as a whole;

(ii) the relevant legal opinion on the application of the overseas rules and regulations that are prohibitive on a scheme to obtain full ownership in the property; and

(iii) the valuer's opinion and evaluation of the impact of such prohibitions on the value of the property; and

(i) any other information which may be material for holders to appraise the property investment ~~relevant to an investor/holder~~.

(4) Despite the disclosure requirements in Note (3) above not applying to Non-qualified Minority-owned Properties, the management company should note and where applicable comply with the general disclosure requirements under Chapter 10.

7.7B The scheme may invest in jointly owned properties in which the scheme will not have majority (more than 50%) ownership and control ("Minority-owned Properties").

Notes: (1) For the avoidance of doubt, wholly or majority-owned car parks, units or floors in a building or complex would not be regarded as Minority-owned Properties.

(2) While it is generally expected that there is alignment between ownership and control, a substance over form approach would be adopted in considering whether the scheme has majority ownership and control in a property.

(3) The management company and the trustee shall, in respect of Non-qualified Minority-owned Properties, exercise due care and skill to comply with the general requirements under this Code unless such matters are not within their control.

7.7C Where a Minority-owned Property can satisfy the following overarching principles and specific conditions (a "Qualified Minority-~~O~~owned Property"), it may be excluded from the calculation of the Maximum Cap under 7.2C subject to the Commission's approval.

Overarching principles

(a) Investment in such property is in line with the scheme's investment strategy and objectives and in the best interests of the holders of the scheme.

(b) There must be prominent disclosures and ~~risk~~ warnings in the relevant documents ~~on~~ about the risks and potential impact on the scheme ~~relating to~~ of the ownership structure in the property. For instance, proper disclosure has to be made about the characteristics or potential risks regarding the lack of majority ownership and control.

(c) The scheme should have freedom to dispose of such investment subject to any customary pre-emptive rights and the holding period under 7.8 below.

(d) At least 75% of the gross asset value of the underlying assets shall be invested in real estate that generates recurrent rental income at all times.

(e) There must be proper safeguards or measures in place to increase the autonomy and influence of the management company over matters relating to the management of such property to the extent allowed under applicable laws or regulations.

Note: For example, over key operating matters such as asset enhancement and capital expenditure plans.

Specific conditions

(f) The scheme shall have right to receive and obtain the financial and operational information of the jointly owned property.

(g) Where applicable, the scheme shall have no less than proportionate board representation.

(h) The joint ownership agreement, memorandum and articles of association and/or constitutive documents should include:

(i) a specified minimum percentage of annual distributable income will be distributed and the scheme should be entitled to receive at least its pro rata share of such distributions;

Note: It is generally expected that the specified minimum percentage shall not be less than majority of the annual distributable income.

(ii) veto rights over key matters, including:

(a) amendment of the joint ownership agreement, memorandum and articles of association or other constitutive documents;
(b) winding up or dissolution;
(c) cessation or change of the business;
(d) entering into any material transactions that are not in the ordinary and usual course of business or mergers;
(e) changes to dividend distribution policy;
(f) changes to equity capital structure;
(g) incurring of borrowings;
(h) creation of security over the assets;
(i) issue of securities or financial derivative instruments; and
(j) major acquisition, transfer or disposal of the assets; and

(iii) a dispute resolution mechanism between the scheme and the other joint owner(s).

(i) There are good governance and adequate measures in place to avoid conflicts of interests as well as to ensure all transactions entered shall be at arm's length and on normal commercial terms. Where practicable, veto rights should be obtained.

Notes: (1) The above overarching principles and specific conditions also apply to "tenants-in-common structures" and such other arrangements as may be acceptable to the Commission where proper and effective contractual arrangements have to be put in place.

(2) To provide transparency on the scheme's investments in Minority-owned Properties, the management company shall include at least the following information in respect of ~~each~~ Qualified Minority-owned Properties~~y~~ in the annual and interim reports of the scheme:

(i) details of ~~the~~each Qualified Minority-owned Property, including its name, location,~~and~~ usage and (for annual report only) valuation;
(ii) the proportion of ownership interest or participating share held by the scheme and if different, the proportion of voting rights held (if applicable);
(iii) dividends received from the investment; and
(iv) where the size of the joint venture entity holding the Qualified Minority-owned Property or Properties is 5% or more, financial information for such entity including, but not necessary limited to, current and non-current assets, cash and cash equivalents, current and non-current liabilities, current financial liabilities, non-current financial liabilities, revenue, profit or loss from continuing operations, depreciation and amortisation, interest income, interest expense, income tax expense or income, post-tax profits or loss from discontinued operations, other comprehensive income and total comprehensive income.

(3) Whether investment in another listed real estate investment trust may be regarded as a Qualified Minority-owned Property would depend on its structure, underlying investments and whether its regulatory regime is comparable. In general, where the regulatory regime governing the target real estate investment trust is substantially similar to that in Hong Kong, such investments may be regarded as Qualified Minority-owned Properties and may not be required to strictly comply with all requirements in this Code. The Commission will review each case holistically and management companies are encouraged to consult the Commission at an early stage on any such proposal.

~~7.7D The value of a scheme's holding of any Minority-owned Property which is not a Qualified Minority-owned Property (a "Non-qualified Minority-Owned Property") must not exceed 10% of the gross asset value of the scheme at all times.~~

~~*Notes: (1) The value of such holding is further subject to the Maximum Cap under 7.2C above.*~~

~~*(2) It is generally expected that investments in such non-Qualified Minority-owned Properties would also comply with the overarching principles set out in sub-paragraphs (a) to (c) of 7.7C above.*~~

~~*(3) The management company shall include at least the information in (i) to (iii) of Note (2) to 7.7C above in respect of each non-Qualified Minority-owned Property in the annual and interim reports of the scheme.*~~

Holding Period

7.8 The scheme shall hold each property within the scheme (other than a Non-qualified Minority-owned Property) for a period of at least two years, unless the scheme has clearly communicated to its holders the rationale for disposal prior to this minimum holding period and its holders have given their consent to such sale by way of a special resolution at a general meeting.

Notes: (1) In the case where a property is held through a special purpose vehicle or joint venture entity, this provision applies as well to the disposal of any interest in such special purpose vehicle or joint venture entity.

(2) In the case of investments in properties under the scheme's property developments undertaken pursuant to 7.2A, this provision applies as well to the holding and disposal of such properties for a period of at least two years from the completion of the properties. For the avoidance of doubt, 7.8 does not apply to the scheme's holding of Relevant Investments and other ancillary investments.

Limitations on Borrowing

7.9 A scheme may borrow (either directly or through its SPVs) for financing investment or operating purposes but aggregate borrowings shall not at any time exceed 50~~45~~% of the total gross asset value of the scheme. The scheme may pledge its assets to secure such borrowings. The scheme shall disclose in its offering document its borrowing policy, including its maximum borrowing limit, and the basis for calculating such limit.

Notes: (1) In the event that the limit is exceeded, holders and the Commission shall be informed of the magnitude of the breach, the cause of the breach, and the proposed method of rectification. Generally, where the borrowings limit is exceeded, solely as a result of a decline in property values or other reasons beyond the control of the management company, the scheme would ~~While the scheme may~~ not be required to dispose of assets to pay off part of the borrowings where such disposal is prejudicial to the interest of the holders. However, no further borrowing is permitted. For avoidance of doubt, refinancing existing borrowing for the purpose of repaying maturing borrowing would not generally be regarded as incurring further borrowing. The management

company shall use its best endeavours to reduce the excess borrowings as soon as practicable. Furthermore, holders and the Commission shall be informed on a regular basis as to the progress of the rectification.

(2) All borrowings shall be conducted at arm's length and the terms shall be commensurate with those of transactions of similar size and nature.

(3) The borrowings of the scheme's group ~~all special purpose vehicles held by the scheme~~ shall be aggregated for the purpose of calculating borrowing limits.

(4) The Commission has the power to require a scheme to aggregate particular liabilities for the purposes of calculating its aggregate borrowing limit. The management company should consult the Commission if it is in any doubt as to the application of the requirements.

7.10 The scheme shall disclose at least the following data on its borrowings and liabilities in its semi-annual report, annual report and such circulars pertaining to either a breach in borrowing limits or a real estate transaction:

(a) total borrowings as a percentage of gross assets; and
(b) gross liabilities as a percentage of gross assets.

Note: Such data shall reflect the aggregate borrowings and liabilities of the scheme's group ~~all the special purpose vehicles held by the scheme~~.

Name of Scheme

7.11 If the name of the scheme indicates a particular type of real estate, the scheme shall invest at least 70% of its non-cash assets in such type of real estate.

Dividend Policy

7.12 The scheme shall distribute to unitholders as dividends each year an amount not less than 90% of its audited annual net income after tax.

Notes: (1) The trustee shall determine if any (i) revaluation surplus credited to income, or (ii) gains on disposal of real estate, shall form part of net income for distribution to holders.

(2) Where the scheme holds real estate via special purpose vehicles, each special purpose vehicle shall distribute to the scheme all of its income as permitted by the laws and regulations of the relevant jurisdictions.

(3) All distributions received and receivable from Minority-owned Properties shall form part of net income for distribution to holders pursuant to the scheme's distribution policy.

Chapter 8: Transactions with Connected Persons

Connected Persons

8.1 Connected persons to the scheme include:

(a) the management company of the scheme;

(b) ~~the Principal Valuer of the scheme;~~[deleted]

(c) the trustee of the scheme;

(d) a substantial~~significant~~ holder;

Notes: (1) A holder is a substantial~~significant~~ holder if it is entitled to exercise, or control the exercise of, ~~holds~~ 10% or more of the voting power at any general meeting of ~~outstanding units of~~ the scheme or any of its subsidiaries.

(2) [Deleted] ~~The following holdings will be deemed holdings of a holder:~~
~~(i) holdings of the associate of the holder who is an individual; or~~
~~(ii) holdings of the director, senior executive, officer, controlling entity, holding company, subsidiary or associated company of the holder if the holder is an entity.~~

(e) a director~~, senior~~ or chief executive ~~or an officer~~ of (i) the management company of the scheme; (ii) the trustee of the scheme; or (iii) any subsidiaries of the scheme ~~any of the entities in 8.1 (a), (b), (c) or (d) above~~;

Notes: (1) "Chief executive" is a person who either alone or together with one or more other persons is or will be responsible under the immediate authority of the board of directors for the conduct of the business of the relevant entity.

(2) "Director" of the management company or any of subsidiaries of the scheme also includes a person who was a director of the management company or any subsidiaries of the scheme in the last 12 months.

(f) an associate of the persons or entities in 8.1(a), 8.1(c), 8.1(d) or 8.1(e); ~~and~~

(g) ~~a controlling entity, holding company, subsidiary or associated company of any of the entities in 8.1 (a) to (d).~~ a "connected subsidiary" as defined in Chapter 14A of the Listing Rules (modified as appropriate pursuant to 2.26); and

(h) a person deemed to be connected by the Commission.

Notes: (1) The Commission has the power to deem any person to be a connected person.

(2) In general, a "deemed connected person" under Chapter 14A of the Listing Rules (modified as appropriate pursuant to 2.26) would be deemed as a connected person under this paragraph.

8.1A In determining whether a person is a connected person of the scheme, reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time.

Note: In general, persons who will not normally be treated as connected persons under the Listing Rules will not be treated as connected persons of the scheme.

8.2 The following shall be disclosed in the scheme's offering document, semi-annual reports, annual reports and circulars in relation to connected party transactions:

(a) beneficial interests, and any changes thereof, of the connected persons in the scheme; and

(b) any potential conflicts of interests involving the connected persons and the measures implemented to address such conflicts.

8.3 Where any of the connected persons as described in 8.1 has an interest in a business ("related business") which competes or is likely to compete, either directly or indirectly, with the scheme's activities, the offering document shall prominently disclose the following:

(a) a description of the related business of the connected person and its management, to enable investors to assess the nature, scope and size of such business, with an explanation as to how such business may compete with the scheme;

(b) where applicable, a statement from the relevant connected person that it is capable of performing, and shall perform, its duty in relation to the scheme independently of its related business and in the best interests of the scheme and its holders; and

(c) a statement as to whether the scheme may acquire any of the related business or assets of the connected person in the future, together with the time frame during which such acquisition will take place or no such acquisition is intended. If there is any change in such information after the scheme is authorised, the management company shall announce it by way of an ~~press~~ announcement as soon as the management company or the trustee becomes aware of such change.

Note: Where the management company manages any schemes other than the

scheme, the management company shall prominently disclose in the offering document and in the next published semi-annual or annual report, the same matters as set out in (a), (b) and (c) as if each of the other schemes were a related business of the management company.

8.4 Where any of the connected persons as described in 8.1 has for the purpose of the establishment of the scheme, agreed to sell real estate to the scheme, the offering document shall prominently disclose the following:

(a) a valuation report of the real estate that the connected person has agreed to sell; and

(b) the price to be paid by the scheme for the subject real estate and other terms of the transaction.

Connected Party Transactions

~~*Categories of Transactions*~~

8.5 For the purpose of this Code, a connected party transaction is any transaction between the scheme's group and a connected person ~~any of the persons described in 8.1~~or any transaction falling within 8.6, and includes also those transactions that would constitute connected transactions for listed companies contemplated under 8.7A of this Code.

8.6 If the management company manages more than one scheme and a transaction involves two or more of the schemes managed by the management company, transactions between these schemes shall be deemed connected party transactions for each of the schemes involved in the transactions.

8.7 All transactions carried out by or on behalf of the scheme shall be:

(a) carried out at arm's length and on normal commercial terms;

Note: The management company shall ensure that all transactions are carried out in an open and transparent manner. Where circumstances permit, transactions shall be carried out by way of open tender or competitive bidding by auction. In particular, connected party transactions in the nature of services provided relating to the real estate of the scheme in the ordinary and usual course of estate management, such as renovation and maintenance work, shall be contracted on normal commercial terms subject to the prior approval of the trustee.

(b) valued, in relation to a property transaction, by an independent valuer that meets the requirements of Chapter 6;

(c) consistent with the investment objectives and strategy of the scheme;

(d) on terms that are fair and reasonable and in the best interests of holders; and

(e) properly disclosed to holders.

8.7A Save as otherwise provided in this Code or the guidelines issued by the Commission from time to time, all connected party transactions will be regulated with reference to requirements applicable to listed companies under Chapter 14A of the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable, including but not limited to:

(a) whether a transaction is a connected party transaction;

(b) whether certain connected party transactions are continuing connected party transactions;

(c) whether an exemption is available for the type of connected party transaction and the conditions for any such exemption;

(d) the holders' approval, disclosure, reporting and other requirements for a connected party transaction;

(e) the content requirements applicable to the announcements, circulars and annual reports to be issued in relation to connected party transactions; and

(f) where a transaction is a continuing connected party transaction, the annual review and other additional requirements applicable.

A scheme entering into any connected party transaction shall comply with all applicable requirements. The management company should consult the Commission at an early stage if it is in any doubt as to the application of the requirements.

8.7B The Commission has the power to specify that an exemption will not apply to a particular transaction.

8.7C The Commission may waive any requirements under this Chapter on a case-by-case basis, subject to any conditions that it may impose.

8.7D Announcements and circulars relating to connected party transactions of the scheme must set out the trustee's view on the transaction, including the following:

~~(i)~~(a) whether the trustee has any objection to the entering into of the transaction;

~~(ii)~~(b) whether the transaction is consistent with the scheme's investment policy and in compliance with this Code and the scheme's constitutive documents;

~~(iii)~~(c) whether the transaction is on normal commercial terms, fair and reasonable and in the interests of the holders as a whole; and

~~(iv)~~(d) where holders' approval of the transaction is not being sought, the trustee's confirmation that such approval is not required under this Code or the scheme's

constitutive documents.

Note: Under 4.2(h) of this Code, the trustee shall take all reasonable care to ensure that connected party transactions are carried out in accordance with this Chapter ~~8. Subject to its duties under this Code and fiduciary duties under general law, the trustee may, in forming its opinion, rely on a reasonable opinion or confirmation from the management company or other competent experts provided in good faith.~~

8.7E Services provided by the management company and the trustee of the scheme as contemplated under the constitutive documents shall not be treated as connected party transactions but particulars of such services (except where any services transaction has a value of not more than HK$1 million), such as terms and remuneration, shall be disclosed in the next published interim or annual report.

8.7F Where holders' approval is required, a connected party transaction may be approved by an ordinary resolution passed in a general meeting in accordance with 9.9(g). Any holder who has a material interest in the transaction tabled for approval and that interest is different from that of all other holders, shall abstain from voting at the general meeting.

8.8 If cash forming part of the scheme's assets is deposited with the trustee, the management company, ~~the Principal Valuer of the scheme~~ or with any other connected persons (being an institution licensed to accept deposits), interest shall be paid on the deposit at a rate not lower than the prevailing commercial rate for a deposit of that size and term. The same principle applies to the scheme's borrowings from the trustee, the management company, ~~the Principal Valuer of the scheme~~ or any other connected persons (being an institution licensed to lend money).

8.9 [Deleted]~~Holders' prior approval is not required for connected party transactions where:~~

~~(a) the total consideration or value of the transaction is less than 5% of the latest net asset value of the scheme, as disclosed in the latest published audited accounts of the scheme, and adjusted for any subsequent transactions since the publication of such accounts; and~~

~~*Note: Where more than one transaction is conducted with the same connected person and the value of this single transaction does not exceed the 5% limit, the limit applies to the cumulative value of all the transactions between such person and the scheme during the twelve months preceding the intended transaction.*~~

~~(b) the scheme has not entered into any other transactions with the same connected person (including its associate, controlling entity, holding company, subsidiary or associated company) during the twelve months preceding the current transaction.~~

~~In such case, the management company shall issue an announcement to holders in accordance with 8.14 and Chapter 10.~~

8.10 [Deleted]~~Connected party transactions in the nature of services provided relating to the real estate of the scheme in the ordinary and usual course of estate management, such as renovation and maintenance work, shall be contracted on normal commercial terms and subject to the prior approval of the trustee.~~

~~*Notes: (1) Where the service to be contracted with the connected party is of a stand alone or one-off nature, and the contracted value exceeds 15% of the aggregate value that the scheme committed to spend or has spent on services relating to the real estate of the scheme during the preceding twelve months, prior approval by holders by way of an ordinary resolution passed in a general meeting is required, unless the service to be contracted is procured under a transparent bidding process. The requirements in 8.14 and Chapter 10 with respect to announcement, circular and notice shall be complied with to inform holders of such particulars as the nature and value of the service, the name of the connected person, the date of the general meeting, and the result of the holders' voting.*~~

~~*(2) Services provided by the management company, the trustee and the Principal Valuer to the scheme as contemplated under the constitutive documents shall not be deemed connected party transactions but particulars of such services (except where any services transaction has a value of not more than HK$1 million), such as terms and remuneration, shall be disclosed in the next published semi annual report or annual report.*~~

8.11 [Deleted]~~Holders' prior approval is required for connected party transactions that do not fall within any of the categories in 8.9 or 8.10. Such approval shall be by way of an ordinary resolution passed in a general meeting. An announcement shall be made and a circular and notice shall be issued to holders in accordance with Chapter 10. The general meeting shall be conducted in accordance with 9.9.~~

~~*Note: An ordinary resolution is required for the approval of a connected party transaction in accordance with 9.9(g). Any holder who has a material interest in the transaction tabled for approval and that interest is different from that of all other holders, shall abstain from voting at the general meeting.*~~

8.12 Neither the management company, its delegates~~, the Principal Valuer of the scheme~~ nor any other connected persons to the scheme may retain cash or other rebates from a property agent in consideration of referring transactions in scheme property to the property agent. All such amounts received shall be paid to the trustee for the benefit of the scheme.

8.13 Except for the management company in discharging their functions under Chapter 5, the scheme shall not engage connected persons as property agents for rendering services to the scheme, including advisory or agency services in property transactions.

~~*Disclosure and Reporting Requirements for Connected Party Transactions*~~

8.14 [Deleted]~~Announcements shall be made for all connected party transactions. Following the announcements of these connected party transactions, details of the transactions shall be disclosed by way of a circular where a vote by holders is required. Where holders' approval is required, a notice shall be issued to holders providing details of the result of the holders' voting at the general meeting. Subsequently a brief summary of the transactions shall be included in the scheme's next published semi-annual or annual report.~~

~~*Note: No announcement shall be required for any connected party transaction falling within 8.9 or 8.10 if the value of such transaction does not exceed HK$1 million.*~~

8.15 [Deleted]~~Where connected party transactions falling within 8.9 or 8.10 are carried out by the scheme, a summary disclosure of the total value of such transactions, their nature and the identities of the connected parties shall be made in the annual report of the scheme. Where there is no such transaction conducted during the financial year covered by the annual report, an appropriate negative statement to that effect shall be made in the annual report.~~

8.16 [Deleted]~~For connected party transactions that do not require holders' approval but are considered by the management company to be material, holders shall be initially informed by way of announcement of the brief details of the transactions, and subsequently through disclosure of the particulars of the transactions in the scheme's next published semi- annual report or annual report.~~

8.17 The following transactions with the trustee's banking group will not generally be regarded as a connected party transaction of the scheme:

(a) where it provides services in its ordinary course of business to a third party and conducts "agency transactions" with the scheme's group; and

(b) where it acquires, purchases, subscribes, sells or disposes of units of the scheme on terms which are the same as available to the public or other unitholders of the scheme as a whole.

Notes: (1) For example, where a member of the trustee's banking group acts for a third party as nominee, custodian, agent or trustee or in the capacity of the manager or trustee of another collective investment scheme and the transaction is not a proprietary transaction of the trustee's banking group.

(2) In general, the "trustee's banking group" should not include the trustee and the trustee's proprietary subsidiaries (being the subsidiaries of the trustee but excluding those subsidiaries formed in its capacity as the trustee of the scheme).

(3) The Commission may provide further details on the types of transactions which may be covered under this paragraph. The management company should consult the Commission at an early stage where it seeks to exclude any transactions as connected party transactions under this paragraph.

8.18 Subject to compliance with 8.7 and provided that there are (i) sufficient safeguards in place to ensure the independence of the trustee from the trustee's banking group; (ii) adequate internal controls in place to ensure the transactions are monitored and undertaken on terms in compliance with this Code; and (iii) proper disclosure to investors, the following transactions with the trustee's banking group will be exempted from strict compliance with the announcement and unitholders' approval requirements under this Chapter, and the disclosure and reporting requirements under this Chapter with respect to such transactions may be modified:

(a) ordinary banking and financial services;

(b) corporate finance transactions; and

(c) leasing or licensing transactions.

Notes: (1) The above exemption will only apply to transactions with members of the trustee's banking group that are connected persons of the scheme solely because of their relationship with the trustee. The exemption in relation to 8.18(c) may also apply to leasing or licensing transactions with a director or chief executive of the trustee.

(2) It is generally expected that safeguards for the trustee's independence should include: (i) each of the trustee and the trustee's banking group acting independently of one another in their dealings with the scheme; (ii) the trustee not being involved in the making of any decisions on behalf of the scheme to enter into any transactions with the connected persons of the trustee; (iii) the management company being satisfied with the trustee's internal controls and compliance procedures, such as implementing Chinese walls, to ensure the operational independence of the trustee from the trustee's banking group; and (iv) there are provisions in the constitutive documents of the scheme that require the trustee to take action or commence proceedings on behalf of the scheme, as the management company deems necessary to protect the interest of unitholders, against the connected persons of the trustee or the trustee's banking group.

(3) It is generally expected that internal controls should include: (i) the management company implementing internal controls and compliance procedures to ensure that the transactions between the scheme and the trustee's banking group are monitored and undertaken on terms in compliance with this Code; (ii) review by the scheme's auditor, audit committee and independent non-executive directors of the management company; and (iii)

(where applicable) independent valuation for each of the leasing or licensing transactions except where they are conducted on standard or published rates.

(4) The Commission may impose other conditions and requirements including an annual transaction cap where appropriate. Proper disclosure should also be made in the offering document, circular or announcement, as the case may be, to inform investors of the details of any such exemption and the relevant conditions and requirements. The management company should consult the Commission at an early stage.

Chapter 9: Operational Requirements

Offers of Units

9.8A Holders shall have the rights to hold and register units of the scheme in their own names.

Chapter 10: Reporting and Documentation

10.1 The management shall keep holders informed of any material information pertaining to the scheme in a timely and transparent manner. The reporting requirements set out in this Code shall not prejudice or affect the application of any listing rules of an exchange on which the scheme is listed, in relation to dissemination of information to investors mandated by such rules.

10.2 All announcements, circulars and notices shall be submitted to the Commission for prior approval. Upon such approval, they shall be disseminated to holders as soon as reasonably practicable.

Notes: (1) Announcements shall be published ~~in at least one leading Hong Kong English language and one Chinese language daily newspaper~~ on the Exchange's website in accordance with the Listing Rules. ~~Other electronic means of publication may also be considered by the Commission.~~

(2) The Commission may from time to time issue guidance on the types of announcements that will not be required to be submitted for pre-vetting before their publication.

Announcements

10.3 The management company shall inform holders as soon as reasonably practicable of any information or transaction concerning the scheme which:

(a) is necessary to enable holders to appraise the position of the scheme; or

(b) is necessary to avoid a false market in the units of the scheme; or

(c) might be reasonably expected to materially affect market activity in the scheme or affect the price of the units of the scheme, or

(d) requires holders' approval.

Note: In considering whether an announcement has to be made under this 10.3, reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) and the Guidelines on Disclosure of Inside Information issued by the Commission to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time. Accordingly, it is generally expected that the transactions and financing arrangements contemplated under Chapter 13 of the Listing Rules, such as pledging of units by controlling unitholder or breach of loan agreement by the scheme, ~~etc.~~ should be announced.

10.4 The following are examples of information that would require disclosure under 10.3. These examples do not constitute a complete list:

(a) a material change in the scheme's financial forecast;

(b) a valuation of the real estate of the scheme, conducted upon request by the trustee under 4.2(d);

(c) issuance of semi-annual or annual report;

(d) ~~any connected party transactions, subject to the HK$1 million threshold in 8.14;~~[deleted]

(e) ~~a transaction (other than a connected party transaction) the value of which exceeds 15% of the gross asset value of the scheme;~~[deleted]

(f) ~~a transaction (other than a connected party transaction) for services relating to the real estate of the scheme the value of which exceeds 15% of the aggregate value that the scheme committed to spend or has spent on services relating to real estate of the scheme during the twelve months preceding the relevant transaction;~~[deleted]

(g) a proposed disposal of real estate within a period of less than two years since acquisition;

(ga) any proposed acquisition or disposal of real estate (including any Minority-owned Property) (unless the size of which is less than 1% of the gross asset value of the scheme);

(h) a proposed change in the management company of the scheme;

(i) a proposed change in the general character or nature of the scheme, such as the

investment objective and/or policy of the scheme;

(j) a recommendation or declaration or cancellation of a dividend or distribution;

(k) issuance of new units (other than units issued pursuant to a dividend reinvestment plan);

(l) a copy of a document containing market sensitive information or any financial documents that the scheme lodges with an overseas stock exchange (where applicable) or other regulator which is available to the public;

(m) giving or receiving a notice of intention to undertake a merger or takeover;

(n) a merger or takeover~~acquisition~~;

(o) a breach of the borrowing limit;

(p) material litigation;

(q) a significant dispute or disputes with contractors or with any parties;

(r) a valuation of the scheme's real estate that has a material impact on the scheme's financial position or performance;

(s) a major change in accounting policy adopted by the scheme;

(t) a proposal to change the scheme's auditor;

(u) a proposal to change the scheme's trustee;

(v) a proposal to alter the level or structure of fees and charges only if such alteration requires holders' approval;

(w) a decision or recommendation to request de-authorisation or delisting of the scheme;

(x) a proposal to terminate the scheme;

(y) a proposal to vary the intention stated regarding acquisition of properties within the first 12 months of listing (see Note (3) to 7.1); or

(z) a scheme enters into a contract to invest in Property Development and Related Activities pursuant to 7.2A.

10.5 The content of an announcement should contain sufficient quantitative information to enable investors to fully understand the nature and ascertain the implications of the announcement. Information disclosed in the announcement shall be factual, clear, succinct and unbiased.

Notes: (1) Reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time.

(2) In view of the oversight role of the trustee, it is generally expected that an announcement of transactional or significant matters should set out the trustee's view on the relevant transaction or subject matter, including (where applicable) (i) whether it has any objection to the relevant transaction or matter; (ii) whether the transaction is consistent with the scheme's investment policy and in compliance with this Code and the scheme's constitutive documents; and (iii) where holders' approval is not being sought, the trustee's confirmation that such approval is not required under this Code or the scheme's constitutive documents.

10.5A Announcements shall be issued in respect of connected party transactions and notifiable transactions. Such announcements shall comply with the contents requirements in accordance with Chapter 8 and 10.10B where applicable.

Circulars

10.6 A circular shall be issued in respect of

(a) transactions that require, or in the reasonable opinion of the trustee or the management company require, holders' approval; and

(b) material information in relation to the scheme.

10.7 The following are examples of circumstances in or in relation to which a circular shall be issued. These examples do not constitute a complete list:

(a) transactions that require, or that in the reasonable opinion of the trustee or the management company require, holders' approval at a general meeting, including a proposal to:
  (i) issue new units (other than units issued pursuant to a dividend reinvestment plan) that requires holders' approval under Chapter 12;
  (ii) enter into a merger or takeover~~acquisition~~;
  (iii) enter into a disposal of real estate within a period of less than two years since acquisition;
  (iv) change the management company of the scheme;
  (v) change the general character or nature of the scheme, such as the investment objective and/or policy of the scheme;
  (vi) alter the level or structure of fees and charges only if such alteration requires holders' approval; and

(vii) ~~enter into a connected party transaction which requires holders' approval under Chapter 8; and~~[deleted]

(viii) request de-authorisation or delisting of the scheme.

(b) material information in relation to the scheme includes, but is not limited to:

(i) ~~a transaction (other than a connected party transaction) the value of which exceeds 15% of the gross asset value of the scheme;~~[deleted]

(ii) ~~a transaction (other than a connected party transaction) for services performed in relation to the real estate of the scheme the value of which exceeds 15% of the aggregate value that the scheme committed to spend or has spent on services relating to real estate of the scheme during the twelve months preceding the relevant transaction;~~[deleted]

(iii) a material change in the scheme's financial forecast; and

(iv) ~~an issue of new units (other than units issued pursuant to a dividend reinvestment plan) that does not require holders' approval; and~~[deleted]

(v) a valuation of the real estate of the scheme, conducted upon request by the trustee under 4.2(d).

10.7A A circular shall be issued in respect of a connected party transaction or a notifiable transaction in accordance with Chapter 8 or 10.10B (as the case may be) where applicable.

10.8 In general, ~~A~~a circular shall be sent within ~~21~~15 business days to holders after the issuance of an announcement. Where a general meeting is to be held, the relevant circular shall be sent to holders ~~21 days (for special resolution) and 14 days (for ordinary resolution) prior to the day of such meeting.~~at the same time as or before the scheme gives the relevant notice of general meeting.

Note: In determining the timing within which a circular shall be despatched to holders, reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time. The management company should refer to the relevant requirements under the Listing Rules, for example, in cases where a delay in distribution of the circular by the date previously announced is expected and where it is aware of any material information relating to the transaction after the circular is issued.

10.9 The following guidance shall be borne in mind in preparing circulars that are required by the Code:

(a) the primary objective of the circular is to enable holders to properly and in an informed manner examine the reasonableness and fairness of the proposed transaction. The balance of advantage or disadvantage to the scheme shall therefore be readily apparent to enable a holder to reach his own conclusions on the proposal;

(b) the circular shall provide sufficient information to holders to evaluate the proposal; and

(c) where applicable, provide a fair and objective valuation of the relevant real estate of the scheme.

Note: Reference should generally be made to requirements applicable to listed companies under the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable except as otherwise provided in this Code or the guidelines issued by the Commission from time to time.

10.10 The circular shall where applicable, at a minimum, contain the full particulars of the transaction or matter disclosed in the announcement to which the circular pertain. The items listed below are not meant to be exhaustive. The Commission may require additional information to be disclosed:

(a) the date of the transaction and the parties thereto;

(b) a general description of the nature of the real estate concerned (if any);

(c) the total consideration and the terms and composition thereof;

(d) the financing arrangement and justification for such arrangement;

(e) a description of the impact to the financial position and the capital structure of the scheme in relation to the transactions contemplated in the circular;

(f) in the case of a new issue, the proposed use of proceeds from the new issue and any other arrangements related to the new issue;

(g) ~~where applicable, the name of the connected person concerned and of the relevant associate (if any) and details of how the person is connected;~~ [deleted]

(h) ~~where applicable, the nature and extent of the interest of the connected person in the transaction;~~[deleted]

(i) where the transaction involves a special purpose vehicle, the particulars of the special purpose vehicle, a general description of its activities, and an accountants' report prepared in accordance with 7.6;

(j) the date and the location of any~~the~~ general meeting;

(k) where applicable, an independent valuation in respect of the real estate concerned (if any) prepared in accordance with Chapter 6;

(l) if the matter pertains to changes to a financial forecast, information set out in Appendix F;

(m) a statement by the management company of any material adverse change in the financial or trading position of the scheme since the date to which its latest published audited accounts have been made up, or an appropriate negative statement;

(n) where appropriate, the nature of any resolutions required to approve the transaction and a statement that holders who have a material interest, whether direct or indirect, in the transaction and such interest is different from the interests of all other holders, will not vote in the general meeting;

(o) an opinion~~, in the form of a separate letter,~~ by the trustee or the management company (insofar as it is not conflicted out by virtue of its interest in the transaction) as to whether the transaction is fair and reasonable so far as the holders of the scheme are concerned and such opinion shall set out the reasons for, the key assumptions made and the factors taken into consideration in, forming that opinion;

(p) [deleted]~~for connected party transactions, an opinion prepared in the form of a separate letter by an independent expert acceptable to the Commission, stating as to whether the transaction is fair and reasonable so far as the holders of the scheme are concerned. Such opinion shall set out the reasons for, the key assumptions made and the factors taken into consideration, in forming that opinion;~~

~~Note: Where the transaction is a transaction with a connected person of the scheme, the unit holdings and identities of that particular connected person, and of any holders that have a prospective interest (other than interests via their holdings as holders in the scheme) in the transactions proposed to be entered into by the scheme, shall also be disclosed in the circular.~~

(q) where a transaction is not a connected party transaction, an opinion from an independent expert may be sought by the trustee or the management company after having regard to the interests of the holders and the nature of the transactions e.g. the scheme undergoes restructuring or mergers or other transactions that have a material impact on its financial or commercial interest;

(r) where the circular includes a statement purporting to be made by an expert, a declaration by such expert of his interest in the scheme;

Note: The expression "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

(s) prominent warning statement:

"THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE

ATTENTION. IF IN DOUBT, PLEASE SEEK PROFESSIONAL ADVICE."

(t) 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."

(u) disclaimer statement:

"The Commission 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 howsoever arising from or in reliance upon the whole or any part of the contents of this circular."

Note: The above requirements in 10.10 are not applicable to circulars issued in respect of connected party transactions or notifiable transactions in compliance with Chapter 8 or 10.10B (as the case may be) save for sub-paragraphs (d), (e), (f), (i), (k), (l), (n), (o), (q), (s), (t) and (u) above.

Notifiable Transactions

10.10A A scheme considering to enter into a notifiable transaction must at an early stage consider the requirements set out in 10.10A to 10.10D. The management company should consult the Commission at an early stage if it is in any doubt as to the application of the requirements.

10.10B Notifiable transactions entered into by a scheme will be regulated with reference to requirements applicable to listed companies under Chapter 14 of the Listing Rules (modified as appropriate pursuant to 2.26) to the extent appropriate and practicable, including but not limited to:

(a) definition of "transaction";

(b) classification of transactions;

(c) notification, publication, shareholders' approval and other requirements;

(d) whether any exemption is available; and

(e) content requirements applicable to the announcements and circulars to be issued in relation to notifiable transactions.

A scheme entering into a notifiable transaction shall comply with all applicable requirements.

10.10C The Commission has the power to specify that an exemption will not apply to a particular transaction.

10.10D The Commission may waive any requirements under 10.10A in individual cases, subject to any conditions that it may impose.

Notice

10.11 Holders shall be informed of the results of any holders' voting at a general meeting by way of a notice.

Reporting Requirements

Reporting to Holders

10.12 At least two reports shall be published in respect of each financial year. Annual reports and accounts shall be published and distributed to holders within four months of the end of the scheme's financial year and semi-annual reports shall be published and distributed to holders within ~~two~~three months of the end of the period they cover. The contents of the annual reports and semi-annual reports shall comply with the requirements set out in Appendix C.

Reporting to the Commission

10.13 Subsequent to the authorisation of the scheme, all financial reports produced by or for the scheme, its management company and trustee shall be filed with the Commission within the time frame specified in 10.12.

10.14 The management company shall supply to the Commission, upon request, all information relevant to the scheme's financial reports and accounts.

10.15 The management company shall notify the Commission as soon as practicable of any change to the data in the application form.

Advertising

10.16 Advertisements and other invitations to invest in a scheme shall be submitted for authorisation prior to their issue or publication in Hong Kong. The general principle is that no advertisement can be made that is false, biased, misleading or deceptive. Any advertisement or announcement which concerns the trustee shall be accompanied by its written consent. Authorisation may be varied or withdrawn by the Commission as it deems fit.

10.17 If a scheme is described as having been authorised by the Commission, it shall be stated

that authorisation does not imply official approval or recommendation.

10.18 Advertisements and marketing materials shall have proper risk warning statements, including a reference to the offering document of the scheme for a detailed discussion of the risk factors of the scheme.

Chapter 11: Termination or Merger of a REIT

11.4 A circular shall be served on holders of all the relevant schemes within 15 business ~~21~~ days of the announcement. Where a general meeting is to be held, the relevant circular shall be sent to holders at the same time as or before the scheme gives the relevant notice of general meeting. The circular shall at least contain information including the following and that required by Chapter 10:

(a) the rationale for the termination of the scheme or merger of schemes;

(b) the effective date of the termination or merger;

(c) the manner in which the assets held by the scheme(s) are to be dealt with;

(d) the procedures and timing for the distribution of the proceeds (in the case of termination) or issuance or exchange of new units (in the case of a merger) arising therefrom;

(e) a valuation report for each relevant scheme prepared in accordance with Chapter 6;

Note: The date of the valuation report shall be a date which is not more than three months before the date of the circular.

(f) the alternatives available to investors (including, if possible, a right to switch without charge into another authorised scheme);

(g) the estimated costs of the termination or merger and who is expected to bear these costs; and

(h) such other material information that the holders should be informed of.

Chapter 12: Issue of New Units

12.2 If new units are not offered to holders on a pro rata basis, holders' approval by way of ordinary resolution at a general meeting is required, unless the aggregate number of new units issued under this 12.2 during the financial year does not increase the total number of units outstanding at the end of the previous financial year by more than 20% (or such lower amount as may from time to time be specified by the Commission).

Notes: (1) New units may be issued to independent third parties in exchange for real estate under this 12.2.

(2) Save as otherwise provided in 12.6, ~~W~~where units to be issued under this 12.2 are issued

(a) to a connected person; or
(b) in relation to a connected party transaction that requires holders' approval under Chapter 8;

then notwithstanding that these new units may fall within the 20% threshold, the issue of units in the case of (a), or the transaction in the case of (b), shall require the approval of holders by way of ordinary resolution at a general meeting. An announcement, a circular and a notice shall be issued in accordance with Chapter 10. Units issued as a result of such approval shall be included in the calculation of 20% for all other purposes under this 12.2.

(3) Where unitholders' approval is exempted under Chapter 8 for issuance of units to connected persons, such issuance will also be exempted from strict compliance with unitholders' approval requirement under Note (2) above.

12.6 Payment of the management company's remuneration by way of units in accordance with the terms of the scheme's constitutive documents by a scheme within the 20% threshold under 12.2 will be exempted from strict compliance with unitholders' approval requirement under Note (2) to 12.2 provided that the aggregate number of units issued for such purpose in respect of a financial year does not exceed 3% (or such other percentage as may be considered appropriate by the Commission) of the total number of units outstanding as at the last day of the immediately preceding financial year plus the number of units (if any) issued in the relevant financial year for the purposes of financing any acquisition of real estate by the scheme.

Note: Proper disclosure should be made in the offering document, circular or announcement, as the case may be, to inform investors of the details of any such exemption.

Practice Note on Overseas Investments by SFC-authorised REITs

Safeguarding Measures for Overseas Investments

Qualifications of the Management Company

10. At a minimum, a management company that proposes to invest overseas must be able to demonstrate that it has the requisite competence, experience and resources to analyse the issues and risks involved in overseas investment, to develop, implement and keep

up-to-date a set of effective internal controls and risk management system to deal with existing and foreseeable risks involved in overseas investments, and to inform investors in a clear, concise and timely manner of the investment profile and risks of a scheme. ~~It shall include in its application to the Commission a detailed business plan to demonstrate how it can implement its investment strategy, given its resources and circumstances.~~

12. The management company shall have a comprehensive compliance plan that is appropriately devised to ensure that risks involved in overseas investments, such as legal, regulatory, fiscal and operational risks etc. are adequately mitigated and proper checks and balances are in place to monitor the activities performed in relation to a scheme. The management company shall also have a contingency plan that enables it to proactively respond to any exigencies that may arise in the course of its investment and management of overseas properties, its divestment of such properties and any matters arising in the course of a public offering of any units in the scheme. ~~Such compliance plan has to be submitted to the Commission.~~

Appendix B

Information in the Offering Document

Investment Objectives and Restrictions

B2 The offering document of the scheme shall clearly include:

(e) the nature and risks of making property investments including those pursuant to 7.2A, 7.7A and 7.7B in each of the relevant locations, including:
- (i) demographics;
- (ii) state of the economy, economic risks and foreign exchange risk;
- (iii) political risks;
- (iv) legal risks and tax considerations;
- (v) policies that affect property investments and property sales;
- (vi) overview of the property market;
- (vii) analysis of the specific property sector and the competitive dynamics in the rental market;
- (viii) operational requirement; and
- (ix) rules and regulations governing property ownership and tenancy matters;

(q) a valuation report prepared by the Principal Valuer in accordance with Chapter 6 with respect to all the scheme's interest in real estate (including all Minority-owned Properties), including particulars of each property owned by the scheme or contracted for purchase by the scheme; and

Note: If the scheme has obtained more than one valuation report regarding any of its real estate within six months before the issue of the offering document, then all other such reports shall be included.

Substantial~~Significant~~ Holders

B5 The names of the substantial~~significant~~ holders and the number of units held and deemed to be held by each of them; or the identity of investors each of whom has agreed to subscribe to 10% or more of the scheme, and the number of units each of them has agreed to subscribe for.

B6 The minimum period that each of the substantial~~significant~~ holders intends to hold the units after the scheme becomes authorised.

General Information

B24 A list of constitutive documents, and the scheme's website address or an address in Hong Kong where they can be inspected free of charge or purchased at a reasonable price.

Appendix C

Contents of Financial Reports

The annual report shall contain, at a minimum, the following:

2B. The extent (in percentage terms) to which each of the ~~10% GAV~~Property Development Cap and the Maximum Cap has been applied pursuant to ~~Note (6) to~~ 7.2A and 7.2C~~Note (2) to 7.2B~~ respectively;

2C. Summary of all real estate other than Non-qualified Minority-owned Properties, including all investments in all Qualified Minority-owned Properties pursuant to 7.7C and ~~7.7D~~;

3. Valuation report as described in Chapter 6 or a summary form of such valuation report;

The semi-annual report shall contain, at a minimum, the following:

2. List of real estate held by the scheme under 2C above;

3B. The extent (in percentage terms) to which each of the ~~10% GAV~~Property Development Cap and the Maximum Cap has been applied pursuant to ~~Note (6) to~~ 7.2A and 7.2C ~~Note (2) to 7.2B~~ respectively;

Notes to the Accounts

The following matters shall be set out in the notes to the accounts:

2. Transactions with Connected Persons

~~The following shall be disclosed:~~

~~(a) a description of the nature and extent of any transactions entered into during the period between the scheme and the management company, the Principal Valuer of the scheme or any entity in which the management company those parties or their its connected persons have a material interest, and a statement confirming that these transactions have been entered into in the ordinary course of business and on normal commercial terms;~~

~~(b) details of all transactions which are outside the ordinary course of business or not on normal commercial terms entered into during the period between the scheme and the management company, or any entity in which these parties or their connected persons have a material interest;~~

~~(c) name of the management company, the director of such entities or any connected persons of such entities or director who is entitled to profits from transactions in units or from management of the scheme, and the amount of profits to which each of them becomes entitled;~~

~~(d) where the scheme does not have any transactions with connected persons during the period, a nil statement to that effect; and~~

~~(e) the basis of the fee charged for the management of the scheme and the name of the management company.~~

Disclosure should be made in accordance with the requirements set out in Chapter 8.

Appendix D

Contents of Trust Deed

The trust deed of a scheme shall be submitted to the Commission for prior approval. It shall, at a minimum, contain all the information listed in this Appendix. The items listed are not meant to be exhaustive, the Commission may require additional information to be disclosed in the trust deed.

5. Trustee

(a) A statement to set out the obligations of the trustee as set out in Chapter 4.

(b) A statement that the trustee shall retire in the manner as stipulated in Chapter 4.

(c) A statement to empower the trustee to require holders to disclose to it upon its request, their beneficial interests in the scheme.

(d) A statement to requiring a holder to promptly disclose to the trustee when the holder becomes a substantial ~~significant~~ holder.

13. Transactions with Connected Persons

The following shall be stated:

(a) Cash forming part of the scheme's assets may be deposited with the trustee, the management company~~, the Principal Valuer of the scheme~~ or with any other connected persons (being an institution licensed to accept deposits) so long as that institution pays interest on the deposit at a rate not lower than the prevailing commercial rate for a deposit of that size and term.

(b) Money can be borrowed from the trustee, the management company~~, the Principal Valuer of the scheme~~ or any other connected persons (being an institution licensed to lend money) so long as that institution charges interest at no higher rate, and any fee for arranging or terminating the loan is of no greater amount than the prevailing commercial rate for a loan of the size and nature of the loan in question negotiated at arm's length.

(c) All transactions carried out by or on behalf of the scheme shall be:

(i) carried out at arm's length and on normal commercial terms;

~~*Note: The management company shall ensure that all transactions are carried out in an open and transparent manner. Where circumstances permit, transactions shall be carried out by way of open tender or competitive bidding by auction.*~~

(ii) valued, in relation to a property transaction, by an independent valuer that meets the requirements of Chapter 6;

(iii) consistent with the investment objectives and strategy of the scheme; and

(iv) on terms that are fair and reasonable and in the best interests of holders.

(d) Any transactions between the scheme and any of its connected persons shall be carried out in accordance with the requirements set out in Chapter 8.

Appendix II

Clarifications and modifications of requirements applicable to Minority-owned Properties

A. Qualified Minority-owned Properties

	Requirements	Applicability
1.	Disclosure of information in annual / interim reports under Note 2(iv) to 7.7C of the REIT Code	Only apply where the size[23] of the joint venture entity holding the Qualified Minority-owned Property or Properties is 5% or more[24].
2.	Valuation requirement under Chapter 6 of and Appendix B to the REIT Code	For annual valuation a. The REIT manager may adopt the valuation issued by the JV valuer[25]. b. If the REIT manager is not reasonably satisfied with the JV valuer's competence and independence having regard to its duties under the REIT Code, the Principal Valuer should be engaged to conduct its own valuation. c. The valuation of each Qualified Minority-owned Property held by the REIT should be disclosed in the annual report of a REIT. For an initial public offering of a REIT and acquisition of a Minority-owned Property d. The Principal Valuer should continue to produce a full valuation report on the relevant properties[26].

B. Non-qualified Minority-owned Properties

	Requirements	Applicability
1.	Minimum two-year holding period requirement under 7.8 of the REIT Code	Not applicable

[23] This means that the percentage ratio of any of the size tests (ie, asset test, profits test, revenue test, consideration test and equity capital test) is 5% or more.
[24] Where the percentage ratio of all size tests for the investment in the joint venture entity holding the Qualified Minority-owned Property or Properties is less than 5%, the disclosure should be made in accordance of the accounting standards set out in Appendix C to the REIT Code. For example, disclosure of key financial information may be required if the relevant investment is material.
[25] In such case, the obligations on the Principal Valuer under 6.2 of the REIT Code would not apply to such Minority-owned Properties.
[26] Strict compliance with valuation requirements may not be required in the case of investments in other listed REITs. In particular, this would be the case where the other REIT is listed and traded on an internationally recognised stock exchange and its financial reports are prepared in accordance with comparable accounting standards.

2.	Requirement for a REIT manager to remain the key decision-maker of all material matters relating to the management of its underlying properties under 5.7A of the REIT Code	Not applicable
3.	Specific disclosure requirements for joint ownership arrangement under 7.7A[27] of the REIT Code	Not applicable The REIT manager is however reminded of its duty to comply with the general disclosure obligations under Chapter 10 of the REIT Code.
4.	Disclosure of information in annual / interim reports under of Note 2(i) to (iii) to 7.7C of the REIT Code	Not applicable Disclosure made in accordance with the accounting standards set out in Appendix C to the REIT Code.
5.	Valuation requirement under Chapter 6 of and Appendix B to the REIT Code	The same flexibility and refinements discussed above in relation Qualified Minority-owned Properties will also apply to Non-qualified Minority-owned Properties.
6.	Other requirements under the REIT Code	The REIT manager and trustee shall exercise due care and skill to comply with the general requirements under the REIT Code unless such matters are not within their control.

[27] This requirement is only applicable where an announcement is required to be issued under the REIT Code, for example, where the size of the proposed acquisition or disposal of real estate is 1% or more of the GAV of the scheme.

Appendix III

List of respondents

(in alphabetical order)

1. ARA Asset Management Limited
2. Asia Pacific Real Estate Association and Baker McKenzie
3. BCT Group (BCT Financial Ltd / Bank Consortium Trust Co. Ltd)
4. CFA Society Hong Kong
5. CHFT Advisory and Appraisal Ltd.
6. China International Capital Corporation Hong Kong Securities Limited
7. China Real Estate Chamber of Commerce Hong Kong and International Chapter Limited
8. CompliancePlus Consulting Limited
9. Eagle Asset Management (CP) Limited
10. Hong Kong Exchanges and Clearing Limited
11. Hong Kong Institute of Certified Public Accountants
12. Hong Kong Investment Funds Association
13. Hong Kong Professionals and Senior Executives Association
14. Hong Kong Trustees' Association
15. Knight Frank Petty Limited
16. Link Asset Management Limited
17. Paul Hart
18. Royal Institution of Chartered Surveyors
19. Slaughter and May
20. The Hong Kong Institute of Chartered Secretaries
21. The Law Society of Hong Kong
22. One respondent's submission is published on a "no-name" basis upon request
23. Submissions from six respondents are withheld from publication upon request