

What are the criteria to be a fund management company? How do fund management companies handle investors' assets? How are they being monitored?

A fund manager of an authorized fund must:

- be engaged primarily in the fund management business;
- have sufficient financial resources, proper internal control and compliance procedures;
- ensure that the company's director and key personnel have sufficient experience in managing the same kind of fund.

The fund management companies must fulfill the duties in accordance with the fund's constitutive documents, examples of duties include 1) manage the fund in the sole interest of the shareholders; 2) maintain the books and records of the fund and prepare the fund's accounts and reports. At least two reports must be published in each financial year (within four months of the end of the fund's financial year and within two months of the end of the period an interim report covers). These reports must be published and distributed to shareholders.

Only fund management companies accepted by SFC can manage authorized funds. In addition to specific capital requirements, sufficient human and technical resources must be at the disposal of the fund management company. Key personnel is expected to possess at least five years investment experience managing unit trusts or other public funds with reputable institutions and must be dedicated full-time staff. There must be adequate internal controls and procedures, which should be regularly monitored by the senior management for updatedness and compliance. In addition, conflicts of interests must be properly addressed to safeguard investors' interests. Where the investment management functions are delegated to third parties, there should be on-going supervision and regular monitoring of the competence of the delegates by the management company to ensure that the management company's accountability to investors is not diminished.

Who can be a trustee/custodian? How do trustees/custodians handle investors' assets? How are they being monitored?

The trustee/custodian can be a bank, a registered trust company or a bank or trustee company incorporated outside Hong Kong acceptable to the SFC. It requires minimum paid-up capital and reserves of HK\$10 million. A fund's assets must be segregated from the assets of its trustee/custodian, who is also prohibited from using a fund's entrusted assets for its own benefits or debt repayments.

A trustee/custodian should carry out duties according to the provisions of the constitutive documents, including:

- 1) take into its custody or under its control all the property of the fund;
- 2) take reasonable care to ensure that the methods adopted by the fund management company in calculating the value of units/shares are adequate to ensure that the sale, issue, repurchase, redemption and cancellation prices are calculated in accordance with the provisions of the constitutive documents;
- 3) take reasonable care to ensure that the investment and borrowing limitations set out in the constitutive documents and the conditions under which the fund was authorized are complied with.

A trustee/custodian must be accepted by the SFC and independently audited. The trustee/custodian and the fund management company must be parties independent of each other. An acceptable trustee/custodian should either be subject to regulatory supervision on an ongoing basis or appoint an independent auditor to periodically review its internal controls and systems on terms of reference agreed with the SFC and should present such report to the SFC.

(Investment involves risk. Please refer to the offering document for further details including the risk factors.)