

**For discussion**

**Legislative Council Panel on Financial Affairs  
Special Meeting on 14 December 2005**

**Purpose**

The Link Real Estate Investment Trust (Link REIT) of the Hong Kong Housing Authority and The Link Management Limited was listed on the Stock Exchange of Hong Kong (SEHK) on 25 November 2005. This paper briefs members on the general authorisation and regulatory requirements of REITs.

**Background**

2. A REIT is a collective investment scheme whose primary objective is to invest in income generating real estate and is required to distribute at least 90% of its audited annual net income after tax as dividends. Pursuant to sections 104 and 105 of the Securities and Futures Ordinance (the “SFO”), REITs and their advertisements that are offered to the public have to be authorised by the SFC and comply with the Code on Real Estate Investment Trusts (REIT Code).

3. According to the REIT Code, a REIT is structured as a unit trust governed by the provisions of a Trust Deed. As a unit trust, REIT has to appoint an independent Trustee and be managed by a REIT Manager licensed by the SFC to carry out Type 9 regulated activity of asset management under the SFO. As a licensed corporation, the REIT

Manager is subject to the application of the relevant codes of conduct and guidelines issued by the SFC from time to time.

4. REIT is not the only type of collective investment schemes in the Hong Kong market. Index tracking funds like the Tracker Fund of Hong Kong and other exchange traded funds (ETFs) have already been listed in Hong Kong since late 1990's. The REIT model in Hong Kong shares common features with most of the listed property trusts or REITs in other markets like Australia and Singapore.

### **Authorisation of REITs**

5. Like any other collective investment schemes offered to the public in Hong Kong, a REIT (including the Link REIT) has to be authorised by the SFC in accordance with the REIT Code. In order to obtain authorisation, the REIT Manager has to demonstrate that it meets and will continue to meet the requirements in the REIT Code, including the structure of the REIT and compliance with the REITs Code on disclosure and ongoing reporting and compliance requirements.

6. In line with other SFC-authorized collective investment schemes, the Link REIT is listed on the SEHK under Chapter 20 of the Main Board Listing Rules of the SEHK, which provides a "straight through" listing avenue for all CISs authorised by the SFO. The SEHK oversees the operation of the listing platform for Link REIT.

## **Regulatory requirements of REITs**

7. There are both differences and similarities between SFC authorised REITs and listed companies. In terms of differences, SFC-authorised REITs are required to have a trustee and a Manager. The Trustee is responsible for protecting the interests of unit-holders and holding the properties of a REIT in safe custody. The REIT Manager is responsible for deciding and implementing the overall business strategy and operations. Both the Trustee and the REIT Manager are under fiduciary duties to act in the best interests of unit holders as a whole under the trust deed. On the other hand, a listed corporation is managed by its Board of Directors and there is no appointment of a trustee. A listed corporation is also not mandated to distribute dividends to investors.

8. In terms of similarities, both REITs and listed companies are required to disclose information pertinent to the REIT or listed company on a timely basis. Prior to listing, a REIT has to make adequate disclosure of relevant and material information about its operations in the offering circular. Subsequent to listing, the REIT and its Manager have to ensure that the market is kept informed of any price sensitive information to avoid the creation of a false market. They also have to respond to enquiries from SEHK concerning unusual movements in share price or trading volume. These requirements are no different from those applicable to listed corporations.

9. Companies seeking a listing require the approval of the SEHK pursuant to the SEHK Listing Rules. REITs, however, are authorised by the SFC pursuant to the REIT Code and thereafter approved by the SEHK for listing using a straight through process. This

process is set out in Chapter 20 of the Listing Rules. Disclosure requirements for listed companies and for REITs are broadly equivalent.

10. From time to time, the Securities and Futures Commission reviews the REIT Code and issues Practice Note(s) on REITs to establish guidelines for the authorization of REITs. The REIT Code was last revised in June 2005 after conducting a public consultation.

Securities and Futures Commission  
13 December 2005