

Understanding the Asean Collective Investment Scheme

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In the latest step towards the integration of Asean capital markets, Thailand-based fund managers can now offer retail funds directly to investors in Malaysia and Singapore — and vice versa — through a streamlined process. This change follows the launch on Aug 25 of the Asean Collective Investment Scheme (CIS) Framework by Thailand's Securities and Exchange Commission, Malaysia's Securities Commission and the Monetary Authority of Singapore.

Initially, the Asean CIS will offer retail investors in all three countries a wide range of innovative cross-border funds. In the future, more Asean members will take part. Fund managers will also benefit in that they will have a direct and efficient route through which to offer their funds to retail investors throughout the region.

Fund managers using the framework must abide by a set of common standards designed to ensure they have the necessary experience and track record. A handbook provides guidance to fund managers on the operational aspects.

Qualifying as an Asean CIS is a two-step process — an application must be made to the regulator in the fund's home jurisdiction, followed by an application to the host jurisdiction where the fund manager intends to offer the CIS.

In assessing whether a CIS is suitable to be an Asean CIS, the home regulator will consider among other things the following:

the qualifications of the CIS operator and the trustee/fund supervisor;

the custody arrangements for the CIS assets; and

compliance with certain product restrictions specified in the Standards of Qualifying CIS.

The CIS operator, for example, must be licensed or registered by its home regulator and maintain shareholders' equity of at least US\$1 million. In addition, the chief executive must have at least 10 years' experience in financial and capital markets, and all board members must have a minimum five years' experience.

Also, the underlying investments of the qualifying CIS may consist only of the following assets: transferable securities, money market instruments, deposits, units in other CIS vehicles or financial derivatives. To eliminate any doubt, a qualifying CIS must not engage in non-permissible activities such as securities lending, repurchase transactions and direct lending of monies.

Once approval is obtained from the home regulator, the following documents must be submitted to the host regulator together with the Asean CIS application form:

a letter issued by the home regulator stating the CIS has been approved for public offering in the home jurisdiction and that there is no objection to the CIS being deemed an Asean CIS;

offering documents, which must be in compliance with the host jurisdiction's laws and regulations;

an undertaking to submit to the non-exclusive jurisdiction of the host jurisdiction's courts; and

other documents that may be required by the host regulator including other application forms used in the host jurisdiction.

All documents submitted to the host regulator must be written in English and may also need to be translated into the official language of the host jurisdiction. Thailand, for example, requires submission of a fact sheet for the Asean CIS prepared by a local intermediary in Thai. The time frame for this review is subject to the host regulator's discretion.

A host regulator also retains the right to decline a qualifying CIS operator's application if, for example, it deems the application contains any false or misleading information or it is not satisfied the host jurisdiction's laws are being complied with.

Post-approval obligations: Upon approval, a qualifying CIS may be offered to the general public in a host jurisdiction, provided the operator meets the following obligations:

The offer in a host jurisdiction may be made only through locally licensed or regulated intermediaries in that host jurisdiction;

A qualifying CIS operator is required to appoint an independent auditor to conduct an annual audit of the qualifying CIS operator covering, at a minimum, the compliance with the standards of a qualifying CIS; and

A qualifying CIS operator is required to inform both the home and host regulators of significant changes to the qualifying CIS operator or the Asean CIS.

In addition, host regulators may require the qualifying CIS operator similarly to notify investors in the Asean CIS.

More products and improved efficiency: The Asean CIS Framework promises to increase the range of products and provide fund managers with a direct and efficient route to offer funds to retail investors in other Asean members. This is a welcome step towards achieving the vision of an integrated Asean Economic Community under the Asean Capital Markets Forum Implementation Plan.