



Hong Kong

May 2021

HONG KONG GOVERNMENT SUBSIDISES ESTABLISHMENT OF HONG KONG OPEN-ENDED FUND COMPANIES AND REAL ESTATE INVESTMENT TRUSTS

The Hong Kong Financial Secretary of the Hong Kong Government announced in the 2021/2022 budget speech¹ that the Hong Kong Government will provide subsidies to cover 70% of the expenses paid to Hong Kong professional service providers for Hong Kong open-ended fund companies (“**Hong Kong OFCs**”) set up in or re-domiciled to Hong Kong in the upcoming three years, subject to a cap of HK\$1 million per OFC (the “**Hong Kong OFC Grant Scheme**”). Additionally, the Hong Kong Financial Secretary emphasised Hong Kong’s commitment to developing the Hong Kong real estate investment trust (“**Hong Kong REITs**”) market and role as a capital raising hub. Accordingly, it was announced that subsidies will be provided for qualifying Hong Kong REITs authorised by the SFC and listed in Hong Kong in the coming three years. The subsidy will cover 70% of the expenses paid to local professional service providers for the listing of Hong Kong REITs, subject to a cap of HK\$8 million per Hong Kong REIT (the “**Hong Kong REIT Grant Scheme**”).

The application period for the Hong Kong OFC Grant Scheme and the Hong Kong REIT Grant Scheme will run for a period of three (3) years and commenced on 10 May 2021 (the “**Commencement Date**”) and will end on 9 May 2024.

The Hong Kong OFC Grant Scheme

For Hong Kong OFCs that are successfully incorporated in Hong

Kong or re-domiciled to Hong Kong, the Hong Kong OFC Grant Scheme will cover 70% of the Hong Kong OFC Eligible Expenses (defined below) that are paid to Hong Kong-based service providers, subject to a cap of HK\$1 million per OFC.

The eligibility criteria for Hong Kong OFCs under the OFC Grant Scheme

	The Eligibility requirements for Hong Kong OFCs
Eligible applicants	The Hong Kong OFC Grant Scheme is available to the investment manager of a Hong Kong OFC who has: <ol style="list-style-type: none"> successfully incorporated a Hong Kong OFC; or re-domiciled a non-Hong Kong corporate fund to Hong Kong as an OFC on or after the Commencement Date. The Hong Kong investment manager of the Hong Kong OFC can apply on behalf of the Hong Kong OFC for the Hong Kong OFC Grant Scheme.
Grant amount	The Hong Kong OFC grant amount is equivalent to 70% of the Hong Kong OFC Eligible Expenses (defined below) per application. The grant amount is subject to a cap of HK\$1 million per Hong Kong OFC and to a maximum of three (3) Hong Kong OFCs per investment manager.
Eligible expenses	Only expenses paid to Hong Kong based service providers will be covered which relate to: <ol style="list-style-type: none"> the successful incorporation of the Hong Kong OFC; or the re-domicile of the non-Hong Kong corporate fund to Hong Kong as an OFC.

¹ <https://www.charltonslaw.com/hong-kong-2021-2022-budget-market-highlights/>

The Eligibility requirements for Hong Kong OFCs	
Eligible expenses	<p>The following fees of Hong Kong based service providers will be covered:</p> <ul style="list-style-type: none"> a. fees charged by Hong Kong law firms or legal advisers for work done in relation to either the successful incorporation of the Hong Kong OFC or the re-domicile of the non-Hong Kong corporate fund to Hong Kong as a Hong Kong OFC. This will include fees incurred in relation to drafting legal documents and the offering documents of the Hong Kong OFC and work done in relation to the authorisation of a Hong Kong OFC with the SFC in respect of a public Hong Kong OFC; b. fees charged by Hong Kong auditors*, accountants, or tax advisers for accounting and/or tax related services in relation to the successful incorporation of a Hong Kong OFC and/or the re-domicile of the non-Hong Kong corporate fund to Hong Kong as a Hong Kong OFC; c. fees charged by the Hong Kong fund administrator, corporate service provider, or company secretary for incorporation or re-domiciliation services and will include work done for the necessary filings thereof; d. fees charged by Hong Kong regulatory consultants for their work done in relation to the incorporation or re-domiciliation as well as for the authorisation of an Hong Kong OFC with the SFC in relation to a public Hong Kong OFC; e. fees charged by listing agents where the Hong Kong OFC is listed; <p>(together, the “Hong Kong OFC Eligible Expenses”).</p> <p>Statutory fees such as registration or application fees to the SFC and expenses incurred in relation to an application to the SFC for the licensing or registration of an investment manager will not be covered. Costs incurred in the establishment of a sub-fund under a pre-existing umbrella Hong Kong OFC and listing fees to the Hong Kong Stock Exchange (the “HKEX”) will not be covered.</p> <p>*Fees charged by auditors which relate to the Hong Kong OFC’s annual audit review are not considered as a Hong Kong OFC Eligible Expense.</p>
Minimum operating requirement	<p>The Hong Kong Government has included a ‘claw back’ mechanism, whereby the grant which has been given to a Hong Kong OFC, may be clawed back if the Hong Kong OFC commences winding-up or applies for termination of registration within two (2) years from the date of incorporation or domiciliation (whichever is applicable).</p>

The application processes in relation to Hong Kong OFCs (private and public)

In respect of a Hong Kong OFC, a duly completed Application Form for the Grant for Open-ended Fund Companies and Real Estate Investment Trusts² (the “**OFC Application Form**”) together with the supporting documents must be submitted to the SFC:

- i. in the case of a private Hong Kong OFC, within three (3) months from the date of the certificate of incorporation or the certificate of re-domiciliation issued by the Hong Kong Companies Registry; or
- ii. in the case of a public Hong Kong OFC, within 3 months from the date on which the authorisation of the public Hong Kong OFC becomes effective.

For a public Hong Kong OFC, applicants are also required to submit to the SFC within three (3) months from the date of authorisation of the public Hong Kong OFC, a duly signed and completed Public Open-ended Fund Companies – Confirmation of Intention to Apply for a Grant³ (the “**Public OFC Application Form**”). This must be submitted to the SFC as part of the public Hong Kong OFC’s product application.

The SFC has provided two alternatives for signing the OFC Application Form and the Public OFC Application Form. Under the first option, the SFC has indicated that the SFC will accept submission of an un-signed copy of the OFC Application Form and the Public OFC Application Form (as applicable), provided that they are accompanied by an email confirmation from an authorised signatory that all the information and undertakings (where applicable) in the respective application forms are true and correct.

Under the second option, an applicant for a Hong Kong OFC grant may submit to the SFC a scanned copy of the OFC Application Form and the Public OFC Application Form (as applicable), signed by the authorised signatory.

An applicant applying under the Hong Kong OFC Grant Scheme will need to as part of its application provide the SFC with any details of any grants previously applied for or awarded to the applicant under the Hong Kong OFC Grant Scheme. In support of the Hong Kong OFC Eligible Expenses that are claimed, the applicant must submit scanned copies of the invoice(s)/receipt(s) for each of the Hong Kong OFC Eligible Expenses claimed and details of the Hong Kong OFC Eligible Expenses will also need to be detailed in Annex 2 of the OFC Application Form.

The Hong Kong REIT Grant Scheme

The Hong Kong REIT Grant Scheme will cover the equivalent of 70% of the Hong Kong REIT Eligible Expenses (defined below) paid

² https://sfc.hk/-/media/files/PCIP/Checklist-and-Forms/Grant-Scheme---OFCs-and-REITs/1_Grant-Scheme-Application-Form_pdf_10052021_v1.pdf

³ https://sfc.hk/-/media/files/PCIP/Checklist-and-Forms/Grant-Scheme---OFCs-and-REITs/2_Confirmation-of-Intention-to-Apply-for-OFC-Grant-Scheme_pdf_10052021.pdf

to Hong Kong-based service providers, subject to a cap of HK\$8 million per Hong Kong REIT.

The eligibility criteria for REITs under the REIT Grant Scheme

	The Eligibility requirements for Hong Kong REITs
Eligible applicants	<p>A SFC authorised Hong Kong REIT that is listed on the HKEX on or after the Commencement Date and that has a minimum market capitalisation of HK\$1.5 billion at the time of listing will be eligible to apply under the Hong Kong REIT Grant Scheme.</p> <p>Where a Hong Kong REIT is also listed on an exchange outside of Hong Kong, the minimum market capitalisation of its units listed on the HKEX should be HK\$1.5 billion at the time of listing.</p> <p>A Hong Kong REIT manager may apply on behalf of the Hong Kong REIT for a grant under the Hong Kong REIT Grant Scheme.</p>
Grant amount	<p>The Hong Kong REIT grant amount is equivalent to 70% of the Hong Kong REIT Eligible Expenses (defined below) per application.</p> <p>The grant amount is subject to a cap of HK\$8 million per Hong Kong REIT.</p>
Eligible expenses	<p>Only expenses paid to Hong Kong based service providers will be covered which relate to:</p> <ol style="list-style-type: none"> underwriting commissions charged by underwriters for the listing of a Hong Kong REIT; fees charged by Hong Kong lawyers or legal advisers for legal work done in relation to listing the Hong Kong REIT and include (i) drafting the legal documents and the offering circular of the Hong Kong REIT and (ii) work done in relation to the authorisation of a Hong Kong REIT with the SFC; fees charged by Hong Kong auditors*, accountants, or tax advisers for accounting and/or tax related services in relation to the listing of a Hong Kong REIT; fees charged by a Hong Kong valuer of a Hong Kong REIT to provide valuation reports in respect of properties for the listing of a Hong Kong REIT; expenses that are paid to Hong Kong marketing agencies or consultants for advertising and marketing related services for the listing of a Hong Kong REIT, including roadshow expenses; fees charged by Hong Kong listing agents; <p>(together, the “Hong Kong REIT Eligible Expenses”).</p> <p>In general, listing fees paid to the HKEX will not be covered. Statutory fees such as registration or application fees to the SFC and expenses incurred in relation to an application to the SFC for the licensing or registration of an investment manager will not be covered.</p> <p>*Only the audit fees in relation to listing the Hong Kong REIT are covered. Audit fees paid to accounting firms in relation to the Hong Kong REIT’s annual audit review will not be considered as a Hong Kong REIT Eligible Expense.</p>

	The Eligibility requirements for Hong Kong REITs
Minimum operating requirement	<p>The Hong Kong Government has included a ‘claw back’ mechanism, the Hong Kong REIT grant may be clawed back if the Hong Kong REIT is delisted or suspended from trading within two (2) years of its listing.</p> <p>Whether or not a suspension of trading warrants a ‘claw back’ will be considered on a case-by-case basis. The SFC gives the example of a temporary trading suspension of a Hong Kong REIT caused by a pending announcement and notes that such circumstance will generally not give rise to a ‘claw back’ of the Hong Kong REIT grant. Having said that, the SFC explains that a Hong Kong REIT grant may be ‘clawed back’ where a Hong Kong REIT has been suspended from trading for a continuous period of 18 months within two (2) years of its listing, in line with the HKEX Listing Rule 6.01A whereby the HKEX may cancel the listing of any securities that have been suspended from trading for a continuous period of 18 months.</p>

The application processes in relation to REITs

A duly completed Application Form for the Grant for Open-ended Fund Companies and Real Estate Investment Trusts⁴ (the “**Hong Kong REIT Application Form**”) together with the supporting documents must be submitted to the SFC within three (3) months after the listing of the Hong Kong REIT.

In relation to the Hong Kong REIT Eligible Expenses and the Hong Kong REIT Application Form, details of the Hong Kong REIT Eligible Expenses which the applicant would like to claim under the Hong Kong REIT Grant Scheme will need to be detailed in the Hong Kong REIT Application Form. In support of these Hong Kong REIT Eligible Expenses that are claimed, the applicant must submit scanned copies of the invoice(s)/receipt(s) for each of the Hong Kong REIT Eligible Expenses claimed and details of the Hong Kong REIT Eligible Expenses must be included in Annex 3 to the Hong Kong REIT Application Form.

Further details in relation to Hong Kong OFCs and Hong Kong REITs

For further details on the Hong Kong OFC regime and establishing a Hong Kong OFC, please refer to our note on Establishing Investment Funds in Hong Kong.⁵

Please also see Charltons’ webinar on Fundamentals of Funds in Cayman and Hong Kong⁶ which looks at the OFC regime in Hong Kong and Hong Kong REITs.

⁴ https://sfc.hk/-/media/files/PCIP/Checklist-and-Forms/Grant-Scheme---OFCs-and-REITs/1_Grant-Scheme-Application-Form_pdf_10052021_v1.pdf

⁵ <https://www.charltonslaw.com/legal/information-insights/establishing-investment-funds-in-hk/Establishing-Investment-Funds-in-Hong-Kong-2.pdf>

⁶ <https://www.charltonslaw.com/hong-kong-law/webinar-on-fundamentals-of-funds-in-cayman-and-hong-kong/>

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Hong Kong Office

Dominion Centre

12th Floor

43-59 Queen's Road East

Hong Kong

Tel: + (852) 2905 7888

Fax: + (852) 2854 9596

www.charltonslaw.com