

## The Home Return Permit for your Foreign Funds



Second quarter, 2021 – This is when the Hong Kong Legislative Council meets to hear the first and second readings of a landmark bill (the "Bill") that will provide a mechanism for foreign funds to re-domicile in Hong Kong as Open-ended Fund Companies ("OFC") or Limited Partnership Funds ("LPF").

Under the Bill, foreign funds set up as corporates or limited partnerships will be able to, subject to meeting certain eligibility requirements, redomicile in Hong Kong as OFCs or LPFs, respectively.

This is a crucial development that boosts Hong Kong's investment funds environment, and its prime advantages are substantial: (i) the process does not require a transfer of fund assets or a change of their beneficial ownership, which means there will be no stamp duty implications in Hong Kong, and (ii) investors will not need to be redeemed from the foreign fund and resubscribed into the Hong Kong vehicle.

In other words, the Bill will help managers save both time and cost if they plan to bring their funds home to a burgeoning market.

The proposed application mechanism is straightforward, as summarized below:

OFC	LPF
Application to be submitted to Securities and Futures Commission ("SFC") with the applicable fee	Application to be submitted to the Registrar of Companies through a registered Hong Kong law firm or solicitor with the applicable fee.
<p>Accompany the application with:</p> <p>(a) the original name of the fund and the place of incorporation;</p> <p>(b) a copy of certificate of incorporation or registration issued with respect to the fund (and other fund documents that evidence the establishment of each of its sub-funds);</p> <p>(c) the constitutive document of the fund;</p> <p>(d) directors' certification that confirms:</p> <ul style="list-style-type: none"> <li>● the proposed re-domiciliation is not prohibited by and approved in accordance with the funds' constitutive document or any contract or undertaking given by the fund;</li> <li>● that the deregistration of the fund is not prohibited under the laws of the place of incorporation or registration;</li> <li>● the solvency of the fund and each of its sub-funds;</li> </ul>	<p>The application should:</p> <p>(a) state the original name of the fund and the place of establishment in the application;</p> <p>(b) include a statement and declaration confirming that:</p> <ul style="list-style-type: none"> <li>● any consent or approval for the proposed registration as LPF and the de-registration of the fund in its place of establishment required by any contract or undertaking given by the fund has been obtained or waived;</li> <li>● the de-registration of the fund in its place of establishment is not prohibited under the laws of the place of establishment;</li> <li>● the fund will be de-registered in its place of establishment within 60 days after re-domiciliation.</li> </ul>

OFC	LPF
<ul style="list-style-type: none"> <li>the absence of any petition of winding-up, liquidation, receivership or arrangement or compromise arrangement in respect of the fund or any of its sub-funds;</li> <li>service of notice of proposed re-domiciliation to its creditors.</li> </ul>	
After the re-domiciliation, the fund will need to notify the SFC and provide evidence of de-registration in its place of incorporation within 60 days.	After the re-domiciliation, the fund will need to be re-registered in its place of establishment within 60 days.

Bringing your funds home to a dynamic environ has never been easier. Contact us today to learn more.

## Get in touch



### Penelope Shen

Partner

T: +852 3166 6936

Email: [Penelope.Shen@shlegal.com](mailto:Penelope.Shen@shlegal.com)



### Jet Tang

Associate

T: +852 3166 6937

Email: [Jet.Tang@shlegal.com](mailto:Jet.Tang@shlegal.com)

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