June 2015

Funds Passport Regimes in Asia Pacific

Taxing Issues

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With the growth of capital mobility and the development of financial markets in Asia, there has been a strong desire to see more financial linkages within the region.

The anticipated benefits are obvious: growth and liquidity, efficiency and cost reductions, increased investor choice, and potential for funds management jobs and expertise growth.

The desire has led to the development of the APEC Asia Region Funds Passport (ARFP) and other regimes such as the China-Hong Kong mutual recognition agreement and ASEAN Collective Investment Scheme (CIS).

The key principle of a passport regime is to allow the marketing of funds formed in a particular jurisdiction into another jurisdiction with minimal regulatory hurdles.

In this series, we provide a brief update on the various regimes and in particular, look at some of the specific tax issues and treatments affecting the participating countries, and what may need to be considered in the future.

Asia Region Funds Passport

Since 2010 a number of the APEC members have been discussing and progressing the concept of a funds passport. A passport framework document forming part of the Statement of Intent was signed by the Finance Ministers from Australia, Korea, New Zealand and Singapore in September 2013. A Passport Working Group comprising of Australia, Korea, New Zealand, the Philippines, Singapore and Thailand, has been involved with releasing two consultation papers on the framework of the ARFP. The proposed arrangements are reflected in a draft Memorandum of Understanding (MOU). The Working Group intends to finalise the MOU by August 2015, with eligible economies able to become party to the MOU by September 2015. It is anticipated that economies party to the MOU would endeavour to give effect to the ARFP in local legislation within 12 months of becoming a party.

What is the progress on tax?

The regulatory framework as reflected in the draft MOU is well developed and some refinements will be made to certain aspects following the release of the second consultation paper in March 2015. However, there are no specific consultation questions on tax issues.

The Working Group acknowledged that a large number of submissions received during the consultation process urged for the consideration of domestic tax implications and advocated for the neutral tax treatment of the passport funds. In this regard, each Working Group member agreed to share with other Working Group members, information about their taxation and capital control settings in their respective economies to provide further clarity and identify any impediments to the passport.

Accordingly, there is a strong feeling that unless the tax aspects are addressed, the passport will not succeed.

What is tax neutrality?

There are a number of key tax principles which should be incorporated in the ARFP:

- Create a level playing field in respect of returns to the investor
- Remove tax barriers in respect of distribution cross border
- Preserve tax neutrality through collective investment schemes
- Preserve integrity by mitigating tax evasion.

The questions that will need to be addressed at each level are:

The investor level

- How is the investor taxed if investing in a foreign fund versus a local fund?
- Are there any withholding taxes that apply?
- Are there any concessions that apply to local investors versus foreign investors?
- Are there any integrity measures that apply?

The fund level

- Is there any tax at the fund level?
- How is the fund taxed on its local investments versus foreign investments?
- Do the tax attributes of the investment flow to investors (ie transparent treatment of funds)?

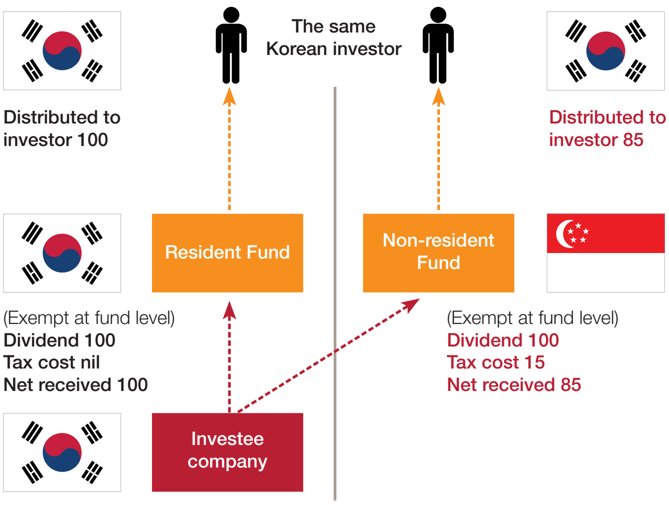
Under the current taxing regimes for each participating economy there are some significant differences in tax outcomes to investors (refer to the Appendix).

There is no doubt that investors are influenced by the tax outcomes in the choice of an investment product. Therefore, to what extent can anti-discrimination measures by implemented so that the viability and competitiveness of funds from participating economies are not adversely affected. Careful consideration of such measures will need to be undertaken, for example these may include:

- Passport funds are not subject to tax
- No withholding tax on distributions from the passport fund and distributions from investee companies
- Passport funds are exempted from capital gains on the disposal of investee companies
- Participating countries are required to adopt the OECD Common Reporting Standard or other integrity measures.

Examples of discriminatory tax outcomes

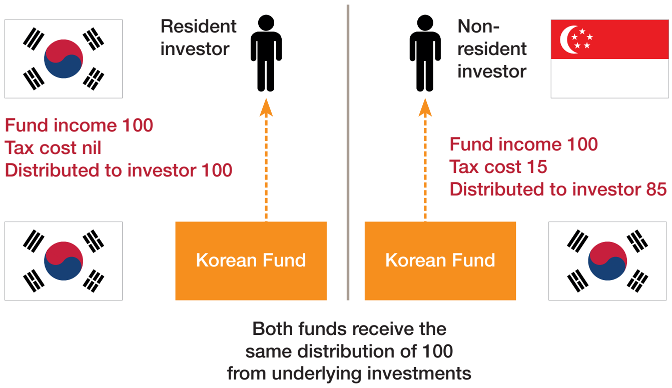
Example 1 – Tax discrimination at investment level



In the above example, the dividend paid by the Korean investee company to the Singapore fund will be subject to 15% withholding tax, which is a final cost to the fund. A Korean investor looking for exposure to the Korean investee company will, all other things being equal, be forced to invest through the Korean fund in order to avoid this excessive tax – this amounts to tax discrimination against the Singapore fund and will make it very difficult for the fund manager in Singapore to market the fund in Korea. This effectively reduces the choice of products available to the Korean investor, who may otherwise have chosen the Singapore fund based on commercial factors, eg fund manager reputation, superior performance (before tax), lower costs, etc. However, we acknowledge that this type of tax discrimination may not be easy to address consistently among the ARFP-participating countries from the outset, as the mechanisms to alleviate dividend withholding taxes for ARFP funds presumably do not exist and would have to be developed over time (perhaps in concert with other tax transparency/tax reporting measures). Further, where the funds invest in countries that are not participating in the ARFP, there will be even less chance of consistency being achieved in this respect.

Any withholding tax levied by an ARFP-participating country on distributions made by investment funds established in that jurisdiction to cross-border investors would have a similarly discriminatory effect, as shown in the next example.

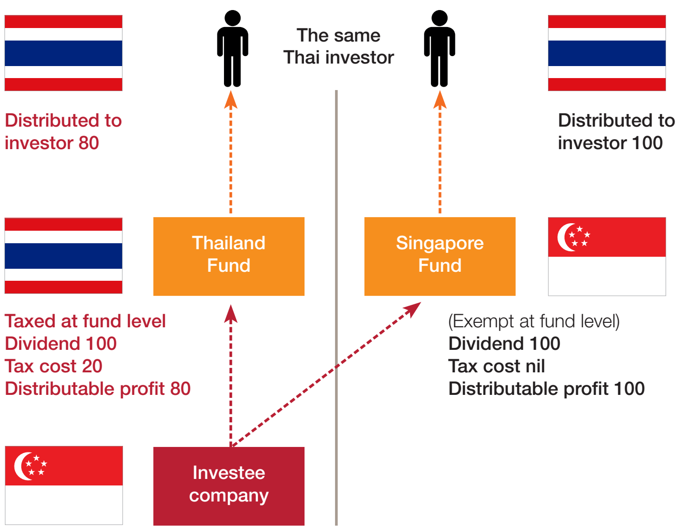
Example 2 – Tax discrimination at investor level



Again, this tax leakage will reduce the returns to the non-resident investor and adversely impact the marketability of the fund shown in this example outside of its home state. We believe that measures to address this type of tax discrimination should be included in the ARFP MOU if the regime is ultimately to succeed for its participants, and that committing to tax neutrality with respect to distributions to investors is a realistic objective to be set for the ARFP framework at this stage.

Finally, each ARFP-participating country will need to ensure that the attractiveness of its domestic funds to overseas investors is not hampered by taxation at the level of the fund vehicle itself, as depicted in the last example.

Example 3 – Tax discrimination at fund level

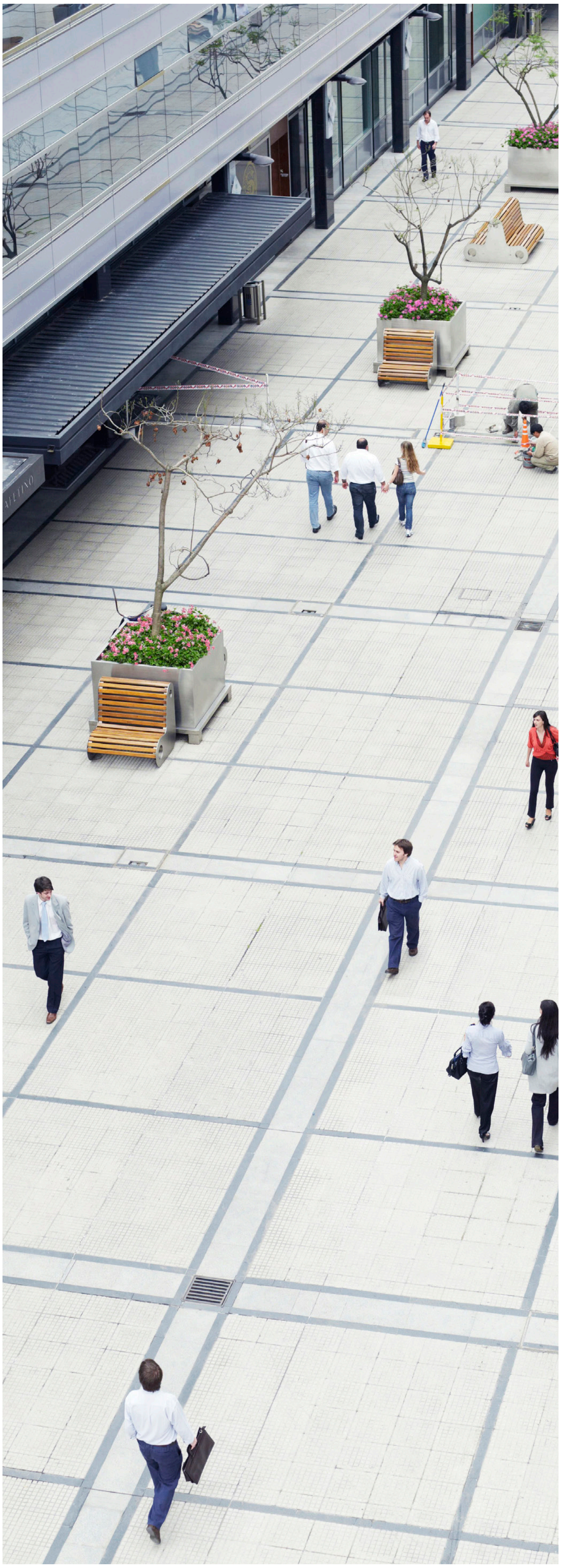


In this case, the Singapore fund has the advantage over the Thai fund when marketing to a Thai investor under the ARFP because Singapore's fund tax regime already provides for exemption at the fund level (subject to meeting certain conditions), making it more efficient overall. For those ARFP-participating countries that do not currently have specific tax laws for collective investment vehicles, it will be necessary to consider legislative solutions to alleviate this type of taxation when the ARFP comes into force in their jurisdiction. In this sense, established fund management hubs in the Asia region may have 'first mover' advantage when tapping new markets for investors.

Observations

The aim should be non-discriminatory treatment of passport funds and their investors. We have seen in the European context numerous cases arising as a result of discriminatory tax treatment over the last 10 years (beginning with the EFTA Fokus Bank case against Norway in 2004). Most European Union and EFTA member states have subsequently abolished dividend withholding taxes which been levied unlawfully on distributions to foreign funds. However, this issue has not yet been examined in Asia where no supra-national legal framework exists to guarantee certain rights and freedom for market participants. Is there a regional mechanism to administer, supervise and enforce anti-discrimination rules?

There is a significant risk that if left unaddressed, tax discrimination will arise under the ARFP and will undermine the effectiveness of the regime. In particular, ARFP investors will have to consider taxation as a key factor when choosing a fund product as funds established in certain ARFP countries may suffer performance drag from excessive corporate income taxes and/or withholding taxes.



ASEAN CIS

In 2007 at the 13th ASEAN Summit in Singapore, ASEAN Economic Community blueprint was inked with the objective of establishing ASEAN as a single market and production base, with free flow of goods, services, investments and skilled labour, and freer flow of capital. Within the blueprint, a capital markets integration plan was framed. One of the initiatives under the Implementation plan was to develop a mutual recognition framework to facilitate cross-border offers of collective investment schemes within ASEAN (ASEAN CIS).

In August 2014, the rule book of the ASEAN CIS was issued. The ASEAN CIS is similar to the ARFP with minor differences in the method of distribution, fee structures, approval mechanisms etc. Today the participating countries are Singapore, Malaysia and Thailand.

The ASEAN CIS is now 10 months old, and has shown a slow but promising start. A few regionally dominant asset management houses have launched schemes which are in various regulatory approval stages in the three participating countries.

The tax issues to be considered are similar to those discussed previously in relation to the ARFP.

The current tax treatment of domestic and foreign funds in Singapore, Malaysia and Thailand is summarised in the Appendix.

Hong Kong–China Mutual Recognition of Funds (MRF) scheme

Following the launch of the Shanghai-Hong Kong Stock Connect in November 2014, the next anticipated initiative is the MRF scheme, which represents a further step taken by the China and Hong Kong governments towards RMB internationalisation and Hong Kong's development into an offshore RMB centre and an international asset management centre in accordance with the National 12th Five Year Plan. The MRF will allow qualified Hong Kong domiciled funds authorised by the Securities and Futures Commission (SFC) and managed by SFC licensed management companies to be sold in China. In conjunction, the scheme will also allow China domiciled qualified funds authorised by the China Securities Regulatory Commission (CSRC) managed by CSRC-licensed management firms to be sold in Hong Kong. However, this will be subject to a streamlined authorisation and approval process by the SFC and CSRC.

After more than two years of speculation, on 22 May 2015, the China Securities Regulatory Commission (CSRC) and the Securities and Futures Commission (SFC) in Hong Kong signed the Memorandum of Regulatory Cooperation on Mutual Recognition of Funds between Mainland China and Hong Kong (Memorandum). The Memorandum sets out the key principles and operational requirements under the MRF which will be implemented on 1 July 2015 and lays a foundation for the strengthening of financial and regulatory ties towards greater integration of the Asian asset management industry.

A game changer

This is the first scheme providing for the mutual recognition of funds between China and a foreign market. Hong Kong can be seen as a reform testing centre for China, especially in respect of developing offshore RMB business and innovative products and offerings and initiatives taken to open up the China market, like launching RQFII funds.

It is expected that the MRF will open up the Chinese retail and institutional investors' huge savings pool to Hong Kong and international asset managers. In return, Hong Kong would offer Chinese investors to wider investment choices and a more diverse range of fund products. Given China's capital controls, it is expected that the MRF will be subject to a quota system, much like the RQFII scheme.

It could also transform Hong Kong into more than just a fund distribution centre, and into a major fund domicile. As at 31 December 2014, under 600 of Hong Kong's 2,000 SFC authorised unit trusts and mutual funds are domiciled in Hong Kong.[1] As such, there is potential for growth in this area. The eventual goal is to develop Hong Kong into hub which offers seamless value throughout the fund servicing chain.

The opportunity to break into the asset management markets of China, Hong Kong and beyond is an exciting one. We envision that investible assets across Asia will increase with the further opening up of the Chinese market and the maturation of the asset management industry in China and in Hong Kong. This will translate into more avenues for investment and a wider range of asset classes. We also expect to see a greater number of innovative products and distribution channels emerging throughout the region.

The approach

In designing the initiative, the SFC has indicated it will follow four guiding principles:

1. Upholding investor protection
2. A gradual, measured and pragmatic approach
3. Mutuality and respect
4. Facilitating industry participants' operation

The SFC has also reached an understanding with the CSRC on the following six key areas:

1. Types of recognised funds
2. Eligibility requirements of management firms
3. Approval/vetting process of recognised funds
4. Fund operation
5. Disclosure of information
6. Investor protection

More details of the MRF rules will be announced in due course.[2] We also look forward to the announcement clarifying the China tax treatment of non-Chinese resident investors in China domiciled funds. The current tax treatment of domestic and foreign funds in China and Hong Kong are summarised in Appendix.

Tax

The Memorandum is silent on the potential PRC tax implications on non-resident investors deriving income from a Mainland fund recognised by SFC. With reference to the taxation on non-resident investors deriving income from QFII/RQFII or Shanghai-Hong Kong Stock Connect, it is reasonable to expect that similar taxation rules may be announced later to grant similar tax treatment, ie tax exemption, on mutually recognised funds. However, if such a clarification is absent, how to disclose the potential tax implications in their offering documents can be a challenging issue for asset managers in Mainland China. For Mainland China investors, whether the existing tax incentives for mutual fund in Mainland China could be extended to Hong Kong SFC authorised funds is still unclear.

Qualified Hong Kong domiciled funds authorised by the SFC under section 104 of the Hong Kong Securities and Futures Ordinance are statutorily exempt from Hong Kong profits tax. There is no Hong Kong profits tax on any distribution made by such an authorised fund to its investors (whether resident, non-resident, corporate, or individual).

Further details of the tax treatment of domestic and foreign funds in China and Hong Kong are summarised in Appendix.

More details on the MRF in general can be found from our newsletter:

PwC Hong Kong	http://www.pwchk.com/home/eng/am_cnhk_mrf_jun2015.html
PDF direct link	http://www.pwchk.com/webmedia/doc/635689436431726079_am_cnhk_mrf_jun2015.pdf
PwC China	http://www.pwccn.com/home/eng/am_cnhk_mrf_jun2015.html
PDF direct link	http://www.pwccn.com/webmedia/doc/635689436431726079_am_cnhk_mrf_jun2015.pdf

[1] http://www.sfc.hk/web/EN/files/ER/Reports/QR/201410-12/Eng/00_final.pdf

[2] http://www.sfc.hk/web/EN/files/ER/PDF/Speeches/Alexa_20141021.pdf


MARKS&SPENCER
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BV 1128
MM 1800
MS 3908

Appendix

Regime: ***Asia Region Funds Passport***

Country: ***Australia***

Taxation of domestic funds		
Q1:	How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	Fund vehicles are typically units trusts. Funds are not taxed at the fund level but are instead regarded for tax as flow through entities (provided investors are entitled to all the income of the fund).
Q2:	What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	There is no tax at the fund level. Australia funds are required to lodge an annual tax return and also must report information to their investors annually so that they can complete their personal tax returns.
Taxation of foreign funds		
Q3:	What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	Foreign funds are generally exempt from gains on the disposal listed shares if held on capital account (except for taxable Australian property). However, if shares are held on revenue account, the gains are taxed at 30% unless a tax treaty applies. Generally, gains on the disposal of fixed interest securities are taxed at 30% if Australian sourced unless a tax treaty applies. The Investment Manager Regime (IMR) may provide tax relief for qualifying foreign funds. The general rate of withholding tax on interest and dividends is 10% and 30% respectively which could be reduced under a tax treaty. Fully franked dividends do not attract dividend withholding tax.
Taxation of investors in the fund		
Q4:	What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	Australian resident individuals investing in Australian funds are taxed on their share of the tax net income (ie various income components flowing from the fund including capital gains) of the fund in the year in which their present entitlement arises. This applies irrespective of whether the actual distribution from the fund is paid in the subsequent year. In addition, investors may benefit from the flow through of franking credits and foreign income tax offsets. (Please note there are proposed rules dealing with a new type of managed investment trust [ie attribution managed investment trusts], which may affect the way income is 'attributed' to investors). Australian individual investors are taxed on income at their marginal tax rate (up to 49% including Medicare). Capital gains on assets held for more than a year may be taxed at concessional rates.
Q5:	What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	The tax implications to the individual will depend on the classification of the foreign fund for Australian tax purposes (eg company, trust or partnership). This could affect the nature and timing of the income taxed. Substantial investments may be taxed under the Controlled Foreign Company (CFC) rules. In this case, the investor may be taxed on an accruals basis on a share of the income of the foreign fund even if not distributed by the foreign fund.
Q6	What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	Foreign investors are assessable on their Australian sourced income. Distributions of interest or unfranked dividends to non-residents may be subject to Australian withholding tax at the general rate of 10% or 30% respectively. The rate on unfranked dividends is generally reduced to 15% (or potentially less) under a tax treaty (where applicable). Where the fund is a managed investment trust, certain distributions of Australian sourced income or capital gains from taxable Australian property made to foreign investors are generally subject to a 30% rate of withholding. This rate is reduced to 15% where the recipient is a resident of a foreign jurisdiction with which Australia has effective exchange of information on tax matters. The countries and territories that qualify as an 'information exchange country' for these purposes are prescribed in Australian taxation regulations. Non-residents are generally exempt from capital gains on the disposal of units in the fund unless the units are taxable Australian property. If units are held on revenue account, the gains could be taxed at 30% if Australian sourced unless a tax treaty or the IMR applies.

Regime: Asia Region Funds Passport

Country: Korea

Taxation of domestic funds	
Q1: How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	Fund vehicles can be operated as a trust type or an entity type in Korea. For a trust type, taxes are not assessed at the fund level, but are assessed on each investor. For an entity type, taxes are assessed at both the fund level and the investor level. The entity type fund is assessed corporate income tax on investment profits from investment operations. After taxes are paid at the corporate level, net profits are distributed to each investor in the form of dividend income. The entity type fund may reduce or eliminate the tax burden by taking a deduction of dividend declared to the extent that the dividend exceeds 90% of the distributable income determined under the Corporate Income Tax Act.
Q2: What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	The entity type fund is required to file an annual tax return and pay tax within three months of the last day of the taxation year. The trust type fund should have no tax filing/payment requirements.
Taxation of foreign funds	
Q3: What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	Generally, Korean source dividends, interest, and capital gains are taxable in Korea and the Korean source income are subject to withholding tax (assuming the fund does not have a permanent establishment (PE) in Korea). Withholding tax rates are as follows: Dividends: 22% (including local tax, hereinafter all tax rates are inclusive of local tax) Interest: • 22% for interest accrued on debt instruments other than bonds. • 15.4% for interest accrued on Korean Won denominated bonds issued by the Korean government and companies. • 0% for interest on non-Korean Won denominated bonds issued outside Korea. Capital Gains: • the lesser of 22% of the gain or 11% of the gross proceeds for residents in non-treaty countries for both listed and unlisted securities (except for certain real estate rich company shares) • 0% on the capital gains earned by a non-resident without a PE in Korea from the transfer of shares if (i) the shareholding by the transferor and its affiliates in a Korean listed company is less than 25% in the year of the transfer and previous 5 years, and (ii) the shares are transferred through the Korean Stock Exchange • 0% on income derived by a non-resident without a PE in Korea from the trading in the listed derivatives (eg futures, options, etc.) within the meaning of the Financial Investment Services and Capital Market Act. The Korean tax authority may consider the fund as look-through entities and attribute the individual unit holders as the "beneficial owner" of the Korean sourced income from the fund. If this is the case, the unit holders would be liable for Korean tax on their respective shares of the funds' income. Under the Overseas Investment Vehicle (OIV) regime, the fund can claim a reduced rate under the tax treaty on behalf of the beneficial owners by making an application to the withholding agent prior to the payment of Korean source income or gains.
Taxation of investors in the fund	
Q4: What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	Generally, for a Korean resident individual investor, income derived and distributed from a domestic fund is treated as dividend income subject to withholding tax at 15.4%. However, a distribution from the fund's underlying gains from the sale or valuation of shares listed on the Korean markets and the relevant derivatives traded on the Korean markets, are not subject to taxation to the extent that certain conditions are met.
Q5: What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	Korean resident individual investor is subject to taxes on foreign sourced income in accordance with the IITA. Generally, income derived and distributed from a foreign fund is treated as dividend income subject to withholding tax at 15.4%. Unlike a domestic fund, however, a distribution from the foreign fund's underlying gains from the sale or valuation of securities listed on non-Korean markets and relevant derivatives are subject to taxation.
Q6 What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	Non-resident investors are taxed on Korean sourced income only. Generally the non-resident investor is subject to withholding tax at a rate of 22% on the income derived and distributed from a domestic fund, subject to an applicable tax treaty. A distribution from the fund's underlying gains from the sale or valuation of shares listed on the Korean markets and the relevant derivatives traded on the Korean markets, are not subject to taxation to the extent that certain conditions are met.

Regime: ***Asia Region Funds Passport***

Country: ***New Zealand***

Taxation of domestic funds		
Q1:	How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	Fund vehicles are typically unit trusts, with some non-unitised trusts for superannuation schemes. Funds are prima facie regarded as companies for tax purposes but a deemed flow through treatment applies if they elect into the 'Portfolio Investment Entity' (PIE) regime. The remaining discussion assumes the fund has PIE status.
Q2:	What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	PIE vehicles have monthly and annual filing requirements. Tax is calculated and paid on behalf of natural person investors and some trust investors. For other investors the fund must provide information to allow the investor to complete their own tax return and make tax payments.
Taxation of foreign funds		
Q3:	What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	Gains on New Zealand shares and bonds are prima facie New Zealand sourced income that is subject to New Zealand tax at 28% unless treaty relief is available or the fund holds the investments on capital account. There is no safe harbour or Investment Manager Regime (IMR) style exemption. The general rate of withholding tax on interest and dividends is 2% and 30% respectively which could be reduced under a tax treaty. Fully imputed dividends from New Zealand companies will not be subject to withholding tax.
Taxation of investors in the fund		
Q4:	What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	The fund calculates it taxable income and allocates this to each investor based on their proportionate holding in the Fund. The investors tax position is then determined at year end (or earlier if they exit) by applying a tax rate to the taxable income which approximates the investors actual marginal tax rate. The Fund pays the resulting tax and recovers this from the investor by adjusting their holding in the Fund. Taxable income excludes gains on New Zealand shares and certain listed Australian shares.
Q5:	What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	The investor is taxed under the Foreign Investment Fund rules on a deemed 5% return each year irrespective of actual dividends received and value movements. If the actual market return is lower than 5% across all of the investor's FIF interests, the individual is generally taxed on the lower amount.
Q6	What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	Prima facie the non-resident will be taxed at 28% on taxable income of the fund that is allocated to the investor. In practice this will be deemed 5% income on FIF interests of the Fund and dividends on Australian listed shares. There is no further tax on fully imputed New Zealand dividends. However, funds targeted at non-residents can elect to be 'Foreign Investment PIEs', in which case a non-resident investor has no tax liability provided the fund does not hold any New Zealand assets.

Regime: ***Asia Region Funds Passport***

Country: ***The Philippines***

Taxation of domestic funds		
Q1:	How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	Generally, a fund may be established as a separate entity (eg mutual fund company). A fund which is not established as a separate local entity may be considered as a pass-thru or an individual. A revocable trust fund is considered as a pass thru-entity. On the other hand, an irrevocable trust fund is taxed as an individual. Investment products are generally treated as revocable trusts.
Q2:	What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	As a corporation, a Philippine fund is generally subject to 30% corporate tax on its worldwide income. Intercorporate dividends between two Philippine companies are exempt from tax. On the other hand, interest income received by a Philippine fund from trust funds managed by a local bank is generally subject to 20% final withholding tax (FWT). If the fund is a pass-thru entity, its income is generally taxed at the level of the investors. Thus, tax implications would depend on the kind of investments and on whether the investor is a company or an individual. Gain from sale of bonds, debentures or other certificate of indebtedness with a maturity period of more than 5 years is not subject to income tax. This exemption applies regardless of whether a fund is a corporation, individual or a pass-thru entity. The sale of listed domestic shares is subject to 0.5% stock transactions tax (STT) while a gain from the sale of unlisted domestic shares is subject to 10% capital gains tax (CGT). A Philippine fund company is required to file quarterly and annual income tax returns. For a pass-thru entity, the trustee of the revocable trust fund shall file a return for the fund if its gross income is Php 20,000.00 or over during the taxable year. Further, a trustee bank (as the withholding agent) is required to file the applicable withholding tax return on income of the investors from trust funds which were not originally subjected to withholding tax on its underyling investment or exempted from income tax.
Taxation of foreign funds		
Q3:	What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	A foreign fund which is established as a foreign corporation is generally considered as a non-resident foreign corporation not doing business in the Philippines. It is generally subject to 30% income tax on its Philippine-sourced income. Interest income from loan investment considered as a foreign loan is subject to 20% FWT. Dividends received by a foreign fund may be reduced to 15% under the local tax sparing rules (ie if the home country of the foreign corporation grants a deemed tax credit equivalent to at least 15% or if it does not tax the dividend income). Under the applicable tax treaty, preferential withholding tax rates may apply. If the fund is a pass-thru entity, its income is generally taxed at the level of the investors. Tax implications would depend on the kind of investment and on whether the investor is a company or individual.
Taxation of investors in the fund		
Q4:	What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	Philippine resident citizens are taxed on their worldwide income while Philippine resident aliens are taxed only on their Philippine-sourced income. Dividends received by residents from Philippine fund company shall be subject to 10% FWT. Redemption or sale of participation units (mutual fund certificates) is generally subject to 10% capital gains tax. Gains from the redemption of shares in a mutual fund company is not subject to income tax. If the fund is a pass-thru entity, the interest income, yield or other monetary benefit from the Philippine fund is generally subject to 20% FWT unless the underlying investments have already been subjected to withholding tax or exempt from income tax.
Q5:	What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	If the foreign fund is established as a corporation, income (in the form of dividends) received by Philippine resident citizens shall be subject to progressive income tax rates of 5% to 32%. Resident alien individuals shall not be subject to Philippine income tax. If the foreign fund is a pass-thru, its income is generally taxed at the level of the investors. Tax implications would depend on the kind of investment. Resident citizens are taxed on a worldwide basis while resident aliens are taxed on a source income basis. The relevant tax rates applicable to certain types of income are as follow: • Dividends: 10% FWT • Interest on bonds, deposit substitutes: 20% FWT • Gain on sale of unlisted domestic shares: 10% capital gains tax • Sale of listed/traded domestic shares: 0.50% stock transactions tax.

Q6:	What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	Non-resident individuals and entities are taxed only on their Philippine sourced income. Income of foreign entities (in the form of dividends) from Philippine fund company is subject to 30% FWT. This may be reduced to 15% under local tax sparing rules or preferential rate under an applicable tax treaty. Dividends received by non-resident entities from a Philippine fund company shall be subject to 30% FWT. This may be reduced to 15% under local tax sparing rules or preferential rate under an applicable tax treaty. Redemption or sale of participation units (mutual fund certificates) in a Philippine fund company is generally subject to 10% capital gains tax. Gains from the redemption of shares in a mutual fund company is not subject to income tax. A non-resident citizen is taxed at 10% FWT on dividends. A non-resident alien engaged in trade or business is taxed at 20% FWT on dividends and a non-resident alien not engaged in business is taxed at 25% FWT on dividends. If a Philippine fund is a pass-thru entity, its income is generally taxed at the level of the investors. Tax implications would depend on the kind of investments and investors. Foreign company investors are generally subject to the following tax rates: • Dividends: 30% FWT (may be reduced by local tax sparing rules or applicable tax treaty) • Interest on bond, deposit substitutes: 30% FWT or 20% if considered as foreign loans • Gain on sale of unlisted domestic shares: 10% capital gains tax • Sale of listed/traded domestic shares: 0.50% stock transactions tax. Non-resident citizens are generally subject to the following tax rates: • Dividends:10% FWT • Interest on bonds, deposit substitutes: 20% FWT • Gain on sale of unlisted domestic shares: 10% capital gains tax • Sale of listed/traded domestic shares: 0.50% stock transactions tax. Non-resident aliens engaged in trade/business are generally subject to the following tax rates: • Dividends, interest on bonds, deposit substitutes: 20% FWT • Gain on sale of unlisted domestic shares: 10% capital gains tax • Sale of listed/traded domestic shares: 0.50% stock transactions tax. Non-resident aliens not engaged in trade/business are generally subject to the following tax rates: • Dividends, interest on bonds, deposit substitutes: 25% FWT • Gain on sale of unlisted shares: 10% capital gains tax • Sale of listed/traded domestic shares: 0.50% stock transactions tax.

Regime: ***Asia Region Funds Passport / ASEAN CIS***

Country: ***Singapore***

Taxation of domestic funds		
Q1:	How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	Funds may take the form of a company, unit trust or limited partnership – the tax treatment of each legal form is different. Companies and unit trusts are subject to taxation but Singapore law provides certain tax incentive schemes which grant tax exempt treatment at the fund level if certain conditions are met.
Q2:	What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	Singapore funds are required to file annual income tax returns, even if approved under a tax incentive scheme. Funds are exempt from tax on qualifying income and gains (ie not a blanket exemption); however, the current list of 'designated investments' covers most types of marketable securities and alternative asset classes (except Singapore real estate).
Taxation of foreign funds		
Q3:	What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	A non-resident fund which is managed outside Singapore (ie has no taxable presence/PE in Singapore) will not be subject to Singapore taxation on its gains from trading in Singapore listed equities. There is no withholding tax on Singapore dividends. Singapore source interest is generally subject to income tax withholding (with some exceptions, eg government bonds) but this may be reduced under a tax treaty. Gains from trading in bonds will not be subject to tax. A non-resident fund which has a Singapore fund manager will be subject to tax on all income and gains sourced to Singapore and will need to rely on the offshore funds safe harbour to obtain tax exempt treatment, or seek approval under a tax incentive scheme.
Taxation of investors in the fund		
Q4:	What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	Broadly speaking, Singapore resident individuals are exempt from income tax on dividends/distributions from Singapore funds. Singapore does not impose capital gains tax.
Q5:	What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	Broadly speaking, income received from non-Singapore funds managed outside Singapore will be foreign sourced and not subject to tax in the hands of Singapore resident individuals.
Q6	What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	Generally, none. Singapore does not impose withholding tax on distributions by Singapore funds to non-resident investors. Gains on disposal of shares/units in Singapore funds will not be subject to any capital gains taxes. Singapore stamp duty may apply in some cases on the acquisition of shares in Singapore funds. Note that the position for non-resident funds of funds may differ if they are managed or advised (even partly) by a Singapore fund manager.

Regime: ***Asia Region Funds Passport / ASEAN CIS***

Country: ***Thailand***

Taxation of domestic funds		
Q1:	How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	A fund set up in Thailand is not subject to corporate income tax under Thai tax law because it is not considered a taxable entity under the Thai Revenue Code.
Q2:	What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	The fund is not subject to corporate income tax and a corporate income tax return is not required to be lodged. The fund would need to withhold tax on payments of income (depending on the type of payment and the recipient).
Taxation of foreign funds		
Q3:	What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	For dividends paid to a foreign fund, 10% withholding at source applies. Exemption may be available if the dividends are paid out of profits from a business promoted by the Board of Investment (BOI) during the tax holiday as granted under the law governing the investment promotion. Capital gains and interest are generally subject to a 15% withholding tax at source. The withholding tax rate on capital gains may be exempt or reduced according to the applicable tax treaty. Interest is subject to a 15% withholding tax at source.
Taxation of investors in the fund		
Q4:	What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	Profit sharing is subject to 10% withholding tax, which can be treated as the final tax. Capital gains from disposal/transfer of unit trusts are exempt income.
Q5:	What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	Individuals who derive income from a foreign fund will be subject to tax only where that income is remitted into Thailand in the year in which the income is derived.
Q6	What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	For non-resident corporates, profit sharing and capital gains are not subject to tax in Thailand. For non-resident individuals, capital gains from the disposal of unit trusts are exempt income. Profit sharing is assessable income of a non-resident individual subject to progressive tax rates ranging from 0–35%. The non-resident individual is required to submit a personal income tax return to pay personal income tax on this income.

Regime: ***ASEAN CIS***

Country: ***Malaysia***

Taxation of domestic funds		
Q1:	How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	Funds available for public investments are normally in the form of unit trusts funds. For income tax perspective, unit trusts are treated similar to companies and are taxed at normal corporate tax rate currently at 25%. However, most of the income received by unit trusts are not taxed.
Q2:	What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	There is an annual tax filing requirement. An estimate of tax is to be submitted before a tax year commences and monthly payments of tax (if any) are required to be made. Since unit trusts are mostly not taxed, the estimate of tax will normally be zero and there should not be monthly payments of tax.
Taxation of foreign funds		
Q3:	What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	If the foreign fund does not have a business presence or PE in Malaysia, the foreign fund does not have to file Malaysian income tax returns. However, depending on the income received from Malaysian investments, there may be withholding tax. Dividends from Malaysian companies (ie listed equities) are tax exempt and there is no withholding tax. Interest from a Malaysian bank is specifically exempted from tax and withholding tax. Interest from a debenture (no convertible feature) which has been approved by the Malaysian Securities Commission is also exempted from tax and withholding tax. Normally, no withholding tax is levied if the foreign fund (with no PE) makes a gain on the trade of the investments in Malaysia.
Taxation of investors in the fund		
Q4:	What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	Investment income derived by the individual from investments in a domestic fund will normally not be subject to income tax since unit trusts are exempted on most income. However, if the individual is an investment trader, the gains on investments may be seen to be normal revenue and subject to income tax.
Q5:	What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	Foreign sourced income is specifically tax exempted. There is an exception if the individual is an investment trader and such foreign income is seen to be business income.
Q6	What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	Since unit trust funds earn mostly exempt income, the distributions to foreign investors would also be tax exempt.

Regime: ***China-HK Mutual Recognition of Funds***

Detailed tax treatment is yet to be announced. The following summarises the current tax treatment of domestic and foreign funds in China and Hong Kong

Country: ***China Mainland***

Taxation of domestic funds		
Q1:	How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	Public funds are inclusive of open-ended and close-ended funds (private equity funds are not considered in this questionnaire). They are subject to China tax, with various tax preferential treatment provided under the current tax regime.
Q2:	What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	Funds are temporarily exempted from business tax (BT) and Corporate Income Tax (CIT) in China on trading gains from the disposal of underlying securities. For dividends (in cash or in kind) distributed to funds, 20% tax is withheld at source (tax concession is available where an effective rate of 5% or 10% may apply depending on the duration of the holding period of securities by the fund). Stamp duty (SD) is imposed on the sale of the underlying securities at the prevailing rate of 0.1% of the transaction amount.
Taxation of foreign funds		
Q3:	What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	Under the current Qualified Foreign Institutional Investor (QFII), RMB Qualified Foreign Institutional Investor (RQFII) and Shanghai-Hong Kong Stock Connect regimes through which foreign investors can trade securities on the China stock market, trading gains from the disposal of underlying securities are temporarily exempted from CIT. BT is exempted on transactions made through the QFII regime, and is likely to be exempted under the RQFII regime by reference to the exemption granted to QFIIs, while BT is temporarily exempted for trading gains derived by all investors through Shanghai-Hong Kong Stock Connect. BT will be replaced by a Value-Added Tax under the indirect tax reforms, which will cover the financial services industry by the end of 2015. 10% tax is withheld at source for dividends distributed to qualified foreign investors (lower tax rate may apply depending on the tax treaty between China and the specific foreign country). SD is imposed on the sale of the underlying securities at the prevailing rate of 0.1% of the transaction amount.
Taxation of investors in the fund		
Q4:	What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	The distributions from funds to individual investors are temporarily exempted from Individual Income Tax (IIT). For domestic individual investors, gains from disposal of units in funds are temporarily exempted from BT and IIT. The trading of units in funds is temporarily exempted from SD for individual investors.
Q5:	What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	IIT is imposed on the trading gains and distributions at the rate of 20% for investing in foreign funds. BT law and regulations are not clear on whether BT should be imposed on individual residents investing in foreign funds. In practice, BT is generally not imposed on an individual resident who receives distribution/capital gains from foreign funds.
Q6	What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	Non-resident individuals and entities can indirectly invest in domestic funds by investing in qualified investors under QFII, RQFII and Shanghai-Hong Kong Stock Connect regimes. For qualified investors under QFII, RQFII and Shanghai-Hong Kong Stock Connect regimes, the tax implication to them is the same as a foreign fund investing in securities per Q3, while for non-resident individuals and entities investing in them, there are no China tax implications.

Regime: ***China-HK Mutual Recognition of Funds***

Country: ***Hong Kong***

Taxation of domestic funds		
Q1:	How would each of the fund vehicles in your jurisdiction by regarded for tax purposes?	In general, each fund vehicle is regarded as a separate legal entity for Hong Kong profits tax purposes. To the extent the Hong Kong domiciled fund derives Hong Kong sourced revenue profits, it would be subject to Hong Kong profits tax unless it qualifies for profits tax exemption under the exemption provisions of the Inland Revenue Ordinance. For example, funds authorised under section 104 of the Securities and Futures Ordinance are exempt from Hong Kong profits tax.
Q2:	What are the tax implications for the fund domiciled in your jurisdiction, including annual filing requirements?	There is no tax filing requirement for section 104 authorised funds. To the extent a Hong Kong domicile fund (i) is not a section 104 authorised fund; and (ii) derives Hong Kong sourced revenue profits, it is required to file Hong Kong profits tax returns with the Hong Kong Inland Revenue Department.
Taxation of foreign funds		
Q3:	What are the tax implications of a foreign fund investing in securities (eg listed equities and fixed interest) in your jurisdiction?	If the foreign fund is a section 104 authorised fund, it would be exempt from Hong Kong profits tax. If the foreign fund is not a section 104 authorised fund but it does not carry on business in Hong Kong, it would not be subject to Hong Kong profits tax notwithstanding it may derive Hong Kong sourced income. If the foreign fund is not a section 104 authorised fund but carries on business in Hong Kong (eg through a Hong Kong fund manager), it would be subject to Hong Kong profits tax on its Hong Kong sourced revenue profits unless it qualifies for profits tax exemption under the exemption for offshore funds.
Taxation of investors in the fund		
Q4:	What are the tax implications of an individual resident in your jurisdiction investing in a domestic fund	Investment income derived by the individual from his/her personal investment in the domestic fund is taxed in the hands of the individual unless the investment income is derived by a business carried on by the individual in Hong Kong.
Q5:	What are the tax implications of an individual resident in your jurisdiction investing in a foreign fund	Same comments as Question 4.
Q6	What are the tax implications for non-resident individuals or entities investing in domestic funds in your jurisdiction? (eg how are non-resident individuals taxed in your jurisdiction on income and gains arising in your fund?)	To the extent the non-residents do not carry on business in Hong Kong, they should not be subject to Hong Kong profits tax in respect of the income/gains derived from their investments in Hong Kong domiciled funds.

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