



'Ensuring Investor Protection'

SECURITIES AND EXCHANGE COMMISSION, GHANA

GHANA SECURITIES INDUSTRY (CROWDFUNDING) GUIDELINES 2022

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SECURITIES INDUSTRY (CROWDFUNDING) GUIDELINES 2022

In the exercise of the powers conferred on the Securities and Exchange Commission by Section 209 of the Securities Industry Act 2016 (Act 929) as amended, these Guidelines are issued this ... day of....., 2022.

PART ONE – GENERAL PROVISIONS

1. Scope of Application

These Guidelines apply to a company, or an organization seeking or required to be licensed by the Commission as a Crowdfunding Intermediary in accordance with the Act.

Where the Commission agrees to waive the full application of any part of these Guidelines, it shall issue a directive to the Crowdfunding Intermediary that states what alternative measures shall be put in place by the Crowdfunding Intermediary in place of full application of the Guidelines.

Where any doubt arises about the meaning of any provision contained in these Guidelines and any other Guideline issued by the Commission, the same shall be referred to the Commission and the interpretation provided by the Commission shall be final.

2. Eligibility

All public companies incorporated in Ghana with a minimum of one-year operating track record or start-ups with a 3-year business plan, demonstrating clearly the sustained viability of the applicant, shall be eligible to raise funds through a Crowdfunding Platform licensed by the Commission, in exchange for the issuance of shares, debentures, or such other investment instrument as the Commission may determine from time to time.

An exemption may be granted where the entity is proven to be a Start-Up within the technology, digital, science or food processing sectors in a government sponsored or a recognized incubation programme.

3. Registration of unlisted securities

- (1) An issuer which is a public company may offer or sell securities under these Guidelines without the need for prior registration of the securities pursuant to Section 145 of the Act, provided that the:
 - a. issuer is an entity incorporated in Ghana, and accredited and/or accepted by a Crowdfunding Intermediary to raise funds on its platform.
 - b. The maximum amount which shall be raised by an issuer shall not exceed GHS 500,000
 - c. Registration of securities shall only be for record-keeping purposes.

- (2) The aggregate number of securities sold to any investor across all issuers on Crowdfunding Platforms during a 12-month period shall not exceed the following limits:
 - a. Retail investors shall not invest more than 10% of their annual income in a calendar year.
 - b. Qualified Investors are not subject to the limits set forth above.
- (3) The issuance of unlisted securities shall be conducted through a Crowdfunding Platform operated by a licensed Crowdfunding Intermediary.
- (4) For the purpose of calculating the aggregate amount of securities and investment instruments offered and sold by an issuer under these guidelines and determining whether an issuer has previously sold securities or investment instruments within a 12-month period, the term issuer as used in these Guidelines, shall include all entities controlled by or under common control with the issuer and any predecessors of the issuer.

PART TWO – APPLICATION FOR A LICENSE AS A CROWDFUNDING INTERMEDIARY

4. General requirements

- (1) A person shall not carry on business as a Crowdfunding Intermediary, or pose as carrying on the business of a Crowdfunding unless that person is permitted by the Commission under its Sandbox Guidelines.
- (2) A platform that facilitates, operates, provides or maintains interactions between issuers and the investing public in Ghana for the purpose of any securities-based crowdfunding shall be operated only by an entity licensed as a Crowdfunding Intermediary.
- (3) A person shall be considered to be facilitating, operating, providing or maintaining a Crowdfunding Platform in Ghana where the;
 - a. platform is incorporated, maintained and operated in Ghana; or
 - b. platform is located outside Ghana but actively targets Ghanaian Investors; or
 - c. component parts of the platform when taken together are physically located in Ghana even if any of its component parts, in isolation, is located outside Ghana.
- (4) A Crowdfunding Platform that is located outside Ghana will be considered as actively targeting Ghanaian investors if the operator, or the operator's representative, promotes directly or indirectly the platform in Ghana.

- (5) A foreign Crowdfunding Intermediary which targets Ghanaian investors shall have a;
- a. valid license from an IOSCO recognized regulatory body
 - b. shall be incorporated in Ghana as an External Company with a recognized fixed address
 - c. Funds raised shall only be deployed within Ghana

5. Application for a licence

- (1) An application for a license as a Crowdfunding Intermediary shall be made to the Commission as specified in Schedule 1 and shall comply with the requirements in Schedule 2 of these Guidelines.
- (2) The Commission may require the applicant to;
- a. provide it with such further information as it considers necessary;
 - b. appear before it through an authorized representative in connection with the grant of licence.
- (3) The Commission shall consider an application and inform an applicant of its decision within ninety days (90 days) after an application has been lodged with it provided that where further information has been required in accordance with section 111 (2) of the Act, the period of ninety days shall be calculated from the time when further information is submitted to the Commission.

6. Criteria for Licensing a Crowdfunding Intermediary

- (1) The Commission shall license a Crowdfunding Intermediary where the Commission is satisfied that:
- a. the Intermediary will be able to operate an orderly, fair and transparent market in relation to the funds raised through its electronic platform;
 - b. the Intermediary's board, chief executive, representative (s) and persons who are primarily responsible for the business operations are fit and proper persons who have not:
 - i. been convicted, whether within or outside Ghana , of an offence involving fraud or other dishonesty or violence or the conviction of which involved a finding that he acted fraudulently or dishonestly;
 - ii. been convicted of an offence under the Act or any other law relating to the capital market;
 - iii. been blacklisted by a professional body which he belongs to;
 - iv. contravened any provision made by or under any written law, whether within or outside Ghana appearing to the Commission to be enacted for protecting members of the public;

1. against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies; or
 2. against financial loss due to the conduct of discharged or un-discharged bankrupts;
- c. engaged in any unlawful business practice;
 - d. engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment; or
 - e. engaged in or has been associated with any conduct that cast doubt on his ability to act in the best interest of investors, having regard to his reputation, character, financial integrity and reliability;
 - f. the operator will be able to manage any risk associated with its business and operation;
 - g. the operator will be able to take appropriate action against a person in breach including directing the person in breach to take any necessary remedial measure;
 - h. the rules of the Crowdfunding Platform make satisfactory provisions:
 - i. for the protection of investors and public interest;
 - ii. to ensure proper functioning of the market;
 - iii. to promote fairness and transparency;
 - iv. to manage any conflict of interest that may arise;
 - v. to promote fair treatment of all users;
 - vi. to ensure proper regulation and supervision of its users, or any person utilizing or accessing its platform, including suspension and expulsion of such persons after consultation with the Commission;
 - vii. to provide an avenue of appeal against the decision of the operator; and;
 - viii. the operator has sufficient financial, human and other resources for the operation of the Crowdfunding Platform, as prescribed by the Commission from time to time.

7. Revocation or suspension of License

The Commission may revoke or suspend a licence in accordance with Section 122 of the Act.

8. Cessation of Business Operations

- (1) A Crowdfunding Intermediary shall not discontinue the business or operation of a Crowdfunding Platform without prior approval of the Commission.
- (2) Without prejudice to any provision in these guidelines, the Commission may issue a directive or impose any term or condition for the purposes of ensuring the orderly cessation of the business or operations of a Crowdfunding Intermediary.

PART THREE - OBLIGATIONS OF A CROWDFUNDING INTERMEDIARY

9. General Obligations

A Crowdfunding Intermediary shall;

- (1) disclose and display prominently on its platform, any relevant information relating to the platform and its use including:
 - a. information relating to issuers hosted on the platform as required by these Guidelines;
 - b. investor education materials and appropriate risk disclosures;
 - c. information on how the platform facilitates the investor's investment including providing communication channels to permit discussions about offerings hosted on its platform;
 - d. a general risk warning on participating in funding through the platform;
 - e. information about complaints handling or dispute resolution and its procedures; and
 - f. the fees, charges and other expenses that it may impose on an issuer or investor
 - g. and any other information as may be required from time to time
- (2) carry out investor education programmes;
- (3) ensure the disclosure document lodged with the platform by each issuer is verified for accuracy and made accessible to investors through the platform;
- (4) inform investors of any material adverse change to an issuer's proposal as set out under this rule;
- (5) ensure Issuers comply with the responsibilities and obligations prescribed by this rule.

10. Due Diligence

- (1) A Crowd Funding Intermediary shall carry out due diligence on prospective issuers intending to use its platform;
- (2) the Crowdfunding Intermediary shall ensure that an issuer seeking to offer securities to the public through its platform complies with the requirements in these guidelines;
- (3) The scope of the due diligence by a Crowdfunding Intermediary shall include taking reasonable steps to:
 - a. conduct background checks on the issuer to ensure that the board of directors, officers and controlling shareholder(s) of the issuer are fit and proper and shall in particular, verify that the board, chief executive, and any officer of the issuer who is primarily responsible for its operations or financial management have not;
 - i. been convicted, whether within or outside Ghana, of an offence involving fraud or other dishonesty or the conviction of which involved a finding that he acted fraudulently or dishonestly;
 - ii. been convicted of an offence under the Act or any other law relating to the capital market;

- iii. been blacklisted by a professional body which he belongs to;
- iv. contravened any provision made by or under any written law, whether within or outside Ghana to be enacted for protecting members of the public:
 - ii. against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies; or
 - i. against financial loss due to the conduct of discharged or un-discharged bankrupts;
 - ii. engaged in any unlawful business practice;
 - iii. engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment; or
 - iv. engaged in or has been associated with any conduct that cast doubt on his ability to act in the best interest of investors, having regard to his reputation, character, financial integrity and reliability;
- b. verify the accuracy and viability of the business proposition of the issuer, the solvency of the issuer and if the business forecast is based on sound assumptions; and
- c. comply with all relevant KYC, and AML/CFT regulations as stipulated by the Commission.

11. Monitoring and Reporting

(1) A Crowdfunding Intermediary shall:

- a. monitor the conduct of issuers and take action against misconduct of the issuer in accordance with its approved operating procedures;
- b. monitor issuers to ensure that the fundraising limits imposed on an issuer are not breached;
- c. monitor investors to ensure that the investment limits imposed on the investors are not breached and ascertain the classification of prospective investors into relevant investor categories;
- d. comply with all reporting obligation as may be specified by these guidelines and all rules and regulations relating to market operators
- e. file quarterly reports within twenty-one (21) days after the end of each quarter with the Commission specifying the following:
 - i. Total number of issuers who raised funds through the platform during the reporting period;
 - ii. Total number of investors who invested through the platform during the reporting period;
 - iii. Number and Types of securities or investment contracts issued during the reporting period;
 - iv. Total amount raised on the platform during the reporting period;
 - v. Observed breaches or risk incidents during the reporting period and steps taken to address same;
 - vi. Complaints which remain unresolved after twenty-one (21) days upon receipt day;
 - vii. Such other information as may be required by the Commission

12. Data Protection and Privacy

(1) A Crowdfunding Intermediary shall:

- a. establish appropriate safeguards for ensuring the integrity of the information received and published;
- b. ensure security and confidentiality of information collected from issuers and investors;
- c. ensure that data collected from investors are used for the intended purpose
- d. maintain reliable and secure operating systems;
- e. identify the sources of operational risks and adopt adequate procedures and controls to avoid operational disruptions;
- f. develop and implement a written identity theft prevention program;
- g. install and ensure the operation of suitable back-up facilities;
- h. be adequately insured against platform failure or closure;
- i. keep a copy of all relevant documents for a period of at least 7 years after the date on which the document comes into the possession of the platform;
- j. within 10 working days of receipt of a request from an investor, provide a copy of, or an extract from, a document that is relevant to the investor.
- k. identify the sources of operational risks and adopt adequate procedures and controls to avoid operational disruptions

13. Operation of Trust Account

- (1) A Crowdfunding Intermediary shall appoint a Custodian licensed by the Commission, who shall establish and maintain a separate trust account for each funding round on its platform.
- (2) The Custodian shall be a universal bank duly licensed by the Bank of Ghana.
- (3) The Crowdfunding Intermediary shall only direct the Custodian to release the funds to the issuer after the following conditions are met:
 - a. the targeted amount sought to be raised or the minimum threshold has been met;
 - b. there is no material adverse change relating to the offer during the offer period; and
 - c. all applicable requirements for the registration of securities have been met

- (4) Funds invested will be maintained by the Custodian in an interest yielding trust account. The total funds raised and the accruing interest will only be released to the issuer after specified conditions provided in these guidelines have been met.
- (5) The Custodian shall take all reasonable steps and establish measures to ensure that it performs all its responsibilities as required by law.

14. Issue, Publication and acknowledgment of Warning Statements

(1) The Crowdfunding Platform shall ensure that a warning statement is prominently displayed:

- a. to all visitors to the site on the home page of the platform; and
- b. to every investor, on the subscription landing page for each issuer; and
- c. on all application forms for investing through the platform.

(2) The Warning Statement should among other things, warn and advise investors that;

- a. Investing through an online platform is risky and issuers raising funds through the platform include new or rapidly growing ventures;
- b. Investment in the businesses hosted on the platform is very speculative and carries high risks;
- c. Investors may lose entire investment, and must be in a position to bear this risk without undue hardship;
- d. They must ask questions, read all information given carefully, and seek independent financial advice before investing ;

(3) The Crowdfunding Intermediary shall ensure every investor affirms to a risk acknowledgement form by which the investor confirms:

- a. their understanding that the proposed investment is a risky investment;
- b. the investor may be overpaying for the securities issued;
- c. their understanding that there may be additional classes of shares with rights that are superior to the class of shares being issued through crowdfunding;
- d. they are able to economically absorb the complete loss of the investment they intend to make;
- e. the proposed investment amount falls within the prescribed investment limit for the investor category;
- f. the investor maybe subject to a lock-in for a period to be determined by the Issuer and may be subject to a further restriction on the transfer of the securities;

- g. the investor may never be able to sell the securities or investment instruments,
- h. the investor will be provided with less disclosure than publicly traded companies,
- i. the investor will not have the benefit of protections associated with an investment made under a prospectus;
- j. the investor will not be entitled to claim from the National investor protection fund;
- k. the Crowdfunding Platform will not be responsible if the investor loses all or some of the money invested.

(4) At or before the time the investor enters into an agreement to invest, the issuer must obtain a signed risk acknowledgement from the investor by which the investor confirms that he/she falls within the investment limits and acknowledges the risks associated with the investment including the following:

- a. that the Investor is in compliance with his total annual investment limit.;
- b. that the investor has seen and read the warning statement about crowdfunding (as provided in these guidelines);
- c. the investor understands that investment based crowdfunding is risky and
- d. that the investor may never be able to sell the securities;

(5) The confirmation must be obtained in writing in a separate document or, if it is obtained by electronic means, through a process which ensures it is obtained separately from the agreement to use the service.

15. Compliance

- (1) A Crowdfunding Intermediary must implement written policies and procedures relating to its operations which are reasonably designed to achieve compliance with the provisions of the Act and the these guidelines.
- (2) A Crowdfunding Intermediary shall permit the examination and inspection of all of its business and business operations that relate to its activities, such as its premises, systems, platforms, and records by representatives of the Commission.

16. Record Keeping

(1) A Crowdfunding Intermediary shall maintain the following records:

- a. All records relating to an investor who registers on the platform, purchases or attempts to purchase securities through its Crowdfunding platform;
- b. All records relating to issuer who offers and sells or attempt to offer and sell securities through its funding platform and the control persons of such issuers;
- c. Records of all communications that occur on or through its platform;
- d. All records related to persons that use communication channels provided by a Crowdfunding Intermediary to promote an issuers securities and communication with potential investors;
- e. Records of all maintenance and internal change logs carried out on the platform;
- f. All records provided by such Crowdfunding Intermediary to issuers and investors through platform or otherwise, including, but not limited to:
 - i. notices addressing hours of platform operations (if any),
 - ii. platform malfunctions,
 - iii. changes to platform procedures,
 - iv. maintenance of hardware and software,
 - v. instructions pertaining to access to the Crowdfunding platform; and
 - vi. denials of, or limitations on, access to the Crowdfunding platform;
- g. All written agreements (or copies thereof) entered into by such Crowdfunding Intermediary relating to its business as such;
- h. All daily, monthly and quarterly summaries of transactions effected through the Crowdfunding Platform, including:
 - i. Issuers for which the target offering amount has been reached and funds distributed;
 - ii. Transaction volume, expressed in number of transactions, number of securities involved in a transaction and total amounts raised by, and distributed to, Issuers;
 - iii. A log reflecting the progress of each Issuer who offers or sells securities through the funding platform toward meeting the target offering amount.

(2) **Organizational documents:** A Crowdfunding Intermediary shall maintain during the operation of its Crowdfunding platform and of any successor Crowdfunding platform, all organizational documents relating to the Crowdfunding platform.

(3) **Format:** The records required to be maintained and preserved pursuant to paragraph (b) of these Guidelines must be produced, reproduced, and maintained in a non-alterable format which ensures the integrity of the content.

(4) **Third parties :** The records required to be made and preserved pursuant to this section may be prepared or maintained by a third party on behalf of a Crowdfunding intermediary provided that:

- a. An agreement with a third party shall not relieve a Crowdfunding Intermediary from the responsibility to prepare and maintain records as specified in this rule.

- b. A Crowdfunding Intermediary must file with the Commission a written undertaking in a form acceptable to the Commission and signed by a duly authorized person of the third party, stating in effect that:
 - i. such records are the property of the Crowdfunding Intermediary; and
 - ii. will be surrendered upon request by the Crowdfunding Intermediary.
- c. The undertaking shall include the following:

With respect to any books and records maintained or preserved on behalf of [name of Crowdfunding Intermediary, the undersigned hereby acknowledges that the books and records are the property of [name of Crowdfunding Intermediary,] and hereby undertakes to permit examination of such books and records at any time, or from time to time, during business hours by representatives of the Securities and Exchange Commission and to furnish to the Commission, and its representatives, a true, correct, complete and current copy of any, all, or any part of, such books and records.

(5) Examination of Records: All records held by a Crowdfunding Intermediary are subject at any time, or from time to time, to reasonable periodic, special, or other examination by the representatives of the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors. Every Intermediary and/or Issuer shall furnish to the Commission true, correct, complete and current copies of such records of the Intermediary and/or Issuer that are requested by the representatives of the Commission.

(6) Preservation of Records: The records required to be kept under this part shall be preserved for a period of at least 7 years and kept at the principal place of business of the Crowdfunding Intermediary.

(7) Submission of Yearly Reports: The Crowdfunding Intermediary shall, not later than 30 days after the end of each year, submit a report on all crowdfunding transactions on its crowdfunding platform. The Crowdfunding Intermediary shall file with the Commission and post on the crowdfunding platform;

- a. a report on an annual basis along with Issuer disclosures
- b. other Issuer submissions certified by the principal executive officer of the Issuer to be true and complete in all material respects; and
- c. a description of the financial condition of the Issuer as described under Issuer Requirements".

17. Use of Manipulative, Deceptive or Other contrivances

A Crowdfunding Intermediary shall not effect any transaction in, or induce the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent device.

18. Restriction imposed on Crowdfunding Intermediary

A Crowdfunding Intermediary shall not allow an issuer to raise funds on its Platform where the Crowdfunding Intermediary or any of its officers, directors, significant shareholders or associated persons beneficially own or control more than 5% of the securities of that issuer.

PART 4 - PARTICIPANTS OF CROWDFUNDING

19. Issuers

- (1) The Crowdfunding Intermediary shall maintain a register of investors.
- (2) The issuer shall clearly outline investor rights pertaining to the securities being issued.
- (3) An issuer shall offer its securities or investments through a licensed Crowdfunding Platform
- (4) An Issuer shall be required to file an offer document with the Commission through the Crowdfunding Intermediary providing amongst others:
 - a. key information on the issuer, including name, legal status, physical address, directors, place of incorporation and website
 - b. the use of the proceeds,
 - c. the nature of its existing business
 - d. proposed business plan where the company has been exempted under these Guidelines,
 - e. the offering amount to be raised and the duration of the offer;
 - f. proposed coupon rate or profit-sharing structure as well as information on historical performance if any
 - g. warnings to investors
 - h. holders of more than 5% of the issuer's shares;
 - i. principal and peculiar risks facing the business of the issuer
 - j. copies of resolutions of the board of the company
 - k. a narrative discussion of the financial condition of the issuer

The discussion should address, to the extent material;

- i. the issuer's historical results of operations;
- ii. its liquidity and capital resources;
- iii. how the proceeds from the offering will affect the issuer's liquidity; and
- iv. whether these funds or any other additional funds are necessary to the viability of the issuer's business.
- v. number and price of the securities or investment instruments being offered and the associated obligations;
- vi. exit options for investors (which shall be in accordance with the provisions of these Guidelines, the rules and regulations of the Commission, and applicable companies' law)

l. One year audited financial statements or the submission by a start-up to the Crowdfunding Platform at least a 3-year business plan, demonstrating clearly the sustained viability of the applicant;

m. capital structure and ownership of the issuer;

n. risk factors;

o. information about an investor's right to cancel his/her investment;

p. related party transactions;

q. an undertaking signed by the issuer stating that:

- i. the offering document does not contain a misrepresentation; and
- ii. Investors have rights of action and withdrawal in the case of a misrepresentation of financial information relating to the issuer;

(5) An issuer shall make an offering document available to the investor through the platform before the investor enters into an agreement to purchase the securities.

(6) An issuer offering securities shall provide an investor with a contractual right to withdraw an offer or agreement to purchase the securities or investment instrument by allowing the investor to deliver a notice to the Crowdfunding platform within 48 hours before the close of the offer.

(7) The offering document shall be posted on the website of the Crowdfunding Platform and any other suitable platform accessible by potential investors.

(8) Disclosure on persons promoting the offer

(9) Any other disclosure as required by the SEC

(10) An issuer shall not guarantee return on investment either expressly or by any implied terms in the offering document or advertisement material.

20. Investors

- (1) Investors may be allowed to invest in companies hosted on the Crowdfunding Platform subject to the investment limit specified by the Commission from time to time.
- (2) Investors may withdraw their offer at any time before the end of the waiting period.
- (3) Where there is a material adverse change, affecting the project or the issuer, investors may rescind the investment within 7 days from the date the material adverse change became public.
- (4) Where an investor cancels the offer or agreement to purchase securities or investment instruments, all funds which may have been debited from or blocked in the account of the investor shall be refunded or released within 48 hours of the request to cancel.

21. Crowdfunding Intermediary

- (1) The Crowdfunding Intermediary shall;
 - a. be knowledgeable about the general structure, features and risks of securities presented on its platform;
 - b. conduct due diligence on issuers and their business plans in order to ensure that the issuers have genuine business ideas;
 - c. verify the financial condition of the issuers and disclose relevant information on the platform;
 - d. prescribe the minimum threshold for all offers on its platform which shall not be less than 50% of the target amount
 - e. maintain a list of investors licensed on its platform
 - f. maintain a list of investors that invested in each issuance and amounts invested
 - g. take measures to reduce the risk of fraud including, but not limited to,
 - i. having a reasonable basis for believing that an issuer is complying with the securities laws; and;
 - ii. obtaining background and regulatory compliance history checks on the issuer.
 - h. review the information presented by the issuer to ensure that the information adequately sets out the following:
 - i. general features and structure of the investment,
 - ii. issuer-specific risks,
 - iii. parties involved and any inherent conflicts of interest, and

- iv. intended use of funds.
- i. facilitate a moderated interactive forum on the platform for investors and issuers which provides investors with the opportunity to comment on offers and issuers
- j. ensure that the issuer does not guarantee return on investment either expressly or by any implied terms in the offering document or advertisement material.

PART 5 - REQUIREMENTS WITH RESPECT TO TRANSACTIONS

22. General Provisions

- (1) Upon receipt of an application from an eligible issuer, a Crowdfunding Intermediary shall notify the Commission within three (3) days of receipt of the offer document specifying;
 - a. Promoters;
 - b. Directors;
 - c. Substantial shareholders;
 - d. Area of business; and
 - e. Such other information as the Crowdfunding Intermediary deems relevant or as may be required by the Commission.

23. The Offer

- (1) A crowdfunding offering approved by a Crowdfunding Intermediary shall be open for a period not less than 30 days and shall not be more than 60 days in any case.
- (2) The Crowdfunding Intermediary shall adopt an IT System which limits the acceptable amount to the target amount and reject additional subscriptions once the target amount is reached.
- (3) Where an issuer is unable to meet the prescribed minimum threshold for the target offering amount within the approved period, the offer shall be withdrawn and the issuer may commence a new crowdfunding offering:
 - a. not earlier than 30 days after the said withdrawal; and
 - b. upon demonstrating to the Crowdfunding Intermediary that all relevant financial and other relevant information have been updated.
- (4) Investors shall be notified by a Crowdfunding Intermediary within 24 hours upon the occurrence of a material adverse change relating to an issue.

- (5) For an offer to be successfully completed, the minimum threshold or target amount indicated in the offering document which must be sufficient to accomplish the business objectives of the issuer must have been met.
- (6) Funds raised would only be released to the issuer where the target amount or the minimum threshold of funds to be raised is met.
- (7) Where the funding target is reached, the Crowdfunding Intermediary shall direct the Custodian to make funds available to the issuer within 24 hours after the end of the offer.
- (8) Where the amount raised meets the minimum amount but falls short of the target amount, the Crowdfunding Intermediary shall direct the Custodian to make the funds available to the issuer upon provision of a revised plan for the proposed use of funds to the investors and the Crowdfunding Intermediary within one week of the end of the offer.
- (9) Where the minimum threshold is not reached at the end of an offer, the Crowdfunding Intermediary shall effect a refund to all investors within eight (8) days;
- (10) Investors shall have the right to withdraw any offer or agreement to purchase the securities up to 48 hours before the closing date stated in the issuer's offer document. After the closing date, an investor is only able to cancel in the event of a material adverse change to the offering where the proceeds have not been transferred to the issuer.
- (11) The ability to cancel shall be permissible by means of an automated system on the Crowdfunding platform or by notice to the Crowdfunding Intermediary and the issuer;
- (12) Where the target amount is reached prior to the expiration of a 60-day period from the date of the opening of an offer, and a withdrawal occurs which reduces the target amount, the Crowdfunding Intermediary may permit a re-opening of the offer only for the balance sum and for a period not exceeding the unexpended period of 60 days.

24. Lock-in period

- (1) Investors shall not transfer their investments for a period of one year after allotment except where a transfer is to:
 - a. the issuer of the securities;
 - b. a institutional investor;
 - c. part of an offer for sale licensed with the Commission
 - d. a retail investor, or a family member of the investor or to a trust created for the benefit of the family member of the investor or in connection with the death or divorce of the investor or other similar circumstance.
- (2) The Rules of the Commission on trading in securities of unlisted companies shall apply after the lock-in period;

25. Tag-along Rights

(1) Admission of an equity offer to a Crowdfunding platform shall be subject to the existence and confirmation of tag-along rights for investors and promoters. The issuers Constitution shall provide for the right of investors and promoters to withdraw from the company or to sell their stake, in the event that controlling shareholders transfer control of the company to third parties within three years from the conclusion of the offer.

(2) Admission of a debt offering to a Crowdfunding platform shall be subject to the existence of an early redemption (put) option for all investors. The offering document and/or any other agreement governing debt securities, shall provide for the right of investors to request for an early redemption of their investment, in the event that the controlling shareholders transfer control of the company to third parties within three years from the conclusion of the offer.

PART 6 - OBLIGATIONS OF THE ISSUER

26. General Disclosure Requirements

An issuer proposing to be hosted on a Crowdfunding Platform shall submit the relevant information specified under Guideline 19 above to the Crowdfunding Intermediary.

27. Risk Disclosure

The offering document shall state all risks associated with the investment including:

- a. liquidity of the securities;
- b. that it may be difficult for the investor to resell securities or purchased through the Crowdfunding platform;
- c. restrictions on the ability of an investor to cancel the investment;
- d. the risk of not getting the expected performance on the securities purchased;
- e. risk of not being able to influence the Management of the issuer;
- f. minority shareholding disadvantages for corporate action;
- g. dilution risk

28. Continuous Disclosure Obligations

- (1) An Issuer with a successful Funding Round on a Crowdfunding Platform shall comply with the following continuous disclosure requirements;
 - a. prompt notification in the event of changes in particulars;
 - b. deliver annual audited financial statements ninety (90) days after the end of each year to the Crowdfunding Intermediary who shall make them available to investors;
 - c. the financial statements must be accompanied by a notice of the issuer disclosing in reasonable detail the actual use of the gross proceeds of the offer;
 - d. make available to each of its investor within 24 hours of their occurrence a notice of each of the following events;
 - i. disclosure by an issuer of an intention to discontinue its business operations three months prior to its occurrence
 - ii. a change in the issuer's industry, or
 - iii. a change of control of the issuer.
- (2) Issuers are required to provide ongoing disclosure on the issues specified above until the earliest of the following dates:
 - a. the issuer becomes a reporting issuer (listed on a recognized securities exchange),
 - b. the issuer has completed a winding up or dissolution,
 - c. the issuer has redeemed its debt securities,
 - d. the issuer buys back the securities issued
- (3) All ongoing disclosure documents must be provided to investors through the Crowdfunding Intermediary, the website of the issuer and such other reasonable means as may be determined by the Commission.

PART 7 – RESTRICTIONS ON ACTIVITIES

29. Prohibited Activities of Crowdfunding Intermediaries

- (1) The Crowdfunding Intermediary is prohibited from:
 - a. providing any financial assistance to investors for the purpose of investing in an offer hosted on its platform or for which it has provided a service, except where there is a margin trading agreement; and

- b. compensating in any form a finder or an introducer for providing the Crowdfunding Intermediary with information about potential investors.
- (2) Crowdfunding Intermediaries and or their managers and officers are prohibited from soliciting investments or making recommendations;
- (3) No Crowdfunding Intermediary shall act as intermediary or facilitator of secondary trades between buyers and sellers for securities issued pursuant to these Guidelines.

30. Issuer Prohibitions/Restrictions

- (1) An issuer shall not directly or indirectly pay a commission, finders' fee, referral fees or similar payment to any person in connection with an offering other than to the Crowdfunding Intermediary.
- (2) This restriction does not apply to payments to persons as compensation for their services to an issuer in preparing materials in connection with the offering such as accounting or legal fees.
- (3) A Crowdfunding Intermediary, its respective directors and executive officers shall not lend or finance or arrange lending or finance for an investor to purchase securities under a crowdfunding offer.
- (4) The issuer shall not offer "non-permissible investment instruments"
- (5) An issuer shall not host an offer concurrently on multiple Crowdfunding Platforms;

31. Non-permitted Issuers

The following entities are prohibited from raising funds through a Crowdfunding Intermediary:

- a. complex structures;
- b. public listed companies and their subsidiaries;
- c. companies with no specific business plan or a blind pool;
- d. companies that propose to use the funds raised to provide loans or invest in other entities;
- e. all types of bank and non-bank financial institutions
- f. other entities as may be specified by the Commission.

PART 8 –ADDITIONAL REQUIREMENTS FOR SOFT COMMODITIES DIGITAL INVESTMENT PLATFORMS

32. Soft Commodities Investment Platform

- (1) Without prejudice to the generality of the foregoing, a Crowdfunding Intermediary may operate a Commodities Investment Platform subject to compliance with the following additional requirements:
- a. **Eligibility:** a fund manager which intends to operate a Soft Commodities Investment Platform shall incorporate a subsidiary under the Companies Act, 2019 (Act 992) and apply for a licence.
 - b. **Crowdfunding Intermediary Requirements:** The Crowdfunding Intermediary shall not facilitate on its platform any other crowdfunding business other than sourcing funds for investments in agriculture or other commodities. In particular;
 - i. The platform operated by the Crowdfunding Intermediary for investments in agricultural or soft commodity projects shall not be utilized for any other funding or marketing purpose;
 - ii. A crowdfunding intermediary licensed to operate a Soft Commodities Investments Platform shall not host a different crowdfunding platform where funds would be sourced for non- agricultural or soft commodity projects.
 - iii. Farming co-operatives and large-scale farmers may raise funds through a Crowdfunding Intermediary but not for themselves.
 - c. **Licensing Requirements:** In addition to the registration requirements in these Guidelines, the Crowdfunding Intermediary shall submit to the Commission the following particulars or documentation;
 - i. Off- taker agreements
 - ii. Where the Crowdfunding Intermediary has no off-taker arrangements or agreement(s), and in the interest of investor protection, the Crowdfunding Intermediary shall provide the Commission with a certificate of Membership with the Ghana Commodities Exchange (GCX), indicating that it shall use the accredited warehouses and Warehouse Receipts of the GCX
 - iii. Copies of agricultural insurance policy and detailed address of the insurance company providing the insurance cover
 - iv. Name and address of its custodian bank
 - v. Copy of the custodian agreement with the custodian bank
 - vi. The types and nature of crops under the crowdfunding arrangement
 - vii. The seasonality of the crops
 - viii. The funding round or period for each crop
 - ix. Where a project, the nature and type of projects for which funding is being sought with justification and description of benefits to the farmers or the farming community

- x. The number of farmers and/ or out-growers for whom crowdfunding arrangements are being made
 - xi. Location of the farms and farmers
 - xii. Where the farmlands are owned by the platform provider, the nature of ownership must be indicated and be supported by documentation or title deeds.
- d. Platform requirements: A Soft Commodities Investment Platform shall conform to general and specific standard provisions with respect to security, data protection, record keeping and general obligations in these Guidelines. In addition it shall provide;
- i. A dashboard and shall provide unrestricted access to sponsors or investors to monitor its farms remotely as well as performance of investments.
 - ii. The Crowdfunding Intermediary shall provide the Commission with unrestricted access to its dashboard to monitor its activities in respect of;
 1. Financial information on its crowdfunding and fundraising activities
 2. Land information – Size and acreage under cultivation
 3. Crop information – Number and types of crops under cultivation, crop schedules, performance of crops, yields per acre, infestations, etc.
 4. Sponsors or information on investors
 5. KYC/AML/CFT information
 6. Farmers/ Out-growers information
 7. Off-takers information
 8. bank payments and transactions
 9. any other information required by the Commission.
 - iii. The platform shall have an electronic KYC/ AML/CFT module and shall comply with all KYC/AML/CFT provisions as indicated in these Guidelines
 - iv. The platform shall have an electronic complaints register and complaints management module that are accessible to the Commission remotely
 - v. The Crowdfunding Intermediary shall communicate all unresolved complaints to the Commission 30 days after the initial lodging of the complaint(s)
 - vi. The Crowdfunding Intermediary shall publish or announce on the platform in advance, its seasonal funding rounds or time table or schedule in accordance with the cropping seasons and shall communicate same to the Commission 30 days before the commencement of the funding round
 - vii. The Crowdfunding Intermediary shall close its funding round at the end of the planting season for each crop which shall be published in advance for the information of sponsors or investors and shall communicate same to the Commission which shall also include total amount raised,

- total number of sponsors or investors that participated in the funding round and the type(s) of crop for which the funds were raised
- viii. The Crowdfunding Intermediary shall publish in advance price per farm size for allotment, types of crops, location and number of farmers or out-growers involved per crop type
 - ix. The platform shall display the grids, types of crops, farm size per allotment for virtual selection and payment.
 - x. A Crowdfunding Intermediary shall not engage in multiple sale of the same farmland
 - xi. The platform shall display clearly the share of profit formula at all times before the start of any funding round
 - xii. An indication of costs and revenue projections may be provided for each crop before the start of any funding round
 - xiii. The Crowdfunding Intermediary shall before any funding round provide detailed information about itself, on each crop, fertility condition of the soils, historical and projected yield per grid, projected profit to be made and all associated expected risks such as rainfall condition, condition of pest infestation, market condition, experience of farm managers, agronomic practices etc.
 - xiv. Where the funding is for a specific project such as provision of an irrigation system or construction of a warehouse or a rice mill or a processing plant for a farming community, the Crowdfunding Intermediary shall provide details on the project, provide financial projection or a feasibility studies report, how the project is supposed to be managed and an attestation from community leaders and an endorsement from the District Assembly within which the proposed project is located
 - xv. A Crowdfunding Intermediary may raise funds for plants and equipment for an agricultural based entrepreneur or group of entrepreneurs for commercial purposes. This will however be accompanied by a mini prospectus with full disclosure about the owners, shareholding, type of plant and equipment, their usage, projected financial statement including internal rate of return, payment schedules to investors, attendant risks. The Commission may also provide standard disclosure for such plants and equipment
 - xvi. A Crowdfunding Intermediary shall not raise funds wholly for itself or in a venture in which it has more than 5% holdings.

e. Additional Obligations: The Crowdfunding Intermediary shall:

- i. Ensure that adequate records on project owners/executors including identification, project location, membership of relevant association, guarantors and other relevant details are maintained and disclosed;
- ii. Ensure that the Fundraiser does not guarantee return on investment either expressly or by any implied terms in the offering document or advertisement materials;;
- iii. File appropriate returns to the Commission as indicated in these Guidelines, including information on compliance with the additional requirements specific to its operations;
- iv. Where insurance is listed as a feature of an agriculture or other commodities project, ensure that the insurance coverage is specific to each agricultural or commodities project and shall disclose the following:

1. Name of the insurance company
2. Amount of insurance coverage
3. Other details of the insurance coverage
4. Copy of the insurance policy

f. Inspections

- i. A Crowdfunding Intermediary of a Commodities Investment Platform shall provide investors or their appointed agents with access to inspect sponsored projects within the project cycle;
- ii. Inspections shall be organized at least once in each quarter of the life cycle of the project;
- iii. Investors shall be given notice of at least 14 days of a proposed joint site visit.
- iv. Requests for individual site visits by investors or their appointed representatives shall be honored within 14 days of such requests subject, to the cost being borne by the investors which cost shall not be unreasonable;

g. Funding Limit: The maximum amount which may be raised on a Commodities Investment Platform within a 12-month period shall not exceed GHS 15,000,000, unless otherwise decided by the Commission.

h. Reporting requirements: A Crowdfunding Intermediary operating a Commodities Investment Platform shall submit;

- i.** Annual audited financial statements which shall reach the Commission not later than ninety (90) days of the following year.
- ii.** Half-yearly reports, which shall reach the Commission not later twenty-one (21) days after the end of each half year, stating
 1. Revenue streams, including funds raised, with details of sponsors or investors and application of the funds
 2. Detailed information on sponsors or investors, their origin or nationality, their contributions or size of investments including currency types
 3. Volumes and values traded per crop
 4. Expenses and payments made to sponsors or investors
- iii.** An annual report, which shall reach the Commission not later than ninety (90) days after the end of each year, stating
 1. Total funds raised within the 12 months period
 2. Total funds raised per crop
 3. Total funds raised per project or plant and equipment
 4. Total funds raised from foreign sponsors/ investors and from local sponsors/investors
 5. Total funds raised from foreign sponsors/investors per crop or project or plant and equipment

- 6.Total funds raised from local sponsors/investors per crop or project or plant and equipment
- 7.Total volume per crop harvested in the year
- 8.Total value per crop sold in the year
- 9.Total amount of profit shared
10. Total amount of profit transferred to foreign investors
11. Total amount of profit distributed to local investors
12. Total amount of profit distributed to local farmers
13. GPS location of all farms under cultivation
14. Nature of and number of complaints received in the year
15. Number of complaints resolved in the year
16. Nature of and number of legal disputes (if any)
17. Environmental conditions such as pest infestation, drought, floods and bush fires and their impact on the agri- business during the course of the year
18. Any other matter(s) arising during the course of the year

33. Penalty

Where a person fails to comply with these Guidelines, the Commission may take action as set out in section 209 of the Act or apply such greater penalty where the breach also involves a breach of the Act or Regulations for which a higher penalty is prescribed.

34. Interpretation

Act means The Securities Industry Act 2016 (Act 929), as amended.

AML/CFT means Anti-Money Laundering /Combatting the Financing of Terrorism

Associated Person - "Associated person of a funding platform member" or "person associated with a funding platform member" means any sole proprietor, partner, officer, director or manager of a funding platform, or other natural person occupying a similar status or performing similar functions, or any natural person directly or indirectly controlling or controlled by a funding platform member, or any employee of a funding platform member;

Blind pool means a business plan which is solely for the purpose of merging with or acquiring an unidentified entity;

Commission means the Securities and Exchange Commission

Complex Structures means an entity without immediate transparency of ownership and/or control thereby making it difficult to immediately ascertain the beneficial owners of the entity;

Crowdfunding means the process of raising funds to finance a project or business from the public through an online platform;

Crowdfunding Platform: A digital platform that hosts crowdfunding campaigns that are prepared by a crowdfunding intermediary

Crowdfunding Intermediary: A business that is licensed by the Commission to run crowdfunding operations.

Fundraiser: refers to the originator, maker or obligor of an investment in soft commodities

Funding Round the period within which a specific project, business, or venture is hosted on a crowdfunding platform to raise funds from a large number of people in exchange for shares, debt securities or other investment instruments approved by the Commission;

High Net Worth Investor shall have the same meaning as provided in the SEC Rules;

Investment-based crowdfunding means the process of raising funds from a large number of people through an online platform in exchange for shares, debt securities or other investment instruments approved by the Commission;

Investment Contract means a contract or scheme for the placing of capital or laying out of money in a way intended to secure income or profit from its employment and includes participation in any profit-sharing agreement by virtue of which the:

- i. investors provide the capital;
- ii. promoters manage, control and/or operate the enterprise; and
- iii. investors share in the earnings and profits

Investment Instruments means instruments approved by the Commission for issuance through a crowdfunding platform from time to time including shares, plain vanilla bonds or debentures, and simple contracts;

Investor means any person or entity that seeks to make, are making, or have made an investment in an investment vehicle with the expectation of achieving returns;

Issuer means the originator, maker, obligor, or creator of the security or investment instrument which shall be licensed with the intermediary;

KYC means Know Your Customer

Material Adverse Change means any event, development or circumstance that has had or could reasonably be expected to have an unfavourable effect. It also includes changes in the condition (financial or otherwise), operations, business, performance, properties or assets of the Borrower and its Subsidiaries, taken as a whole;

Minimum Threshold means the minimum percentage of the target amount which must be raised by an issuer in a funding round in order to be eligible for the disbursement of the proceeds;

MSME means Micro, small and medium enterprises shall be as prescribed by the Ghana Enterprise Agency ((GEA)

Non-Permissible Investment Instrument means any investment instrument other than plain vanilla bonds/debentures, ordinary shares and investment contracts;

Operator means the Crowdfunding Intermediary licensed by the Commission;

Qualified Institutional Investor: Shall be as defined in the SEC Rules;

Plain vanilla bonds/debentures means non-complex debt instruments with fixed rates and a defined maturity that involves an investor (lender) purchasing a bond at its face value, receiving periodic interest payments from the bond issuer (borrower) and receiving the full principal upon maturity;

Predecessor means an entity which has been followed or replaced by another entity whether through a merger, acquisition, or other form of corporate action;

Public Company shall have the same meaning as provided for in the Companies Act, 2019 (Act 992);

Restricted Dealer: means a dealer licensed by the Commission to only carry out crowdfunding activities as specified under these Rules;

Retail Investor means an investor other than a High Net worth, Sophisticated Investor or Qualified Institutional Investor (shall have the same meaning as defined in the SEC Rules);

Soft Commodities Investment Platform means an electronic platform that connects investors to specific agricultural or commodities projects for the purpose of sponsoring such projects in exchange for a return.

Target Plan means the proposed use of the funds to be raised on the platform specifying full details of the project to be funded and documentary evidence of all forms of insurance, and contracts with relevant third parties including off-takers, suppliers and landowners (as applicable).

DRAFT

SCHEDULE 1**LICENSING OF A CROWDFUNDING INTERMEDIARY****FORM SEC NO. CFP**

APPLICATION FOR A LICENCE AS A CROWDFUNDING INTERMEDIARY UNDER THE SECURITIES INDUSTRY ACT, 2016 (Act 929), as amended.

1.General Information	a) Licensed name of applicant (b) Address (c) Location of principal place of business (d) Location/Address of branches (if applicable) (e) Telephone number (f) E-mail (g) Name and address of principal bankers and bank account numbers (h) Name and address of secretary (i) Name and address of the external auditors of the applicant
2. Type of application	(a) indicate if this is an initial application for recognition or whether it is an application for the restatement of an initial recognition (b) If it is for the restatement of an initial recognition please furnish the following information; i. Date of initial recognition ii. Recognition number
3.Legal status	(1) If applicant is incorporated in Ghana please specify whether applicant is - (a) incorporated under the Companies Act 2019; or (b) Incorporated under the Incorporated Private Partnerships Act, 1962. (2) If applicant is incorporated outside Ghana please specify the jurisdiction and the Act under which the applicant is incorporated. (3) confirm whether the Constitution/Partnership Deed of the applicant permits it to engage in the business for which the recognition is sought.
4.Capital structure and shareholding	(1) specify where applicable;

	<p>(a) Authorized shares</p> <p>(b) Issued shares</p> <p>(c) Paid up capital of the applicant</p> <p>(2) specify the names and addresses of all shareholders with 5% or more shareholding in the applicant.</p>
5. Other businesses	give details of other businesses (if any) the applicant is engaged in other than the business for which approval is being applied for.
6. Particulars of Governing board/Partners and Management.	<p>(1) specify name, address and profession/occupation of promoter, directors, principal officers, members, partners of the applicant along with any other directorships held by them.</p> <p>(2) specify if they will be executive or non-executive.</p> <p>(3) specify the name, address and qualifications of the chief executive officer of the applicant along with any other directorships held by him/her;</p> <p>(4) specify the constitution, membership, tenure, powers and functions of any other bodies or committees of the applicant apart from the board of directors.</p>
7. Organization chart	annex a chart/ diagram of the organizational structure of the applicant with particular reference to supervision and lines of reporting.
8. Group and associated person information	specify names of the holding company, subsidiary companies and associates of the applicant and any other companies or partnerships in which the applicant has an interest.
9. Staff	<p>(1) name the governing board members/partners, owners and employees of the applicant who will be involved in the operations of the business for which the license is sought.</p> <p>(2) specify qualifications and experience of persons in 9 (1)</p> <p>(3) give the names and addresses of documentation/computer/ accounting/administration and clerical staff of the applicant.</p> <p>(4) specify location and custodian of the register of interests in securities required to be maintained under section 126(1) of the Act.</p>

<p>10. Details of platform to be operated</p>	<p>Please specify-</p> <ul style="list-style-type: none"> a. Location of the Crowdfunding Platform: b. Days/hours of business: c. Brief description of Platform to be operated
<p>11. Declaration</p>	<ul style="list-style-type: none"> a. We the undersigned certify that the above information is true and accurate. b. We undertake in the event of our application being accepted to abide by the Act, Regulations made under the Act, Rules, Statements of Principles, Procedures, Guidelines, Codes, Directives, Circulars, Manuals, etc., present and prospective issued from time to time by the Commission established by the Act. c. We also undertake to inform the Commission immediately of any change in any of the particulars stated in this application.
<p>12. Confirmation</p>	<p>We confirm that</p> <ul style="list-style-type: none"> (a) the applicant is not in the course of being wound up/or in bankruptcy; (b) no receiver or manager has been appointed under any law with regard to the business and assets of the applicant; (c) the applicant has not entered into any compromise or scheme of arrangement with any of its creditors either in Ghana or outside which is still in operation; (d) neither the applicant nor any of the board members /partners and executive officers of the applicant have been - <ul style="list-style-type: none"> (i) adjudged bankrupt anywhere; (ii) convicted either within Ghana or elsewhere within the period of 10 years immediately preceding the date on which this application is made of an offence involving fraud or dishonesty punishable on conviction with imprisonment for a term of three months or more; (iii) denied a license as a market operator or representative or had a license issued under this Act to them suspended or revoked; or (iv) governing board members or partners of an entity which has been denied a license under the Act or had any license issued under this Act suspended or revoked.

13. Documents Enclosed	<p>(A) We enclose the documents specified in Schedule 5 of the Securities Industry (Licensing Guidelines) 2020.</p> <p>SEAL OF APPLICANT</p> <p>AUTHORISED SIGNATORIES TO COMPLETE SECTION</p> <p>NAME</p> <p>DESIGNATION</p> <p>SIGNATURE</p> <p>NAME</p> <p>DESIGNATION</p> <p>SIGNATURE</p>
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<p><u>SCHEDULE 2</u></p> <p>PRESCRIBED INITIAL LICENSE FEE, ANNUAL RENEWAL AND TRANSACTION FEES</p>

Initial License fee	GHS
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Annual renewal license fee	GHS
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Transaction fee shall not exceed 5% of total funds raised for each funding round
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