

# SECURITIES AND EXCHANGE COMMISSION



*Ensuring Investor Protection*

## **GUIDELINES FOR INVESTMENTS IN FOREIGN JURISDICTIONS BY MANAGERS OF COLLECTIVE INVESTMENT SCHEMES**

**CIRCULAR NUMBER: SEC/CIR/OO1/11/13**

# SECURITIES AND EXCHANGE COMMISSION

## MARKET GUIDANCE NOTES

CIRCULAR NUMBER: SEC/CIR/001/11/13

### **GUIDELINES FOR INVESTMENTS IN FOREIGN JURISDICTIONS BY MANAGERS OF COLLECTIVE INVESTMENT SCHEMES (CIS)**

This Guidance Note is issued pursuant to the Securities Industry Act 1993 (PNDCL 333) as amended by Act 590 s.9 (d) which empowers the Securities and Exchange Commission to formulate principles for the guidance of the Securities Industry.

#### **1. Preamble**

The increasing number of foreign investments undertaken by the licensed collective investment schemes (CIS) has necessitated the need for guidelines aimed at streamlining foreign investment activities in order to protect investors and to maintain an efficient, fair and transparent funds management market.

#### **1. Procedure**

##### **a. The Manager shall:**

- I. make adequate disclosure (including risks associated with the investments) of its intentions in the scheme particulars in the case of an Initial Public Offer (IPO);
- II. make adequate disclosure (including risks associated with the investments) in an updated scheme after complying with provisions in Regulation 81 to 85 of LI 1695;
- III. notify the Commission of the amendment to invest in a foreign country and comply with provisions in Regulation 10 (2d) of LI 1695;
- IV. file a copy of the prospectus or offering document of the foreign CIS with the Commission, for investments in foreign CISs;
- V. use the services of a licensed broker in a foreign jurisdiction for the purchase and sale of securities in that jurisdiction;
- VI. have systems which allow it to have real-time information on securities invested in in the foreign jurisdiction which shall be included in the price valuation of the scheme.

**b. Custodian/Trustee**

- I. The custodian of the scheme, in consultation with the board of directors in the case of a mutual fund, shall appoint an agent to act as sub-custodian to take custody of the scheme's assets in the foreign country.
- II. The trustee of the scheme, in consultation with the manager in the case of unit trust, shall appoint an agent to act as sub-trustee to take custody of the scheme's assets in the foreign country.
- III. The custodian/trustee shall be responsible for the actions and inactions of the sub-custodian/sub-trustee.
- IV. The relationship between the custodian/trustee and the sub-custodian/sub-trustee shall be guided by a sub-custodian/sub-trustee agreement
- V. The sub-custodian/sub-trustee agreement shall stipulate the rights, responsibilities claims and any other legal encumbrances that may arise from the relationship between the custodian/trustee and sub-custodian/sub-trustee
- VI. The sub-custodian/sub-trustee shall have been licensed in its jurisdiction as custodian/trustee and the custodian/trustee shall file evidence of the sub-custodian's /sub-trustee's license with the Commission
- VII. The custodian/trustee shall at all times maintain records of all the assets of the fund including those under the custody of the sub-custodian/sub-trustee

**c. Sub-custodian/Sub-trustee**

- I. The sub-custodian/sub-trustee will have a primary responsibility of keeping custody of the scheme's assets in the foreign country.
- II. The sub-custodian/sub-trustee shall advise the custodian/trustee of any purchase or sale on the account of the scheme.
- III. The sub-custodian/sub-trustee shall reconcile its balances with the custodian/trustee on a weekly basis.

**2. Allowable Investments**

- I. Investments in foreign securities shall be in accordance with the definition of the securities in the First Schedule of the Companies Act 1963, Act 179.
- II. Foreign securities investments shall be allowed only in approved eligible markets as prescribed in Schedule 1, 7(2)(b) of LI 1695.
- III. Approved foreign securities markets shall mean all International Organization of Securities Commissions (IOSCO) member states, countries with which the SEC Ghana has a Memorandum of Understanding (MOU) and other regulated markets to be approved by the SEC Ghana.
- IV. Foreign securities investments shall be in accordance with the Restrictions on Investments specified in Regulation 39 of LI 1695.

**SIGNED**  
**ADU ANANE ANTWI**  
**DIRECTOR-GENERAL**

**EFFECTIVE DATE: 1<sup>ST</sup> NOVEMBER, 2013**

**DISTRIBUTION**

**ALL FUND MANAGERS**  
**ALL CUSTODIANS / TRUSTEES**  
**SEC WEBSITE**