



*“Ensuring Investor Protection”*

## **MARKET GUIDANCE NOTES**

### **CIRCULAR NUMBER: SEC/CIR/003/2014**

#### **GUIDELINES FOR REGISTRAR OPERATIONS IN GHANA**

This Market Guidance Notes is issued pursuant to Section 9(b) of the Securities Industry Act 1993 (PNDCL 333) as amended by the Securities Industry (Amendment) Act, 2000, Act 590 which empowers the Securities and Exchange Commission to maintain surveillance over activities in securities to ensure orderly, fair and equitable dealings in securities, and to formulate principles for the guidance of the securities market.

The following guidelines are issued for the operations of a company acting as a Registrar for Issuers of securities in Ghana.

#### **1. Public Offer**

- a) The Lead Manager shall send the completed public offer application forms to the Registrar.
- b) The Registrar shall receive the full details of allotments from the Lead Manager.
- c) The Lead Manager and the Registrar shall sign jointly the allotment and forward it to the CSD for upload on to the Depository.

#### **2. Keeping and Updating of Register:**

- a) The Registrar shall maintain complete, accurate, reliable register.
- b) The register is to capture any changes in holdings resulting from transactions, mutual transfers by blood relations or through marriage, transmission upon the demise of a shareholder.
- c) All shareholders with depository accounts shall have their records updated through their brokers.
- d) The Registrar shall update the records of shareholders holding certificates.
- e) The Registrar shall then be required to update such records from the depository. The Registrar shall update records on a daily basis.

- f) Where the register is held partially or fully by the depository, the depository shall update the records and these update shall be captured by the Registrar.
- g) Proper accounts must be kept by Registrar of blank, spoilt, defaced, destroyed or undelivered certificates.
- h) Spoilt, defaced and destroyed certificates shall be kept for easy reference for at least seven years.
- i) The electronic system used must have the capacity to track movements in the accounts.
- j) The register and its associated documentation must be kept in proper custody covered by operations manual.

### **3. Security of Register**

- a) A documented disaster recovery manual and software maintenance agreement must be in place.
- b) The Registrar must have internal controls that are adequate to address all the processes of its operations including the issue of indemnities to clients against loss of financial instruments.
- c) The register and its associated documentation must be kept in proper custody covered by a operations manual in the offices of the Registrar.
- d) The Registrar shall take daily backup of data of the register and keep backup media in a fireproof and safe remote location.

### **4. Annual/Extraordinary General Meetings**

- a) The Registrar shall undertake all activities relating to its functions in connection with, Annual General Meetings and Extraordinary General Meetings as agreed with the Company Secretary in accordance with the Companies Act, 1963 (Act 179).
- b) The Registrar shall publish the notice of book closure to the public, mail all reports and accounts to shareholders, admit shareholders to the meeting.
- c) The Registrar shall submit a copy of a report of duties performed for the general meetings to the Commission.

**5. Dividend**

- a) Dividend payments shall conform to Sections 71 to 73 of the Companies Act, 1963 (Act 179).
- b) The Registrar shall open a new bank account within seven days after the declaration of every dividend and submit the account details to the Issuer for the transfer of the dividend.
- c) The Registrar shall control the bank account, file all Issuers' advice on transfer of dividends, and reconcile all dividend accounts with paid warrants on a weekly basis.
- d) The Registrar shall ensure that the Issuer transfers the total net dividend into the dividend account seven days before dividend payment date.
- e) All warrants shall be dispatched within fourteen (14) days after the receipt of the transfer of the total net dividend.
- f) No Issuer shall open a dividend account from which dividends would be paid to shareholders or pay dividends to shareholders directly.

**6. Unclaimed Dividend**

- a) Dividends become unclaimed 15 months after the dividend payment date.
- b) The Registrar shall advise the Commission of the details of all unclaimed dividends as at 31<sup>st</sup> December of each year. The report shall reach the Commission no later than 31<sup>st</sup> March of each year. (Schedule 1)
- c) In addition the Registrar shall keep a register of details of unclaimed dividends for each dividend payment.

**7. Other Corporate actions**

- a) The Registrar shall undertake its functions relating to all other corporate actions of Issuers including bonus and rights issues.

**8. Returns to the Commission**

- a) The Registrar shall submit all returns to the Commission as required by Regulation 33 (3a) of LI 1728 and any other report as the Commission may require.

**9. Handling of Complaints**

- a) The Registrar shall maintain a Complaints Register and follow a documented complaints procedure that indicates the status of resolution of complaints.
- b) Complaints that remain unresolved after thirty (30) days shall be referred to the Commission for further action.

**10. Establishment of good business practices**

- a) A Registrar shall establish good business practices including good corporate governance policies and practices and internal control systems and assurance.
- b) The above shall culminate into maintaining and enforcing procedures to supervise the activities of the organization to ensure compliance with the law.

**11. Reconciliation**

- a) The Registrar will reconcile its register with that of the depository daily and report quarterly to the Commission,
- b) The reconciliation shall be the total number of shares held by the Registrar with the total number of issued and outstanding shares of the Issuer at the end of every quarter.
- c) The report of the reconciliation shall be submitted to the Commission not later than 21 days after the end of the quarter.

**12. Agreement**

- a) The Registrar shall enter into an agreement with the Issuer for whom it provides services. Such agreement shall cover all expected roles of each party stating clearly activities to be performed by each party upon termination of the agreement. (see clause 13 below)
- b) A copy of the agreement shall be filed with the Commission.
- c) Where the Commission finds any provision which is detrimental to the interest of investors, the Commission shall direct parties to amend and same shall be complied with.

**13. Termination of Agreement and Transfer of register**

- a. The Registrar shall inform the Commission upon receipt of notice to terminate agreement with the Issuer.
- b. The old Registrar shall give at least a three months notice period before termination.
- c. Where a Registrar disengages with its service to an Issuer, the Commission shall be notified with reasons.
- d. The day the contract terminates shall be the day the transferred Register goes live.
- e. Notwithstanding the contents of the agreement referred to in 12 above, and in the event that the parties terminate the agreement for Registrar services but are unable to disengage amicably, the following IOSCO best practices and standards in relation to the migration process shall apply. The IOSCO provisions are stated below:

- i. The shareholder register and all related documentation belong to the Issuer and not to the outgoing Registrar.
- ii. The old Registrar shall be expected to hand over the register and all related documentation to the Issuer.
- iii. The old Registrar shall hand over to the new Registrar a shareholders' register which for the avoidance of doubt is a live working database. To this end the register shall comprise:
  1. The full history, electronic and/or paper-based, of all shareholders and their transactions with supporting documents from IPO to date including shareholders with zero balances.
  2. These transactions include trades, transmissions, transfers, stop trade flags, liens, replacement certificates/warrants, change of personal details, participation in corporate actions (e.g. rights issues), dividend history etc.
  3. The new Registrar must also receive all dividend Entitlement Lists (including full narration needed to handle claims) and Unclaimed Dividend Registers balanced to the bank accounts for each year of payment.
- v. The outgoing Registrar shall hand over the register in the following format: Two electronic copies and one hardcopy print-out of the full register signed, dated, time-stamped, alphabetically sorted and in format agreeable to the outgoing Registrar, incoming Registrar and the Issuer.
- vi. The outgoing Registrar shall send the first electronic copy to the incoming Registrar six weeks after the notice of termination.
- vii. The outgoing Registrar shall send the second electronic copy and the hard copy of the register simultaneously to the incoming Registrar not later than two (2) weeks before the incoming Registrar takes over.
- viii. The outgoing Registrar shall notify the Commission if the final register cannot be delivered two weeks to contract termination.
- ix. The outgoing Registrar will continue to act as Registrar and mop up activities and transactions within the two weeks the second and final copy of the register is handed over.
- x. The incoming Registrar will update the register with the mopped-up data before it goes live.

- xi. After termination of contract the outgoing Registrar shall provide assistance to resolve all disputes or issues relating to the period for which it was the Registrar.
- xii. The outgoing Registrar shall make a notice of disengagement or termination to the public not later than a week before the incoming Registrar takes over.

**14. Other Documents/files to be transferred**

- 1. The old Registrar shall hand over copies of the following documents and files showing full audit trail of transactions and correspondence with related parties as follows:
  - a. Files containing all share transfer instruments relating to the transfer of shares for whatever reason those shares were transferred.
  - b. Files containing correspondence with shareholders including all letters, printed emails, and faxes exchanged between the old Registrar and the client's shareholders.
  - c. Files containing correspondence with the Issuer including all letters, printed emails and faxes exchanged between the old Registrar and the client.
  - d. Files containing correspondence with regulatory bodies including involve all letters, printed emails and faxes exchanged between the old Registrar and the regulatory bodies.
  - e. Files containing correspondence with brokers including all letters, printed emails and faxes exchanged between the old Registrar and the brokers.
  - f. File containing unresolved complaints including documents showing work done on the outstanding complaints.

**15. Handover of Security Stationery**

- a) This relates to certificates, balance receipts, transfer receipts and warrants.
- b) Inventory shall be taken of all security stationery. Both new and old Registrars shall sign and date the inventory list.
- c) The old Registrar shall submit all returned, cancelled certificates, balance receipts and transfer receipts to the new Registrar.

## **16. Processing of historical dividends**

- a) The outgoing Registrar must reconcile the unclaimed dividend register with the dividend bank accounts.
- b) The account shall not suffer any bank charges. Any charge to the account shall be reimbursed by the Issuer.
- c) The outgoing Registrar shall provide a full and accurate unclaimed dividend register in hard and soft copy formats to the incoming Registrar that balances precisely with the funds held on account for shareholders.
- d) The outgoing Registrars shall hand over correspondence with shareholders, the Issuer and banks that have been involved in the payment of dividends to the incoming Registrar.
- e) The outgoing Registrar shall transfer all documents in 13, 14, 15 and 16 to the incoming Registrar not later than two weeks before the incoming Registrar take over.

## **17. Sanctions for non-compliance**

1. Failure to comply with the provisions of these guidelines is grounds for the taking of disciplinary action or the exercise of powers of intervention of the Commission.
2. The exercise of disciplinary powers of the Commission shall but not be limited to any of the following:
  - a. Revocation of licence
  - b. Suspension of licence
  - c. Written warning
  - d. Public reprimand

## **DEFINITIONS**

The following terms have the following meanings when used in these guidelines unless the context otherwise requires.

### **Registrar**

A dealer as defined in Section 142 of Securities Industry Act, as amended, Act 590.

### **Issuer**

Any company or legal person or undertakings, whose securities are listed or are proposed to be the subject of an application for listing.

### **Public offer**

The sale of equity shares or other financial instruments by an organization to the public in order to raise funds for business expansion and investment. This includes initial public offer and any subsequent bonus and rights offers.

**Lead Manager**

The financial organization that is responsible for managing the sale of new bonds or shares in a company or loans that several banks have joined together in making.

**Outstanding number of shares**

A company's shares currently held by all its shareholders, including share blocks held by institutional investors and restricted shares owned by the company's officers and insiders.

**Live working database**

Database that is currently active and being used by applications or systems.

**BY ORDER OF THE COMMISSION.**

**Dated at the Securities and Exchange Commission This 25th Day of August 2014**