



THE SECURITIES AND EXCHANGE COMMISSION, GHANA

Frequently Asked Questions (FAQs) on Revocation of Licences of Fund Managers by the Securities & Exchange Commission

1. What has called for this exercise/action by the Securities & Exchange Commission (SEC)?

Answer:

The protection of investors and the integrity of the market are fundamental to the mandate given to the Commission by Securities Industry Act, 2016 (Act 929). Efforts by the SEC to get directors of the affected firms to resolve regulatory Breaches identified over the period have not yielded positive results. This exercise has become necessary to ensure that market operators with infractions and/or complaints are removed from the industry to protect current and future investors.

2. How will this action impact the clients of the affected firms?

Most of the affected firms have either become dormant (21) for a long while without settling investors' claims against them, or are in distress and unable to pay their obligations to their clients. These firms have breached their contractual arrangements with investors who placed funds with these fund managers for investments on their behalf but have waited in vain for a very long time for the return of their funds, despite demands for same. This action by the Commission is therefore expected to provide some relief to the clients of these affected firms.

3. Why is the Securities and Exchange Commission revoking licences at this time?

Answer:

The Commission is committed to protecting investors and the integrity of the market. Such decisions are only taken after a series of engagements and directives. Revocation is not the first line of action. We are currently sanitising the market and ridding it of companies

that pose a threat to investments and the capital market as a whole. This will help build investor confidence and strengthen the capital market.

4. What happens to my funds/investments with these institutions?

Answer:

It depends on the investments you have with these affected firms. Investments in listed companies, mutual funds and GOG instruments will not be affected as they are typically held by third parties such as custodians and the central depository. Other investments will be sorted out through the realization of assets subject to the court appointing the Registrar-General as the Official Liquidator.

5. What is the process for making my claim to the Liquidator

Answer:

Investors will be required to present all claims at the designated locations to be communicated by the Official Liquidator, following the outcome of the court process to be appointed as the Official Liquidator, for validation and payment of Government capped support and subsequent payments after realization of assets. Any other interim arrangements for the validation of claims will be communicated by the Commission to investors.

6. What is the estimated time for the completion of the validation process and payment :

Answer:

The Registrar- General will communicate a time table to investors dependent on the outcome of the court process to be appointed as the Official Liquidator.

7. What will happen to Collective Investments Schemes being managed by these companies?

Answer:

The assets of Collective Investment schemes are safe because they are held separately from the Fund Manager. Options available to investors include: a) replace the manager with another Fund Manager selected by shareholders/unit holders b) approve an arrangement for the transfer of the whole or part of the assets of the scheme to another licensed scheme in exchange for the issue of interests in that other scheme. All Trustees and Custodians will be engaged on specific actions in relation to investors in Collective Investment Schemes.

8. Is it still safe to invest with fund managers?

Answer:

Yes, as there are with strong, well-capitalized and compliant fund managers. Investors are encouraged to ask questions regarding the underlying investments and the associated risk-

return characteristics to ensure that they are well informed before selecting the types of investment on offer by licensed fund managers.

9. What factors must I consider before selecting a fund manager?

Answer:

Seek for answers to questions such as: Is the fund manager holding a valid license issued by the SEC? Who are the directing minds of the company? How much disclosure does the fund manager provide about underlying investments and its fees? What is the track record of the fund manager? How does the fund manager plan to manage liquidity needs of clients? Does the fund manager have any pending regulatory issues or unresolved client complaints? Any company with outstanding major regulatory breach/(es) is appropriately highlighted on the Commission's website (www.sec.gov.gh.) to keep investors informed.

10. What investment services are fund managers allowed to offer clients?

Answer:

Fund managers provide investment advice and also manage a wide range of client assets including collective investment schemes and pension funds. They carry out mandates for discretionary and non-discretionary funds. A fund manager does not provide deposit taking services and is not allowed to guarantee returns on investments.

11. Why did SEC issue a directive to stop guaranteed returns?

Answer:

Unlike deposit taking services, investing entails taking some risk to achieve some expected returns. The element of risk implies that the investor can experience either gains or losses. Fund Managers cannot directly or indirectly guarantee clients against losses in any securities transaction. Historical returns can only serve as a guide for reasonable expectations and certainly not as a basis to guarantee returns.

12. Will there be further revocations after this round?

Answer:

Surveillance of licencees is a continuous process and SEC works with companies to ensure regulatory compliance. In the Commission's 23 years in operation, this is the first mass revocation of its kind. We will continue to work to ensure that the integrity of the market is protected.

13. What investments would you recommend for retail investors?

Answer:

Investment choices are based on a number of criteria including, investment goals, and investment term and risk appetite. The Commission, per its mandate, is working to ensure that information is readily available and adequately disclosed to enable investors make the investment decisions most suited to their needs. We do recommend collective investment

schemes for retail investors in view of the protection it offers to investors through the governance structures, regulations on permissible activities and greater scope for diversification of investments.

14. What will happen to the firms who were highlighted on the Commission's website but whose licenses have not been revoked?

Answer:

As the legend indicates, firms with major regulatory issues will be so highlighted to keep the investing public informed. Firms who have taken significant steps to resolve issues may not have their licences revoked. The Commission will continue to review their status.

15. What happens next, after the licences have been revoked? Will the institutions whose licences have been revoked be able to continue to operate as going concerns?

Answer:

Following the revocation of licences of the affected fund managers, they are no longer authorised to conduct the business for which they were licensed by SEC. SEC will notify the Registrar General, who will apply to court to be appointed as the Official Liquidator for the firms. The Official Liquidator will wind up the businesses of the affected companies, realize assets and settle obligations to creditors including investors.

16. What should I do if my name is not captured in the books of the fund manager?

Answer:

Any investor whose name is not captured in the records of the affected fund manager may present proof of claims in their possession to the liquidator who will investigate such claims, and to the extent that are validated, add such claims to the list to be honoured subject to realization of value from the assets of the relevant institutions.

17. What action will be taken against officers and shareholders of the revoked Companies?

Answer:

The SEC will ban past and present officers and shareholders whose actions and inactions led to the revocation, from operating in the Capital Market for 5 years. In cases of alleged criminal behaviour the SEC will forward evidence to the Attorney General for further investigation and prosecution.

18. Is anybody in SEC culpable in this?

Answer:

Our current investigations point that the lack of resources to pay claims is a result of imprudent use of clients' funds to fund related parties and high-risk enterprises in ways that did not conform to the fiduciary responsibilities of these fund managers under relevant laws, Regulations, and SEC directives/circulars. However if evidence is provided on the culpability on any SEC employee, we will not hesitate to apply sanctions which may include termination of appointment and referral for criminal prosecution.

19. How can we ensure that this does not happen in the near future?

Answer:

A more rigorous licensing regime has been put in place, a new reporting portal, IT infrastructure and an enhanced supervision/enforcement framework.