

**SECURITIES INDUSTRY (AMENDMENT) Act 1062**  
**ACT, 2021**

**ARRANGEMENT OF SECTIONS**

*Section*

1. Section 35 of Act 929 amended
2. Section 37 of Act 929 amended
3. Section 37A of Act 929 inserted
4. Section 209 of Act 929 amended

Act 1062



REPUBLIC OF GHANA

THE ONE THOUSAND AND SIXTY-SECOND

# ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA  
ENTITLED

## SECURITIES INDUSTRY (AMENDMENT) ACT, 2021

AN ACT to amend the Securities Industry Act, 2016 (Act 929) to provide for the conduct of investigation by the Commission when the Commission is assisting other domestic or foreign regulatory authorities, the procedure for dealing with a request for assistance from a foreign securities regulatory authority, the issuance by the Commission of codes, directives, guidelines and circulars and for related matters.

DATE OF ASSENT: *19<sup>th</sup> January, 2021.*

**PASSED** by Parliament and assented to by the President

### **Section 35 of Act 929 amended**

1. The Securities Industry Act, 2016 (Act 929) referred to in this Act as the “principal enactment” is amended in section 35 by the substitution for subsection (1) of

- “(1) Where the Commission  
(a) has reason to suspect that a person, has

- (i) committed an offence under this Act or the Companies Act, 2019 (Act 992), or
  - (ii) been found guilty of fraud or dishonesty in relation to dealing in securities and the business of an issuer; or
- (b) is assisting other domestic or foreign regulatory authorities in their investigation,  
the Commission may conduct an investigation that the Commission considers appropriate in pursuance of this Act.”.

**Section 37 of Act 929 amended**

2. The principal enactment is amended in section 37 by the repeal of subsections (3), (4) and (5).

**Section 37A of Act 929 inserted**

3. The principal enactment is amended by the insertion after section 37 of

**“Request for assistance from a foreign securities regulatory authority**  
**37A.** (1) The Commission may, instead of relying on subsection (1) of section 37, apply to the court pursuant to a request for assistance from a foreign securities regulatory authority.

(2) When considering an application from the Commission under subsection (1), the Judge may refuse the request only if

- (a) the request is not made in accordance with the terms of the international agreement or memorandum of understanding between the Commission and the requesting foreign securities regulatory authority; or
- (b) criminal proceedings have been instituted or final punitive sanctions issued in the country, in respect of the same facts and matters and against

the same person as is the subject of the request for assistance.

(3) An application under subsection (1) made by the Commission and an appeal by the Commission or the respondent institution shall be heard in camera.

(4) A provision of this Act shall not be construed to confer on the respondent in the capacity as appellant, a right to access the information contained within a request for assistance.”.

**Section 209 of Act 929 amended**

4. The principal enactment is amended in section 209

(a) by the substitution for subsection (4) of

“(4) Where a person breaches or fails to comply with a code, directive, guideline or circular issued by the Commission, the Commission may

(a) take an action set out in section 118, 122 or 123;

(b) impose an administrative penalty of not less than fifty penalty units and not more than twenty thousand penalty units; or

(c) apply paragraphs (a) and (b) where the Commission considers necessary.”; and

(b) by the insertion after subsection (4) of

“(5) The Commission may, in addition to the actions taken in paragraphs (a), (b) or (c) of subsection (4), impose any other administrative penalty that the Commission considers necessary or take any other remedial action that the Commission considers appropriate in the interest of protecting investors and the integrity of the securities market.

(6) Where the breach or non-compliance constitutes a criminal offence under any part of this Act or the Regulations, and the accused voluntarily makes an offer of compensation or restitution and reparation in writing to the Commission, the Commission shall, without instituting criminal proceedings under section 207, settle the offence in accordance with this section.

(7) Where the person liable, referred to in subsection (6)

(a) pays the amount to the Commission within 14 days of the demand, the Commission shall not commence proceedings against the person in relation to the offence; or

(b) does not pay the amount to the Commission, within 14 days of the demand, the Commission may commence proceedings against the person in relation to the offence under section 207 of Act 929.

(8) The powers conferred on the Commission under subsections (6) and (7) shall only be exercised where the person voluntarily admits the offence and agrees in writing to the offence being dealt with under subsection (6).

(9) The agreement shall be sent to the Attorney-General for advice on whether the offer of compensation or restitution and reparation is satisfactory.

(10) Where the Attorney-General considers the offer to be satisfactory, the Attorney-General shall indicate same in writing to the Commission which shall proceed to enforce same.

(11) The Commission shall treat the admission of the offence as amounting to a conviction of the same offence for the purposes of performing the functions of the Commission under the Securities Industry Act, 2016 (Act 929) in relation to fit and proper persons.

(12) Where there is any discrepancy between an administrative penalty imposed by the Commission under subsections (4) and (5) and any other provision under this Act, the penalty imposed under subsections (4) and (5) shall prevail.

**Act 1062**

*Securities Industry (Amendment) Act, 2021*

Date of *Gazette* notification: 19<sup>th</sup> January, 2021.