



CENTRAL BANK OF SEYCHELLES

GUIDE TO LICENSING OF MUTUAL FUND ADMINISTRATORS

**Securities and Financial Markets Division
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Seychelles**

1. INTRODUCTION

These guidance notes are published to provide assistance in matters pertaining to the licensing or exemption of mutual fund administrators. The content of these guidance notes are as follows:

- (a) scope of the Act ;
- (b) licensing procedure and requirements;
- (c) service providers;
- (d) continuing obligations of a fund administrator;
- (e) exemptions and concessions;
- (f) administrative procedures relating to exemptions and concessions.

These guidance notes are not intended to be comprehensive nor replace or override any legislative provisions. Applicants are advised to read the guidance notes in conjunction with the Act and any other guidelines the Central Bank may issue from time to time.

2. SCOPE OF THE ACT

2.1 Definition of Mutual Fund Administration

According to the Mutual Fund and Hedge Fund Act any one of the following activities undertaken in relation to a mutual fund amounts to mutual fund administration:

- (i) managing or administering a mutual fund ;
- (ii) providing a principal office to a mutual fund with in Seychelles; and
- (iii) providing a director, trustee or general partner to a mutual fund.

2.3 Types of Mutual Fund Administrator Licence

Applicants may apply for either a Seychelles fund administrator licence or a restricted fund administrator licence. The Act also makes provision for exemption as an approved foreign administrator.

2.3.1 Seychelles Fund Administrator Licence

A Seychelles fund administrator licence allows its holder to administer an unlimited number of mutual funds.

2.3.2 Restricted Fund Administrator Licence

A restricted fund administrator licence permits its holder to administer the mutual funds specifically mentioned in the licence.

2.3.3 Approved Foreign Administrator Exemption

The exemption allows a person holding a current licence or other authorisation from a regulatory body in a recognised jurisdiction to administer a Seychelles licensed fund.

3. LICENSING

A licence to carry on business as a mutual fund administrator is obligatory in order to carry on mutual fund administration in or from Seychelles or to administer a fund licensed in Seychelles.

3.1 Application for a fund administrator licence

Every applicant for a fund administrator licence must observe the following procedure:

1. The applicant must fully and properly complete and submit to the Central Bank, a mutual fund administrator licence application form.
2. The application form must be accompanied by:
 - a. certified true copies of the constitutional documents of the applicant;
 - b. a personal questionnaire form completed by each director, shareholder and beneficial owner;
 - c. any other supporting information or documents the Central Bank may require; and
 - d. the application and/or annual fee prescribed in Schedule 1 of the Act.

The Central Bank will only process an application once all relevant information has been submitted and may request for additional information or supporting documents for the purpose of determining the application.

Application forms are available from the Central Bank website www.cbs.sc. Once completed the forms must be submitted to:

The Director General
Securities & Financial Markets Division
Central Bank of Seychelles
P.O Box 710, Victoria
Seychelles

3.2 Conditions for granting licence

In terms of Section 11 of the Act the Central Bank will not grant a licence unless it is satisfied that:

- the applicant and each of its directors are fit and proper persons;
- the applicant has adequate expertise, resources and facilities necessary to properly administer mutual funds;
- the applicant has a registered office or a principal place of business in Seychelles (in the case of a Seychelles fund administrator's licence);
- the applicant has an agent for service in Seychelles (where the applicant is not incorporated in Seychelles);
- an applicant company has not less than two natural persons as directors; and
- the fund administrator's name is not likely to deceive or mislead.

It should however be noted that the Authority has a discretion in granting or refusing a licence. It may in dealing with an application take into consideration matters other than those mentioned above.

3.3 Application for Approval by Foreign Administrator

To be approved as an approved foreign administrator, a person must fully and properly complete and submit to the Central Bank, an approval application form. The application form must be accompanied by:

- a. certified true copies of the licence or other authorisation granted by a regulatory body in a recognised jurisdiction;
- b. certificate of good standing from a Recognised Overseas Regulatory Authority in a Recognised Jurisdiction;
- c. the prescribed fee.

3.3.1 Conditions for granting approval

To qualify as an approved foreign administrator, the fund administrator ;

- (a) must not conduct mutual fund administration business in Seychelles¹;
- (b) must prove that it is in good standing and holds a current authorisation to conduct mutual fund administration in a recognised jurisdiction; and
- (c) is subject to a legal requirement in a recognised jurisdiction to prepare annual audited accounts.

4. SERVICE PROVIDERS

4.1. Agent for Service

The requirement to appointment an agent for service in Seychelles is applicable to an applicant incorporated outside Seychelles. The Act stipulates that an agent for service must be a licensed CSP, Financial Institution or such person as Central Bank may approve.

4.2 Auditor

A mutual fund administrator is required to have its accounts audited annually by an auditor. The Act allows for the appointment of foreign auditors. Derogation to the Companies Act 1972 is provided for in that a company incorporated under that Act, can appoint a foreign auditor subject to obtaining the necessary approval from the Central Bank.

5. DURATION AND RENEWAL

The validity period of a licence or approval granted under the Act is of 1 year, this requires that such licence or approval be renewed annually.

The Central Bank will only renew a licence or exemption upon:

- (i) the payment of the annual licence or exemption fee, as the case may be;
- (ii) the submission to the Central Bank of a declaration of compliance in the form specified in Schedule 3 (Seychelles fund administrator) and Schedule 5 (approved foreign administrator) of the Act; and
- (iii) in the case of an approved foreign administrator; proof that it is being regulated as a mutual fund in a recognised jurisdiction.

Note: A licensed or approved fund administrator must ensure that formalities for licence or exemption renewal are undertaken well ahead of the expiry date of any licence or exemption. It is an offence to operate a mutual fund without a valid licence or exemption.

¹ The administration outside of Seychelles of a mutual fund licensed in Seychelles does not constitute mutual fund administration in Seychelles.

6. CONTINUING OBLIGATIONS

The Act sets out the obligations to be fulfilled by a fund administrator once it has been licensed or exempted.

Licenseses are advised to read carefully the conditions described on the reverse of their licence certificates as they may impose on the licence holder obligations additional to those specifically mentioned in the Act.

6.1 Notification of Changes

- ***Change of ownership***

Under Section 12 of the Act shares in a fund administrator cannot be transferred, disposed of or dealt with unless the Central Bank has been notified and given its approval. Similarly, an administrator cannot issue shares without notifying the Central Bank and obtaining its approval.

- ***Appointment/resignation/removal of operators and other managerial staff***

The appointment of every officer by a licensed fund administrator must be notified to the Authority for approval unless exemption to this requirement has been granted.

It is a condition of every fund administrator licence issued under the Act that the Central Bank is notified forthwith of the resignation or removal of any member of the managerial staff.

Where a licensee is making an appointment, it must ensure that the person is and remains "Fit and Proper" to occupy the position. In the case of a resignation or removal the notification to the Central Bank should include a description of the circumstances surrounding such request for resignation and removal.

- ***Knowledge of Breach of Act by Mutual Fund***

A fund administrator with knowledge or belief that a fund cannot or will not be able to meet its obligations, is in breach of the Act; or is carrying on business in a manner prejudicial to its investors or creditors must forward written notice of its knowledge or belief to the Central Bank.

Failure to do so constitutes an offence punishable by a fine of \$ 10, 000.

- ***Revocation or termination of licence/authorisation (approved foreign administrator)***

The revocation or termination an approved foreign administrator's authorisation to provide mutual fund administration services must be notified immediately to the Central Bank.

- ***Change of Address***

Within fourteen days of having changed the address of its principal place of business overseas or having changed its registered office overseas, an approved foreign administrator must notify the Central Bank, in writing, of any such change.

- **Other Notifications**

Sections 15 (7) and (8) provide a number of occurrences which must be notified to the Central Bank. These mostly relate to occurrences which may affect the ability of the fund administrator to continue its business operation.

6.2 Submission of Audited Accounts

A licensed fund administrator or an approved foreign administrator must submit to the Central Bank, within four months of the end of each financial year, its audited accounts. The Central Bank may extend the period within which the accounts are to be submitted.

6.3 Audit of Financial Statements

The accounts maintained by a licensed fund must be audited annually by an auditor. (See 4.2) The audited accounts in respect of each financial year must be sent to the Central Bank within four (4) months of the end of that financial year. This requirement is also applicable to exempt foreign funds.

The Central Bank may extend the period within which the audited accounts must be submitted.

6.4 Due Diligence and KYC Procedures

Fund administrators operating in or from Seychelles must at all times be able to identify their investors and the beneficial owners of their investors which are companies or other entities. They are subject to the requirements of the [Anti-Money Laundering Act, 2006](#) and are therefore required to have in place anti-money laundering procedures, policies and practices.

A licensed fund administrator must specifically, maintain procedures and systems to establish the identity of its investors, adopt appropriate internal controls and communication procedures in accordance, provide appropriate training for employees, and establish internal reporting procedures.

The Central Bank's Financial Intelligence Unit has issued guidelines as to how the provisions of the Anti-Money Laundering Act can be implemented. The guidelines are available on the Central Bank's website or can be obtained from the Financial Intelligence Unit.

6.5 Treatment of Client Assets

Client assets held by a licensed mutual fund administrator must be designated and clearly identified as "client funds".

Client funds which are held for more than 30 days must be kept separate from the fund administrator's own funds in an account designated as a client account.

Separate accounts must be maintained, in an administrator's books of accounts, for any client funds. Same must be distinguished from the administrator's own monies.

6.6 Complaints

A fund administrator is under obligation to acknowledge, register, investigate and deal with any complaint received by it relating to the conduct of its business.

6.7 Avoidance of Conflict of Interest

A fund administrator must use its best endeavours to avoid any conflict of interest between itself and the mutual funds under its administration and between one mutual fund and another.

A conflict of interest must be notified to the mutual fund(s) concerned and the fund administrator must cease the provision of services to the funds concerned, unless all the funds agree to the fund administrator continuing its service to the other fund(s).

6.8 Compliance to Central Bank Directions

The Central Bank may in the carrying out of its functions under the Act issue directions to any licensee. A licensee must comply with any directions issued, failure to do so constitutes an offence.

7. ROLE OF THE CENTRAL BANK

The Central Bank is conferred powers of supervision over mutual funds by the Act. The Central Bank may in carrying out its supervisory functions;

- (a) issue directions to licensees;
- (b) request information or documents from licensees;
- (c) revoke a fund administrator licence;
- (d) impose further conditions on a fund administrator licence;
- (e) appoint a person to advise a licensed mutual fund on the proper conduct of its business;
- (f) revoke the approval given to an approved foreign administrator.

The Act also imposes duties on the Central Bank, most notably, the duty not to disclose any information to a third party except where authorised to by law.

8. EXEMPTIONS AND CONCESSIONS

Section 32 of the Act grants exemptions and concessions from the applicability of certain legislative enactments specified in Schedule 10 of the Act.

- **Business Tax Act**
The business tax payable by a fund administrator is the aggregate of the following amounts paid by it or another party, in respect of a fund administered by the licensee:
 - (a) 10% of fees in respect of new mutual fund licences;
 - (b) 5% of fees in respect of annual renewal of mutual fund licences; and
 - (c) 5% of all other fees under the Act.
- **Immovable Property Transfer Restriction Act**
The restriction in Section 4 of the Immovable Property Transfer Restriction Act the effect of which requires a non Seychellois to seek sanction from the Ministry of National Development prior to leasing an immovable property in Seychelles does not apply to fund administrators.
- **Social Security Act**
The Social Security Act does not apply to a licensee which is incorporated overseas or has no employees in Seychelles.

A licensee which is incorporated in Seychelles and has employees in Seychelles must pay employer's contribution at the rate of 5% of each employee's emoluments.
- **Stamp Duty Act**
A mutual fund is exempt from the payment of stamp duty on all instruments evidencing transactions in respect of shares or debt obligations and on all transfers of other property to or by the fund.

It should be noted that the exemption does not extend to the transfer of or interest in immovable property in Seychelles.

- **Trades Tax Act**
The Act grants exemption from the payment of trades tax (customs duty) on all imported furniture and equipment (computers, communication equipment) used by the licensee, in its office in Seychelles, in connection with the business of operating a mutual fund.

Appendix 1 is a list of furniture and equipment to be exempted under the Act. It should be noted that some of the goods on the list may already attract a 0% tax rate.

- **Goods and Services Act**
The GST Act is not applicable to mutual funds in its entirety.
- **Immigration Decree**
The Act allows a mutual fund to employ expatriate employees up to 50% of its total number of employees. *(See 9.5 for guide to foreign worker recruitment)*
- **Exchange Control Act**
The provisions of the Exchange Control Act do not apply to mutual funds.

9. ADMINISTRATIVE PROCEDURES WITH REGARDS TO SCHEDULE 10

9.1 Conditions for Duty Concession

9.1.1 A fund administrator must submit to the Central Bank, a list of office equipment, furniture and stationery requirements of its office.

9.1.2 The Central Bank shall approve a quota limit for each fund administrator based on the expected volume of activities and type of service offered following consultation with the mutual fund.

9.1.3 Orders in excess of the quota limit will only be considered for approval if justifiable reasons are provided to Central Bank.

9.1.4 An updated list of the office requirements must be lodged with the Central Bank on an annual basis before consideration for exemptions can be given.

9.1.5 Office equipment and furniture are replaceable when they have reached their economic useful life, are beyond reasonable repair or not meeting the quality standard desired by the mutual fund:

- Economic Useful Life means that the asset has fully depreciated and the depreciation method used is in line with Business Tax Act.
- Beyond Reasonable Repair means that the asset has had frequent breakdown and/or servicing during a month and actual costs of repair are substantial.

9.1.6 A fund administrator has to provide justification to Central Bank for replacement of office equipment, stationary and furniture, which have reached their economic useful lives, are beyond reasonable repair, their quality of output is not to the required standard and/or out of stock.

9.1.7 Disposal of office equipment, furniture have to be lodged with Central Bank and once approved, all tax liabilities must be paid before the asset is disposed of (see 6.3 for procedures).

9.1.8 A fund administrator has to maintain an asset register for all assets purchased

9.1.9 Central bank shall approve duty concession only if the goods are consigned to the Licensee and/or separate invoices and BOE are presented in the case of group orders.

NOTE

- i. A fund administrator shall comply with the provisions of the Trades Tax Act in relation to obtaining an Import Permit and other requirements set out by the Ministry of Finance in relation to importation of goods.
- ii. It is important to consult on tax/duty concessions prior to confirming an order, if in doubt
- iii. All tax-exempt items must be located in offices and/or premises and are subject to inspect by Central bank or Tax Division.

9.2 Processing of Goods for Duty Concession

9.2.1 A set of 5 (five) documents each containing the Bills of Entry (BOE), invoices, shipping documents and must be submitted to the Central Bank for "Endorsement" for Duty Exemption prior to presentation of document to Trades Tax Division. A full set of the BOE is kept at the Central Bank. The

remaining 4 (four) copies are given to the fund administrator for processing at Trades Tax Custom Office at the Airport or New Port.

- 9.2.2 During clearance of goods, a designated officer of the licensee must be physically present and must ensure that the Custom Officer declares any short landing and/ or damage of goods.
- 9.2.3 When the goods enter the licensee's premises after being cleared by Trades Tax Custom office, a designated officer must inspect the goods again and any items that have gone missing during transit should be reported to the Central Bank, immediately. Trades Tax shall apply on any missing items thereafter, and the fund will be liable.
- 9.2.4 After the Goods have been cleared and delivered to the fund's office, a copy of the Processed Trades Tax Bill of Entry and any variation order made by Trades Tax Division should be forwarded to the Central Bank by the next working day.

NOTE:

A licensee is required to keep well documented and updated records of the items exempted from Taxes. These records should include inventory of fixed assets, stationery imported and goods disposed of, and must be available at all times for inspection. Tax will apply for any item unaccounted for.

9.3 Processing Disposal of Duty Concession Goods

As stated in 9.1.7, disposal of office equipment and furniture have to be lodged with the Central Bank and once approved, all tax liabilities must be paid before the asset is disposed of.

Fund administrators must observe the following guidelines:

- i. Submit their request for disposal to the Central Bank in typed format indicating the item, the quantity, the cost value, present market value, reasons for disposal, and manner in which they are going to dispose the item
- ii. The Central Bank will consider the application and may inspect the items to be disposed of in the process
- iii. If approval is being considered positively, the licensee must file the following before disposal:
 - Duty payable be settled with Tax Office
 - Copy of duty payment forwarded to Central Bank
 - Central Bank gives final approval

NOTE:

- i. A licensee must not destroy or disposed any office equipment, furniture, or stationery exempted from customs duty unless written approval is given by the Central Bank.

9.4 Payment of Business Tax

The tax payable by a licence holder in respect of its income shall be collected at source by Central Bank and remitted to Business Tax Division. (Pending final agreement with Business Tax)

9.5 Guide to Recruitment

- 9.5.1 Foreign worker should be recruited outside Seychelles.
- 9.5.2 The person making an application for a Gainful Occupation Permit (GOP) must undergo a compulsory Medical Examination. This should be done prior to entering into Seychelles. However, if the person is already in Seychelles, an appointment with the Occupational Health Unit of the Health Authority can be obtained for the person to undergo all relevant tests.

The medical fitness test is required to be submitted in the form contained in Appendix A. Other information required to be submitted are tests for the following:

- i. HB%
- ii. HIV Test
- iii. Hepatitis B Test
- iv. VDRL Test
- v. Urine – Routine and Microscopic Exam
- vi. X-ray chest PA view.

All of the original copies of laboratory and z-ray results must be submitted to the Occupational Health Unit to certify that the person has passed the medical fitness test.

A fee of SR 725 is payable to the Occupational Health Unit for processing and medical verifications.

- 9.5.3 The Central Bank must be informed of the employment of foreign workers 28 days prior to entry of the employee into Seychelles.
- 9.5.4 Request for foreign employment must be lodged to the Central Bank and upon approval; the following documents and information would be required.
 - Medical fitness certificate presented in the format prescribed by the Ministry of Health, plus original test result of the following:
 - HIV, PPR, Hepatitis B, HB WBC DC, urine, stool & chest X-ray
 - Contract & condition of employment unless defers from the standard conditions/contract
 - Passport number, date of birth, nationality, marital status and date of arrival into Seychelles.
 - Statistical information on employees (local and foreign)
 - Signed G O P Application Form
 -
- 9.5.5 In addition to the above, the fund administrator should liaise with the Occupational Health Unit of the Health Authority in respect of the prospective employee to enter into Seychelles on the basis of the Medical fitness certificate

presented. Based on Unit's recommendation, the Central Bank will extend approval for entry of the employee into Seychelles to the Immigration Division.

- 9.5.6 Notwithstanding the above, the licensee has to ensure that employees present themselves to the Occupational Health Unit of the Ministry of Health for a medical fitness test within one month of arrival into the country.
- 9.5.7 Please note that the issuance of a visa upon arrival of the employee does not automatically constitute residency in Seychelles. An application for a GOP should be made. Approval to reside in Seychelles during the period of employment is the prerogative of Immigration Division.

9.6 Application of Gainful Occupation Permit (GOP or Work Permit)

- 9.6.1 After the Health Authority has endorsed health clearance of the prospective employee, the licensee must submit the following document to the Central Bank for GOP concession as per Schedule 10 of the Mutual Fund and Hedge Fund Act, 2008.
- i. Health Clearance letter
 - ii. 2 copies of employee's passport, (one copy shall be retained by the Central Bank)
 - iii. 4 passport size photographs, (one shall be retained by the Central Bank)
 - iv. A Copy of the fund administrator licence and other relevant document
 - v. Sign GOP Application Form
- 9.6.2 Central Bank will then issue a formal letter to Immigration Division through the licensee whereby same letter should be forwarded to Immigration Division along with a set of documents as specified in par 9.6.1 above. The fund administrator must submit to Immigration along with the documents above, a processing fee of SCR600.
- 9.6.3 Please note that employee can enter into Seychelles unless he/she is in possession of a copy of the GOP for presentation on his arrival to immigration officers.
- 9.6.4 A copy of the GOP should be forwarded to the Central Bank once approved by Immigration Division.
- 9.6.5 Same process is applied for Renewal of a GOP. Please note that the expired GOP certificate should be forwarded with the renewal application.

9.7 Surrender of Work Permit -Termination of Employment or End of Contract.

- 9.7.1 The Central Bank must be notified in writing of the termination of employment or end of contract of foreign employees.
- 9.7.2 The Work Permit of these employees must be surrendered to the Central Bank.

9.8 Social Security Contribution

A licensee must register with the Social Security Fund office situated at Oceangate House, Victoria. The Licensee must complete the SSF60 form. The Central Bank will after registration issue a letter to the Social Security Fund specifying the concession to be granted to the fund as per the Mutual Fund and Hedge Fund Act, 2008. A copy of the fund administrator licence must be forwarded to the Social Security Fund during application.

Appendix 1

List of Equipment and Furniture

Office Equipment

- Photocopier
- Fax Machine
- Table or Electric Emboss Seal
- Binding Machine
- Franking Machine
- Laminating Machine
- Shredders
- Guillotine/Trimmers
- Air-condition (1 per office) unless Office has Centralised air-condition
- Air Humidifier
- Telephone Set (Fixed)
- Heavy Duty Punch
- Heavy Duty Staplers

Security Equipment

- Security Camera
- Security lock and other office Security Devices

IT Equipment

- Personal Computers
- Laptop (senior Management use only)
- Printers
- Scanners
- Computer Servers
- Network Cables (CAT 5)
- Wireless Network Devices
- Network Switches (10/100/1000 MBPS)
- Network Routers (lease line digital Connection)
- Computer Peripheral such as diskette, CD, backup tapes, Keyboard, Screen
- CD/DVD Writers
- Modems

Conferencing Equipment

- TV, DVD
- Projector LCD/Overhead,
- Projector Screen,
- Video Camera/Recorder
- Video conferencing Equipment
- Small HI Set
- Carry Case for Above

Office Furniture

- Office Desk
- Office Chares
- Side Table
- Conference Table & Chairs
- Rubber Chair Mat
- Reception chair/table
- Filing Cabinet/Cupboards

- Office Storage Cupboard
- Desk end Pedestals
- Book shelves
- Rotary Filing units
- Calculators
- Desk Trays
- Date stamps and other office stamps
- Blinds/Curtain
- Carpets
- White Board
- Year Planner
- Flip Chart
- Advertising Panel stand and display units
- Literature/Brochure stand