



Statement of Guidance for Regulated Mutual Funds

Corporate Governance

Application

- 1.1. This Statement of Guidance applies to administered mutual funds and registered mutual funds as defined by section 4(1)(b) and 4(3) respectively of the Mutual Funds Law (2012 revision) (as amended) ('Regulated Mutual Fund').
- 1.2 A fund licensed under section 4(1)(a) of the Mutual Funds Law (2012 revision) (as amended) shall be guided by the Statement of Guidance – Corporate Governance for licensees of the Authority; however such licensed fund may look to this statement of guidance for additional guidance.

Statement of Objectives

- 2.1 Section 29(2)(b) of the Mutual Funds Law (2012 revision) (as amended) provides that the Authority shall, *inter alia*, 'be responsible for supervision and enforcement in respect of persons to whom this Law applies,...'. Section 30(1)(d) stipulates the Authority may take any or all of the supervisory or enforcement actions specified in section 30(3) if the direction and management of a regulated mutual fund has not been conducted in a fit and proper manner. Accordingly, this Guidance relates to section 30(3) and provides guidance on the governance standards expected from a regulated mutual fund.
- 2.2 The Authority expects the oversight, direction and management of a Regulated Mutual Fund to be conducted in a fit and proper manner. The purpose of this Guidance is to provide the board of Regulated Mutual Funds and their operators as defined by the Mutual Funds Law (2012 revision) (as amended) ('Operator') with guidance on minimum expectations for the sound and prudent governance



of Regulated Mutual Funds; and to emphasize the factors Operators should consider.

- 2.3 This Guidance sets out the key corporate governance principles pertaining to Regulated Mutual Funds, their boards and Operators. This Guidance is not intended as a prescriptive or exhaustive guide to the Authority's governance expectations.
- 2.4 The Guidance does not codify or amend any existing law. Where the Guidance is incompatible with existing law, the law takes precedence and prevails.
- 2.5 The governance structure of a Regulated Mutual Fund must be appropriate and suitable to ensure the effective oversight of a Regulated Mutual Fund. The size, nature and complexity of a Regulated Mutual Fund are fundamental factors in determining the adequacy and suitability of its governance framework.

Mutual Funds Law

- 3.1 The actions in section 30(3) of the Mutual Funds Law (2012 revision) (as amended) are available to the Authority where the governance of a Regulated Mutual Fund does not meet the governance standards endorsed in this Guidance.

Oversight Function

- 4.1 The Operators are the directing will and mind of the Regulated Mutual Fund and have ultimate responsibility for effectively overseeing and supervising the activities and affairs of the Regulated Mutual Fund.
- 4.2 The Operators are responsible for ensuring the Regulated Mutual Fund conducts its affairs in accordance with all applicable laws, regulations, rules and standards, including those of the Cayman Islands and the Authority.



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- 4.3 The Operators should monitor compliance with the laws, regulations, rules and standards, including anti-money laundering and terrorist financing requirements. They should request appropriate information to enable on-going and effective monitoring of compliance with these laws, regulations, rules and standards; and, where required, provide appropriate directions and supervision to rectify non-compliance.
- 4.4 The Operators are responsible for ensuring that board of the Regulated Mutual Fund documents its Conflict of Interests' policy and also for ensuring the policy is adhered to.
- 4.5 The Operators should enquire into the affairs of the Regulated Mutual Fund, requesting information from Service Providers for board meetings and, where necessary, their presence at board meetings.
- 4.6 The board should require regular reporting from the Regulated Mutual Fund's investment manager and other Service Providers to enable it to make informed decisions and to adequately oversee and supervise the Regulated Mutual Fund.
- 4.7 The Operators should hold regular board meetings. Board meetings should be held sufficiently frequently so that the board is able to carry out its role effectively, requesting the presence of Service Providers where necessary.
- 4.8 The board of Regulated Mutual Funds should meet at least twice a year.
- 4.8.1 Where the circumstances or the size, nature and complexity necessitate it, the board should meet more regularly than suggested in 4.8 so as to enable the Operators to fulfil their responsibilities effectively.



Operators Duties

- 5.1 The Operator must exercise independent judgement always acting in the best interests of the Regulated Mutual Fund taking into consideration the interests of its investors as a whole.
- 5.2 The Operator must operate with due skill, care and diligence.
 - 5.2.1 The Operator must make enquires where issues are raised; satisfying him/herself that appropriate and timely course of action is being taken.
- 5.3 The Operator must communicate openly with its investors and act honestly and in good faith at all times.
- 5.4 The Operator must ensure s/he has sufficient time to apply his/her mind to overseeing and supervising each Regulated Mutual Fund s/he is an Operator of and to all matters falling within the scope of his/her responsibilities as an Operator of each Regulated Mutual Fund.
- 5.5 At the formation of a Regulated Mutual Fund, and on a continuing basis, the Operator is responsible for:
 - 5.5.1 Ensuring that the constitutional and offering documents of the Regulated Mutual Fund comply with Cayman Islands law and, for licenced funds, the Authority's Rule on Contents of Offering Documents; and
 - 5.5.2 Ensuring the investment strategy is clearly described in the offering documents.
- 5.6 The Operator retains responsibility for delegated functions and should, on a continuing basis, appropriately monitor and supervise the delegated functions.



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- 5.6.1 The Operator must continually monitor whether the investment manager is performing in accordance with the defined investment criteria and restrictions.
- 5.7 The Operator is responsible for approving the appointment and removal of the Regulated Mutual Fund's service providers ('Service Providers').
- 5.8 The Operator is responsible for continuously assessing the suitability and capability of the Service Providers.
- 5.9 The Operator is responsible for ensuring that the role and responsibilities of the Regulated Mutual Fund's Service Providers are clearly set out and defined. The Operator should make sufficient enquiries enabling him/her to properly understand the scope and nature of the responsibilities of each Service Provider.
- 5.9.1 The Operator should satisfy him/herself that the Service Provider contracts ensure a proper division of responsibilities.
- 5.10 The Operator must satisfy him/herself that the various professional Service Providers are performing their functions in accordance with the terms of their respective contracts.
- 5.11 The Operator should continuously verify that the Regulated Mutual Fund is acting in accordance with its constitutional documents and any other documents directing the supervision and operation of the Regulated Mutual Fund and/or its advisors or Service Providers.
- 5.12 The Operator should continuously inform him/herself of the Regulated Mutual Fund's investment activities and financial position.



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- 5.12.1 The Operator should review the Regulated Mutual Fund's financial results at their board meetings.
- 5.12.2 The Operator should monitor the Regulated Mutual Fund's compliance with its investment strategy, criteria and restrictions.
- 5.12.3 The Operator should continuously monitor the Regulated Mutual Fund's net asset valuation policy and the calculation of its net asset value.
- 5.13 The Operator must ensure that all potential or actual conflicts are managed and controlled.
- 5.14 An Operator should assess that s/he has sufficient and relevant knowledge and experience to carry out his/her duties as an Operator.
- 5.14.1 An Operator must exercise care, skill and diligence that would be exercised by a reasonably diligent person with:
- a) the general knowledge, skill and experience that may reasonably be expected of an Operator; and
 - b) the general knowledge, skill and experience that the Operator has.

Documentation

- 6.1 The board and Operators must fully, accurately and clearly record the board meetings and any material decisions and/or considerations.
- 6.2 The records should include:
- 6.2.1 The agenda items and circulated documents;
 - 6.2.2 The matters considered and decisions made; and
 - 6.2.3 The information requested from, and provided by, advisors and Service Providers.



Relations with the Authority

- 7.1 The board and its Operators should conduct its affairs with the Authority in a transparent and honest manner always disclosing to the Authority any matter affecting the financial soundness of the Regulated Mutual Fund and any non-compliance with the laws, regulations, rules and standards applicable, including those of the Cayman Islands and the Authority.
- 7.2 Where the board or Operator is uncertain whether to communicate information to the Authority it should be prudent and diligent and communicate the information.

Risk Management

- 8.1 The board should ensure it provides suitable oversight of risk management and maintain a sound system of risk measurement and control.