

Regulations of Anguilla: ___/2022

Gazette Dated: _____, 2022

SECURITIES AND INVESTMENT FUNDS ACT, 2022

SECURITIES AND INVESTMENT FUNDS REGULATIONS, 2022

Regulations made by the Governor under section 85 of the Securities and Investment Funds Act, 2022

PART 1
PRELIMINARY

Interpretation

1. In these Regulations -

“Act” means the Securities and Investment Funds Act, 2022;

“applicant”, in relation to an application submitted to the Commission, means the person who submits the application or on whose behalf it is submitted;

“Code” or “Public Funds Code” means the Public Funds Code set out in Schedule 10;

“digital asset business” means the business of providing any or all of the following digital asset business activities to the general public -

- (a) issuing, selling or redeeming virtual coins, tokens or any other form of digital asset;
- (b) operating as a payment service provider business utilising digital assets which includes the provision of services for the transfer of funds;
- (c) operating as an electronic exchange;
- (d) providing custodial wallet services;
- (e) operating as a digital asset services vendor.

“digital asset services vendor” means a person that -

- (a) under an agreement as part of its business -

- (i) can undertake a digital asset transaction on behalf of another person;
- (ii) has power of attorney over another person's digital asset;
- (b) operates as a market maker for digital assets;

“electronic online system” means the electronic online system maintained by the Commission for the purpose of carrying out transactions with the Commission;

“electronic transaction form” or “form” means a form prescribed in Schedule 8;

“functionary”, in relation to a person, means –

- (a) a fund administrator;
- (b) an investment manager; or
- (c) a custodian,

of that person;

“licensed manager” means a fund administrator or an investment manager, as the case may be, who is licensed as such by the Commission under the Act and regulation 13;

“manager” means a fund administrator or an investment manager;

“offering document” means a document that contains an invitation or offer to investors or potential investors to purchase or subscribe for fund interests in a private or professional fund, and includes an amended offering document;

“relevant business” means any type of investment business referred to in regulation 15 which may be carried on by a licensed manager;

“wallet” means a software program that stores private and public keys and interacts with distributed ledger technology to enable users to send, receive and monitor their digital assets.

Meaning of various terms

2. (1) For the purposes of the definitions set out in section 1(1) of the Act -
- (a) “investment” and “securities”, respectively, mean the assets, rights or interests specified in Schedule 1 to these regulations;
 - (b) “market maker” means a person who engages in activities specified in paragraph 1(b) of Schedule 2 to these regulations;
 - (c) “member of the public” means a person other than a person -

- (i) referred to in paragraphs 1 to 3 of Schedule 3 to these regulations;
- (ii) regulated by the Commission; or
- (iii) regulated by a recognised overseas regulatory Commission;
- (d) “registered person” means a registrable person who has registered with the Commission in accordance with section 9(6) of the Act;
- (e) “registrable person” means a person specified in Schedule 3 to these regulations as a person required to be registered;
- (f) “regulated activity” means an activity specified in Schedule 2 to these regulations;
- (g) “supplier” means a person whose main business is to dispose of goods or supply services and not to carry on a regulated activity.

(2) For the purposes of the definition of “single family” in section 1(1) of the Act, the reference to a group of individuals who are connected, is a reference to individuals who are connected in at least one of the ways set out in in Schedule 4 to these Regulations.

Fund administration services

3. For the purposes of the definition of “fund administrator” in section 2(2) of the Act, “fund administration services” includes the following activities -

- (a) acting as registrar or transfer agent with respect to mutual funds; and
- (b) providing accounting services for, or with respect to, mutual funds, excluding the provision of audit and related services.

Non-registrable persons and excluded activities

4. (1) The persons described in Schedule 5 are specified as non-registrable persons who are not required to register under the Act.

(2) The activities described in Schedule 6 are specified as excluded activities.

(3) Excluded activities and activities carried out by non-registrable persons, do not constitute the carrying on of securities investment business for the purposes of the Act.

Categories of registration of mutual funds

5. Where the Commission grants registration of a mutual fund under the Act, the Commission shall register the mutual fund, in the appropriate Register and in

one or more of the categories and sub-categories specified in Schedule 7 to these regulations, thereby indicating the categories and sub-categories of business that the registered mutual fund is authorised to carry on.

Forms

6. Subject to regulation 7, in submitting a document for any purpose of the Act or these regulations, the person submitting the document shall use the Form set out in Schedule 8 that is applicable.

Electronic transactions

7. (1) A person carrying out an electronic transaction under the Act shall use the electronic transaction form provided for that purpose on an electronic online system.

(2) If a transaction referred to in paragraph (1) cannot be carried out using the electronic transaction form provided, the person seeking to carry out the transaction shall carry out the transaction with the Commission in such other form and manner as the Commission may determine.

(3) The Commission may refuse to process an electronic transaction with the Commission, if the person seeking to carry out the electronic transaction -

- (a) does not comply with paragraph (1) or (2);
- (b) being required to complete an electronic transaction form, or other form, provided by the Commission for that purpose, fails to properly complete the form in accordance with the instructions contained in the form;
- (c) being required to attach any document to, or provide any information required in, an electronic transaction form, or other form, provided by the Commission for that purpose, fails to attach the document or provide the information; or
- (d) fails to pay the fee prescribed for the transaction.

Fees

8. (1) The fees specified in Schedule 9 are payable in respect of the matters respectively specified in that Schedule.

(2) A fee in Schedule 9 shall be paid at the same time as the submission to the Commission of the matter in question.

Submission of documents

9. (1) A document to be submitted to the Commission shall comply with the requirements set out in this regulation and, if the document does not comply with those requirements, the Commission may return the document to the person from whom it was received with a statement setting out the requirements in respect of which there has not been compliance.

(2) Every document filed at the Commission shall -

- (a) be in English; or
- (b) where the document is not in English, be accompanied by an English translation of the document verified by the affidavit of a competent translator;

and the Commission may refuse to take cognisance of any document that is not in English until the Commission is provided with the English translation verified by the affidavit.

(3) Where a document filed at the Commission is a copy, the Commission may -

- (a) decide whether to accept or process the document; and
- (b) require the original or a duly legalized copy to be filed with the Commission.

(4) The Commission may require the filing of a hard copy of any document filed using the electronic online system or a notarially signed copy or duly legalised copy.

(5) Where this Act requires or authorises a person to place that person's signature on a document for the purposes of this Act, the person's signature may be printed or otherwise mechanically produced on the document.

PART 2
LICENSED MANAGERS

Application of Part 2

10. Part 2 applies to a person who -

- (a) submits an application under regulation 11 to be a licensed manager; and
- (b) is licensed by the Commission under regulation 13(1).

Application to be a licensed manager

11. (1) A person who wishes to apply to be a licensed manager may submit an application to the Commission in the form set out in Schedule 8 that is applicable.

(2) An application under paragraph (1) shall be submitted to the Commission at least 7 days prior to the intended date for the commencement of relevant business, unless the Commission accepts in writing a shorter period.

Required information

12. (1) An application for a licence as a licensed manager under regulation 11 shall be signed by the applicant and accompanied by -

- (a) a copy of the applicant's constitutional documents;
- (b) the details of each director or general partner and senior officer of, and each person who owns or holds an interest in, the applicant;
- (c) a written declaration by the applicant that each director or general partner and senior officer of, and each person who owns or holds a significant interest in, the applicant is fit and proper;
- (d) the number and details of the funds that the applicant intends to act for upon commencement of relevant business;
- (e) the date on which the applicant intends to commence relevant business;
- (f) a copy of the investment management agreement between the applicant and each person that the applicant intends to act for upon commencement of relevant business;
- (g) written confirmation as to which individual will be carrying out the day-to-day investment business functions of the applicant; and
- (h) written confirmation as to whether or not the applicant has delegated or intends to delegate any of its relevant business functions.

(2) Where an application does not comply with the requirements of this regulation or is not accompanied by the requisite fee required under regulation 8, the application shall be considered incomplete and the licence may be refused by the Commission.

Decision by the Commission

13. (1) Where the Commission, upon receipt of an application under regulation 11, is satisfied that -

- (a) the required information under regulation 12 has been provided;
- (b) the required fee payable pursuant to Schedule 9 has been paid;
- (c) the applicant is fit and proper and will, upon approval, be in compliance with these regulations; and
- (d) approval of the applicant is not against the public interest,

the Commission may license the applicant as a licensed fund administrator or a licensed investment manager, as the case may be.

(2) If the Commission licenses the applicant as a licensed fund administrator or a licensed investment manager under paragraph (1), it shall -

- (a) register the applicant in the appropriate register maintained under the Act; and
- (b) issue the applicant with a licence as a licensed fund administrator or a licensed investment manager, as the case may be.

Effect of approval

14. (1) A licensed manager shall -

- (a) be treated as if he or she were a licensee for the purposes of the Financial Services Commission Act; and
- (b) be liable to the powers exercisable by the Commission under that Act in relation to licensees.

(2) Where an applicant is approved by the Commission as a licensed manager, he or she may carry out any of the relevant business outlined in regulation 15.

Functions that may be performed

15. A licensed manager may carry out any of the following investment business functions -

- (a) act as functionary to a private fund or professional fund;
- (b) act as functionary to a person who is affiliated to a fund structure falling within paragraph (a);
- (c) act as functionary to any fund that is incorporated as a company, formed as a partnership or organised as a trust, under the laws of a recognised jurisdiction and has equivalent characteristics to a private or professional fund;
- (d) act as functionary to such other person as the Commission may approve on a case by case basis upon application; and
- (e) act as functionary to a person that -

- (i) is incorporated as a company, formed as a partnership or organised as a trust, outside Anguilla in a non-recognised jurisdiction;
- (ii) has equivalent characteristics to a private fund or professional fund; and
- (iii) invests all or a substantial part of its assets in one or more fund structures falling within paragraph (a).

Restrictions in relation to regulation 15

16. (1) For the purposes of regulation 15, a licensed manager is not, unless otherwise required by the Commission, restricted as to the number of persons for which he or she may act.

(2) A licensed manager shall not carry on any other business except the relevant business outlined in regulation 15.

Restrictions generally

17. Where a licensed manager ceases to qualify as such under these regulations, he or she shall -

- (a) not take on any new relevant business; and
- (b) notify the Commission immediately that he or she is no longer qualified to act as a licensed manager.

Filing annual returns

18. (1) A licensed manager shall, no later than the 31st day of January of each year, file with the Commission a return -

- (a) stating that he or she is not in breach of the requirements of these regulations that entitle him or her to continue as an approved investment manager;
- (b) confirming that each director and senior officer of the licensed manager is fit and proper; and
- (c) providing, as at the 31st day of December of the preceding year, details of -
 - (i) the persons for which he or she provides services;
 - (ii) the assets under management of each person for which he or she acts;
 - (iii) the number of investors in each person for which he or she acts; and
 - (iv) any significant complaints received by the licensed manager.

(2) Where the Commission is required or considers it necessary to comply with any reporting obligation, whether under an enactment or otherwise, it may require a licensed manager to provide the Commission with such further information as the Commission may consider fit.

(3) Any information required by the Commission under paragraph (2) shall be in such form and provided within such period as the Commission may determine.

Public interest

19. (1) Where the Commission considers it to be in the public interest to do so, it may at any time, by written notice, require a licensed manager to cease performing any or all of the relevant business outlined in regulation 15.

(2) A licensed manager shall, upon receipt of the notice, cease carrying on the relevant business outlined in the notice immediately and shall -

- (a) no longer be treated as a licensee as provided in regulation 14(1); and
- (b) cease to act as a licensed manager immediately and not take on any new relevant business.

PART 3

PRIVATE AND PROFESSIONAL FUNDS

Application for Registration

Application for registration as private or professional fund

20. (1) An application to the Commission for the registration of a private or professional fund shall be in Form 1 and shall be accompanied by -

- (a) a copy of the fund's constitutional documents;
- (b) a copy of the fund's certificate of incorporation, formation or registration or equivalent document, if any;
- (c) if application is made to exempt the fund from the requirement to appoint a custodian, an explanation as to -
 - (i) why it is not considered necessary for a custodian to be appointed; and
 - (ii) the arrangements made, or to be made, to ensure the safe custody of the fund property;
- (d) if application is made to exempt the fund from the requirement to appoint a manager, notification of the person who will fulfil the management function together with an explanation as to the

- arrangements made, or to be made, to ensure that the management function is adequately fulfilled;
- (e) if the mutual fund has issued, or intends to issue, an offering document, a copy of the offering document or the proposed offering document; and
- (f) if the mutual fund has not issued and does not intend to issue an offering document, an explanation as to why no offering document is to be issued including, in particular, how relevant information concerning the fund and any invitation or offer will be provided to investors and potential investors.

(3) The Commission may require any documents submitted under paragraph (2)(a) and (b) to be certified in such manner as it considers appropriate.

Exempted investors

21. For the purposes of section 35(4) of the Act, the following are exempted investors with respect to a fund -

- (a) the manager, administrator, promoter or underwriter of the fund;
- (b) any employee of the manager or promoter of the fund; and
- (c) such other class or description of persons as the Commission may, by notice published in the *Gazette*, specify as exempted investors.

Obligations on Private and Professional Funds

Functionaries of private and professional funds

22. (1) Subject to paragraph (2), a private fund and a professional fund shall at all times have the following functionaries -

- (a) an investment manager;
- (b) a fund administrator; and
- (c) a custodian.

(2) The Commission may, on written application made by or on behalf of a private or professional fund, exempt the fund from the requirement to appoint a custodian or an investment manager.

(3) An application under paragraph (2) may be made together with the application for registration or at any subsequent time.

(4) The custodian of a private or professional fund shall -

- (a) be a person who is functionally independent from the investment manager and the fund administrator; or
- (b) where the custodian is the same person as the investment manager or fund administrator, be a company having systems and controls that ensure that the persons fulfilling the custodial function are functionally independent from the persons fulfilling the investment management or fund administration functions.

(5) Subject to paragraph (6), no person shall be appointed as a functionary of a private or professional fund unless at least 7 days' prior notification of the proposed appointment has been given to the Commission.

(6) The Commission may agree to accept a shorter period of notice than that specified in paragraph (5).

Functionary ceasing to hold office

23. (1) Written notice shall be given to the Commission by a private or professional fund within 7 days, or such longer period as the Commission may specify, after a functionary of the fund resigns, his or her appointment is terminated or he or she otherwise ceases to act as functionary of the fund.

(2) The notice provided under paragraph (1) shall include a statement of the reason for the person ceasing to act as functionary of the fund and a written notice shall be deemed not to be provided under that paragraph if it does not include such a statement.

(3) Where a functionary of a private or professional fund resigns, has his or her appointment terminated or otherwise ceases to act as functionary of the fund, the fund does not contravene regulation 22(1) if another person is appointed to act as functionary within 7 days of the original functionary ceasing to act.

Notifications

24. (1) A private fund and a professional fund shall provide written notice to the Commission in accordance with this regulation of -

- (a) the appointment of a director or auditor;
- (b) a director or auditor ceasing, for whatever reason, to hold office;
- (c) any change in the address of the fund's place of business, whether in or outside Anguilla;
- (d) any material change in the nature and scope of the fund's business, in the case of a fund incorporated, constituted, formed or organised under the laws of a country outside Anguilla;

- (e) any amendment to its constitutional documents;
- (f) the issuance of an offering document that was not provided to the Commission with the fund's application for registration; and
- (g) the amendment of any offering document previously provided to the Commission, whether with its application or in accordance with paragraph (f).

(2) Notification of the matters specified in paragraph (1) shall be provided as follows -

- (a) in the case of a notice provided in accordance with paragraph (1)(a), (b) or (c), within 14 days after the date of the occurrence of the matter to be notified;
- (b) in the case of a notice provided in accordance with paragraph (1)(d), as soon as reasonably practicable after the change; and
- (c) in the case of a notice provided in accordance with paragraph (1)(e), (f) or (g), no more than 14 days after the occurrence of the matter in respect of which notice is given.

PART 4
PUBLIC FUNDS

Application for registration of public fund

25. (1) An application to the Commission for the registration of a public fund shall be in Form 2 in Schedule 8 and shall be accompanied by -

- (a) a copy of the fund's constitutional documents;
- (b) a copy of the fund's certificate of incorporation, formation or registration or equivalent document, if any;
- (c) a statement setting out the nature and scope of the business to be carried on by the fund in or from within Anguilla, including the name of any other country where the fund is carrying on or intends to carry on business;
- (d) if application is made to exempt the fund from the requirement to appoint a custodian, an explanation as to -
 - (i) why it is not considered necessary for a custodian to be appointed; and
 - (ii) the arrangements made, or to be made, to ensure the safe custody of the fund property;
- (e) a copy of the prospectus issued or proposed to be issued by or on behalf of the fund; and
- (f) a copy of each functionary agreement.

(2) The Commission may require any documents submitted under paragraph (1)(a) or (b) to be certified in such manner as it considers appropriate.

Functionaries of public fund

26. (1) Subject to paragraph (2), a public fund shall at all times have the following functionaries -

- (a) an investment manager;
- (b) a fund administrator; and
- (c) a custodian.

(2) The Commission may, on written application made by or on behalf of a public fund, exempt the fund from the requirement to appoint a custodian.

(3) An application under paragraph (2) may be made together with the application for registration or at any subsequent time.

(4) Each functionary of a public fund shall be functionally independent from every other functionary of the fund.

Notifications

27. (1) A public fund shall provide written notice to the Commission in accordance with this regulation of -

- (a) the appointment of a director or auditor;
- (b) a director or auditor ceasing, for whatever reason, to hold office;
- (c) any change in the address of the fund's place of business, whether in or outside Anguilla;
- (d) any change in the place or places where the fund's financial and other records are kept;
- (e) any material change in the nature and scope of the fund's business, in the case of a fund incorporated, constituted, formed or organised under the laws of a country outside Anguilla;
- (f) any proposed amendment to its constitutional documents;
- (g) its intention to issue an offering document not provided to the Commission with the funds application for registration; and
- (h) its intention to amend any offering document provided to the Commission with its application or in accordance with paragraph (g).

(2) Notification of the matters specified in paragraph (1) shall be provided as follows -

- (a) in the case of a notice provided in accordance with paragraph (1)(a), (b), (c) or (d), within 14 days after the date of the occurrence of the matter to be notified;

- (b) in the case of a notice provided in accordance with paragraph (1)(e), as soon as reasonably practicable after the change; and
- (c) in the case of a notice provided in accordance with paragraph (1)(f), (g) or (h), no less than 21 days prior to the issue of the proposed offering document or the proposed amendment, as the case may be, or such shorter period as the Commission may approve in writing.

Public Funds Code

28. (1) Subject to paragraph (2), the Public Funds Code set out in Schedule 10 applies to -

- (a) a public fund; and
 - (b) such other persons as the Code may, in respect of any particular provisions, expressly provide.
- (2) The Code does not apply to a public fund -
- (a) to the extent that the Code expressly provides otherwise;
 - (b) in respect of any provisions where, from the context, it is clearly intended that the provisions are not intended to apply to the public fund concerned or are intended to apply to public funds of a different category or type than that of the public fund concerned; or
 - (c) to the extent specified in any notice issued by the Commission with respect to the public fund.

(3) In the case of a public fund that is a unit trust, any requirement or obligation imposed on the fund shall, where the context permits, be construed as a requirement or obligation imposed on the trustee.

(4) If the application of the Code to a public fund or any other person results in a conflict with a provision in the Act or the regulations, that provision of the Act or the regulations prevails.

**PART 5
RECOGNISED JURISDICTIONS**

Recognised Jurisdictions

29. For the purposes of the application of the Act, and paragraph 3, the jurisdictions listed in Schedule 11 are recognised by the Commission.

Recognition and acceptance of functionaries

30. (1) The Commission may, subject to the Act, recognise and accept any functionary of a fund that is established and located in a jurisdiction listed in Schedule 11.

(2) Where a functionary of a fund is not established and located in a jurisdiction listed in Schedule 11, the Commission may recognise and accept the functionary, if satisfied, upon application, that the functionary's jurisdiction of establishment and location has a system for the effective regulation of investment business, including funds.

Citation

31. These Regulations may be cited as the Securities and Investment Funds Regulations, 2022.

SCHEDULE 1

(Regulation 2(1))

SECURITIES

Shares

1. Any of the following securities -
 - (a) shares and stock of any kind in the share capital of a company;
 - (b) interests in a limited partnership established under the Limited Partnership Act;
 - (c) interests in a limited partnership, or an exempted limited partnership, constituted under the Acts of a jurisdiction other than Anguilla; and
 - (d) units of participation in a unit trust.

Instruments creating or acknowledging indebtedness

2. Debentures, debenture stock, loan stock, bonds, certificates of deposit and any other instruments creating or acknowledging indebtedness other than -
 - (a) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services;
 - (b) a cheque or other bill of exchange, a bankers draft or a letter of credit;
 - (c) a bank note, a statement showing a balance in a current, deposit or savings account, a lease or other disposition of property;

- (d) a contract of insurance;
- (e) any instrument creating or acknowledging indebtedness in respect of money raised by the Government of Anguilla or any public authority created thereby; and
- (f) an instrument creating or acknowledging indebtedness and creating security for that indebtedness over land.

Instruments giving entitlements to securities

3. Warrants and other instruments entitling the holder to subscribe for securities falling within paragraph 1 or 2.

Certificates representing certain securities

4. Certificates or other instruments which confer contractual or proprietary rights -

- (a) in respect of any security falling in paragraph 1, 2 or 3, being a security held by a person other than the person on whom the rights are conferred by the certificate or instrument; and
- (b) the transfer of which may be effected without the consent of that person.

Options

5. Options to acquire or dispose of -

- (a) a security falling in any other paragraph of this Schedule;
- (b) any currency;
- (c) any precious metal; or
- (d) an option to acquire or dispose of a security falling within this paragraph by virtue of subparagraph (a), (b) or (c).

Futures

6. Rights under a contract for the disposal of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed upon when the contract is made, other than a contract made for commercial and not investment purposes.

7. A contract is to be regarded as made for investment purposes if it is made or traded on an approved exchange or made otherwise than on an approved exchange but is expressed to be as traded on such an exchange or on the same terms as those on which an equivalent contract would be made on such an exchange.

8. A contract not falling within paragraph 7 is to be regarded as made for commercial purposes if under the terms of the contract delivery is to be made within 7 days.

9. The following are indications that a contract not falling within paragraph 7 or 8 is made for commercial purposes and the absence of them is an indication that it is made for investment purposes -

- (a) one or more of the parties is a producer of the commodity or other property or uses it in that person's business; or
- (b) the seller delivers or intends to deliver the property or the purchaser takes or intends to take delivery of it.

10. It is an indication that a contract is made for commercial purposes that the prices, the lot, the delivery date or other terms are determined by the parties for the purposes of the particular contract and not by reference (or not solely by reference) to regularly published prices, to standard lots or delivery dates or to standard terms.

11. The following are indications that a contract is made for investment purposes, namely -

- (a) it is expressed to be as traded on an approved exchange;
- (b) performance of the contract is ensured by an approved exchange or a clearing house; or
- (c) there are arrangements for the payment or provision of margin.

12. For the purposes of paragraph 6, a price is to be taken to be agreed on when a contract is made -

- (a) notwithstanding that it is left to be determined by reference to the price at which a contract is to be entered into on a market or an approved exchange or could be entered into at a time and place specified in the contract; or
- (b) in a case where the contract is expressed to be by reference to a standard lot and quality, notwithstanding that provision is made for a variation in the price to take account of any variation in quantity or quality on delivery.

Contracts for differences

13. Rights under -

- (a) a contract for differences; or
- (b) any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in -
 - (i) the value or price of property of any description, or

- (ii) an index or other factor designated for that purpose in that contract; other than -
 - (A) rights under a contract if the parties intend that the profit is to be secured or the loss is to be avoided by one or more of the parties taking delivery of any property to which the contract relates, or
 - (B) rights under a contract under which money is received by way of deposit on terms that any interest or other return to be paid on the sum deposited will be calculated by reference to fluctuations in an index or other factor.

SCHEDULE 2

(Regulation 2(1))

SECURITIES INVESTMENT BUSINESS - REGULATED ACTIVITIES

1. Dealing in securities

- (a) Buying, selling, subscribing for or underwriting securities as an agent; or
- (b) buying, selling, subscribing for or underwriting securities as principal where the person entering into that transaction -
 - (i) holds himself or herself out as willing, as principal, to buy, sell or subscribe for securities of the kind to which the transaction relates at prices determined by that person generally and continuously rather than in respect of each particular transaction,
 - (ii) holds himself or herself out as engaging in the business of underwriting securities of the kind to which the transaction relates, or
 - (iii) regularly solicits members of the public with the purpose of inducing them, as principals or agents, to buy, sell, subscribe for or underwrite securities and such transaction is entered into as a result of such person having solicited members of the public in that manner.

2. Arranging deals in securities

Making arrangements with a view to -

- (a) another person (whether as a principal or an agent) buying, selling, subscribing for or underwriting securities; or
- (b) a person who participates in the arrangements buying, selling, subscribing for or underwriting securities.

3. Managing securities

Managing securities belonging to another person in circumstances involving the exercise of discretion.

4. Advising on securities

Advising a person on securities if the advice is -

- (a) given to the person in that person's capacity as an investor or potential investor or in that person's capacity as agent for an investor or a potential investor; and
- (b) advice on the merits of that person's doing any of the following (whether as principal or agent) -
 - (i) buying, selling, subscribing for or underwriting a particular security, or
 - (ii) exercising any right conferred by a security to buy, sell, subscribe for, or underwrite a security.

5. Carrying on digital asset business

Carrying on the business of providing any or all of the following digital asset business activities to the general public -

- (a) issuing, selling or redeeming virtual coins, tokens or any other form of digital asset;
- (b) operating as a payment service provider business utilising digital assets which includes the provision of services for the transfer of funds;
- (c) operating as an electronic exchange;
- (d) providing custodial wallet services;
- (e) operating as a digital asset services vendor.

SCHEDULE 3

(Regulation 2(1))

SECURITIES INVESTMENT BUSINESS - PERSONS REQUIRED TO BE REGISTERED

The following persons are required to be registered under the Act -

1. A company within a group of companies carrying on securities investment business exclusively for one or more companies within the same group.

2. A person carrying on securities investment business exclusively for one or more of the following classes of persons -

- (a) a professional investor; or
- (b) a company, partnership or trust (whether or not regulated as a mutual fund) of which the shareholders, unit holders or limited partners are one or more persons falling within subparagraph (a),

and who has a registered office or a place of business in Anguilla for which services are provided by a person licensed to provide such services.

SCHEDULE 4

(Regulation 2(2))

MUTUAL FUNDS - CONNECTED PERSONS WITHIN A SINGLE FAMILY

1. The following persons are connected persons in relation to an individual within a single family -

- (a) spouse;
- (b) children (including step-children) and grandchildren of the individual and his or her spouse;
- (c) parents, including step-parents;
- (d) grandparents;
- (e) parents-in-law, including step-parents-in-law;
- (f) brother, step-brother, sister, step-sister and their spouses;
- (g) spouse's grandparents;
- (h) spouse's brother, step-brother, sister, step-sister and their spouses and children;
- (i) parent's brother, step-brother, sister, step-sister and their spouses;
- (j) children of the brother, step-brother, sister or step-sister of the individual's parents, both present and future, including stepchildren, and their spouses; and
- (k) children of the individual's brother, step-brother, sister or stepsister, both present and future, including step-children, and their spouses.

2. For any of the relationships listed in paragraph 1 that may be established by blood, that same relationship may also be established by adoption.

SCHEDULE 5

(Regulation 4(1))

SECURITIES INVESTMENT BUSINESS - NON-REGISTRABLE PERSONS

1. Persons described in paragraph 2 are persons for whom there is no requirement for registration under the Act and shall be referred to as “non-registrable persons”.

2. The persons referred to in paragraph 1 are as follows -

- (a) A person participating in a joint enterprise (and where that person is a company any other company which is part of the same group of companies as that person) with the person carrying on the securities investment business where the activities constituting such securities investment business are to be carried on for the purposes of or in connection with that joint enterprise.
- (b) The following persons -
 - (i) an approved exchange;
 - (ii) the Commission; or
 - (iii) the Government of Anguilla or any public authority created by the Government.
- (c) A person carrying on securities investment business only in the course of acting in any of the following capacities -
 - (i) director;
 - (ii) partner;
 - (iii) manager of a limited liability company;
 - (iv) liquidator;
 - (v) executor or administrator of an estate; or
 - (vi) a trustee acting together with co-trustees in their capacity as such, or acting for a beneficiary under the trust,

provided that in each case that person is not separately remunerated for any of the activities which constitute the carrying on of such securities investment business otherwise than as part of any remuneration such person receives for acting in that capacity and either -

- (A) does not hold himself or herself out as carrying on securities investment business other than as a necessary or incidental part of performing functions in that capacity, or

- (B) is acting on behalf of a company, partnership or trust that is otherwise licensed or exempted from licensing under the Act.
- (d) The conduct of securities investment business by a single family office.

SCHEDULE 6

(Regulation 4(2))

SECURITIES INVESTMENT BUSINESS - EXCLUDED ACTIVITIES

The activities specified in this Schedule are not considered securities investment business in the following circumstances -

1. Dealing in securities

(1) Securities evidencing indebtedness:

Where a person as principal or agent buys, sells, subscribes for or underwrites securities and such securities create or acknowledge indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation or assurance which that person or that person's principal has made, granted or provided.

(2) Issuing, redeeming or repurchasing securities:

Where a company, partnership or trust issues, redeems or repurchases any of its securities falling within paragraphs 1 to 3 of Schedule 1.

(3) Disposing of treasury shares:

Where a company disposes of any of its treasury shares.

(4) Risk management:

Where a person buys, sells, subscribes for or underwrites securities and -

- (a) the transaction relates to securities falling within paragraph 5, 6 or 13 of Schedule 1;
- (b) none of the parties to the transaction are individuals;
- (c) the sole or main purpose for which the person concerned enters into the transaction (either by itself or in combination with other such transactions) is to limit the extent to which a relevant business will be affected by any identifiable risk arising

- otherwise than as a result of the carrying on of any regulated activity which is not excluded by virtue of this Schedule; and
- (d) the relevant business is a business other than securities investment business carried on by -
 - (i) the person entering into the transaction,
 - (ii) a company within the same group of companies as such person, or
 - (iii) another person who is or is proposing to become a participator in a joint enterprise with such person.

(5) Disposal of goods or supply of services:

Where a person buys, sells, subscribes for or underwrites securities for the purposes of or in connection with the disposal of goods or supply of services or a related disposal or supply by a supplier to a customer and the supplier is acting -

- (a) as a principal; or
- (b) as an agent,

and the supplier does not hold himself or herself out generally as engaging in the buying, selling, subscribing for or underwriting of securities and does not regularly solicit members of the public to buy, sell, subscribe for or underwrite securities.

(6) Incidental activity:

Where a person buys, sells, subscribes for or underwrites securities in the course of carrying on any profession or business not otherwise constituting securities investment business and where such transaction is a necessary or incidental part of other services provided in the course of carrying on that profession or business and is not separately remunerated otherwise than as part of any remuneration received in respect of such other services.

(7) Employee schemes:

Where an employer buys, sells, subscribes for or underwrites securities in connection with the operation of a share or pension scheme for the benefit of employees or former employees, or of their spouses, widows, widowers or children or step-children under the age of 18.

(8) Application of proprietary assets:

Where a company, partnership or trust, acting as principal and dealing only on its own behalf buys, sells or subscribes for securities by applying its proprietary assets, otherwise than as described in paragraph 1(b) of Schedule 2.

2. Arranging deals in securities

(1) Arranging own deals:

Where a person makes arrangements relating to a transaction to which that person will be a party as principal or which will be entered into by that person as agent for one of the parties to the transaction.

(2) Incidental activities:

Where a person makes arrangements and such arrangements are made in the course of carrying on any profession or business not otherwise constituting securities investment business and where the making of the arrangements is a necessary or incidental part of other services provided in the course of carrying on that profession or business and is not separately remunerated otherwise than as part of any remuneration received in respect of such other services.

(3) Enabling parties to communicate:

Where a person makes arrangements to provide means by which one party to a transaction (or potential transaction) is able to communicate with other parties to the transaction or potential transaction.

(4) Arrangements in connection with securities evidencing indebtedness:

Where a person makes arrangements in respect of a transaction referred to in paragraph 1(1).

(5) Provision of finance:

Where a person makes arrangements for the sole purpose of providing finance to enable a person, as principal or agent, to buy, sell, subscribe for or underwrite securities.

(6) Introducing:

Where a person makes arrangements to introduce a person to another person and -

- (a) the person to whom introductions are to be made is a person referred to in Schedule 5; and
- (b) the introduction is made with a view to the provision of independent advice or the independent exercise of discretion in

relation to securities generally or in relation to any class of securities to which the arrangements relate.

(7) Arrangements for the issue of securities:

Where a person makes arrangements in respect of a transaction referred to in paragraphs 1(1) and 1(7).

(8) Disposal of goods or supply of services:

Where a supplier makes arrangements made for, or with a view to, a transaction which is to be entered into by a customer for the purposes of or in connection with the disposal of goods or supply of services or a related disposal or supply.

(9) Employee schemes:

Where a person makes arrangements in connection with the operation by an employer of a share or pension scheme for the benefit of employees or former employees, or of their spouse, widows, widowers or children or step-children under the age of 18.

3. Managing securities

Where a person manages securities that are or are to be managed for the purposes of or in connection with the disposal of goods or supply of services or a related disposal or supply by a supplier to a customer.

4. Advising on securities

(1) Disposal of goods or supply of services:

Where a supplier gives advice to that person's customer for the purposes of or in connection with the disposal of goods or supply of services or a related disposal or supply.

(2) Publications:

Where a person gives advice in any communications media and -

- (a) the principal purpose is not to induce persons to buy, sell, subscribe for or underwrite particular securities; or
- (b) the person responsible does not derive any direct benefit from any such purchase, disposal, subscription or underwriting.

(3) Incidental activities:

Where a person gives legal, accounting or other advice and the advice is given in the course of carrying on any profession or business not otherwise constituting securities investment business and the giving of the advice is a necessary or incidental part of other services provided in the course of carrying on that profession or business and is not separately remunerated otherwise than as part of any remuneration received in respect of such other services.

SCHEDULE 7

(Regulation 5)

MUTUAL FUNDS - CATEGORIES AND SUB-CATEGORIES OF LICENCES

CATEGORY	SUB-CATEGORY
???	???
???	???

SCHEDULE 8

FORMS

FORM 1

(Regulation 20(1))

APPLICATION FOR REGISTRATION OF A PRIVATE OR PROFESSIONAL FUND

1. Address of the fund's place of business in Anguilla
2. Name and address of each of the fund's directors.
3. Name and address of the fund's authorised representative.

4. If the fund is a unit trust, the name and address of the trustee.
5. Address of any place or places of business that the fund may have outside Anguilla
6. Name and address of the fund's auditor.
7. Name and address of each of the fund's functionaries.
8. Whether the fund has issued, or intends to issue, an offering document.
9. In the case of a fund incorporated, constituted, formed or organised under the laws of a country outside Anguilla, written details of the nature and scope of the fund's business.
10. Such other information as may be required by the Commission.

FORM 2

(Regulation 25(1))

APPLICATION FOR REGISTRATION OF A PUBLIC FUND

1. Address of the place of business of the fund in Anguilla.
2. Name and address of the fund's authorised representative.

3. If the fund is a unit trust, the name and address of the trustee.
4. Name and address of any promoters of the fund.
5. Address of any place or places of business that the fund may have outside Anguilla.
6. Name and address of the fund's auditor.
7. Name and address of each of the fund's functionaries.
8. Place or places where the fund's financial and other records will be kept.
9. Such other information as may be required by the Commission.

SCHEDULE 9

(Regulation 8)

FEES

Column 1	Column 2
Service	US\$
Application for licence/registration/recognition	????
Application for issue of licence/registration/recognition	????
Application for renewal of licence/registration/recognition	????

Annual fee for licence/registration/recognition	????
Registration of registrable person	????
Application for registration of prospectus	????
Application for registration of amended prospectus	????
Application for approval of appointment of directors, functionaries and others	????
Application to carry on digital payment token services	????
Approval of senior officers	????
Application to Commission for approval to change auditor	????
Application for issue of certificate of compliance	????
Application to change an auditor	????
Approval of exchange	????
Approval of transfer of shares	????
Approval of regulated person's change of name	????
Application to cancel Commission's approval	????
Registered person's annual declaration	????
Inspection of Register	????
Any application for the Commission's approval, for which no fee is otherwise prescribed	????

SCHEDULE 10

PUBLIC FUNDS CODE

Preliminary Provisions

Interpretation

1. In this Code -

“asset” includes a financial instrument;

“fund” means a public fund;

“fund property”, in relation to a public fund, means -

- (a) where the fund is a company, the assets of the fund; and
- (b) where the fund is a unit trust, the assets subject to the trust deed that constitutes the fund;

“governing body” means -

- (a) in the case of a company, the board; and
- (b) in the case of a unit trust, the trustee;

“hard-to-value asset” means an asset for which there is no readily available market price;

“NAV” or “net asset value” means the value of the fund property, including accrued interest, dividends and other receivables, less the value of the total liabilities of the fund, including accrued expenses, accrued fees and other payables;

“NAV function” means the function of calculating the NAV of a fund, in accordance with the valuation policy;

“procedures” includes systems and controls;

“valuation policy”, in relation to a public fund, means the policy for the valuation of the fund property established and maintained in accordance with paragraph 11 and, where more than one such policy is established and maintained, includes all those policies.

Principles for business

High level principles

2. A public fund shall at all times carry on business in accordance with the following principles -

- (a) a public fund shall conduct its business with integrity;
- (b) a public fund shall take reasonable care to organise and control its affairs effectively taking into account the nature, scale, complexity and diversity of its business and the risks that it faces;
- (c) a public fund shall have due regard for the interests of its investors and treat them fairly; and shall make appropriate arrangements to protect the fund property and take all reasonable steps to identify and manage conflicts of interest; and
- (d) a public fund shall deal with the Commission in an open and cooperative manner.

Corporate Governance

Corporate governance

3. (1) A public fund shall -
- (a) take reasonable care to maintain a clear and appropriate apportionment of significant responsibilities between its governing body and functionaries so that -
 - (i) it is clear who has which of those responsibilities, and
 - (ii) the business and affairs of the fund can be adequately monitored and controlled by the governing body; and
 - (b) establish and maintain such procedures as are appropriate for the nature, size, complexity, structure and diversity of the fund and the fund property.
- (2) A public fund shall ensure that its procedures are regularly reviewed and updated as required.

Directors of public fund

4. A public fund that is a company shall have an adequate number of directors who -
- (a) are capable of exercising independent judgment;
 - (b) have sufficient knowledge, skills, experience and understanding of the fund's business to ensure that the governing body is able to fulfil its responsibilities; and
 - (c) have sufficient time and commitment to undertake their duties diligently.

Responsibilities of governing body

5. (1) The governing body of a public fund has ultimate responsibility for the business and affairs of the fund and for ensuring its effective organisation.
- (2) Without limiting subparagraph (1), the governing body of a public fund has the following responsibilities -
- (a) ensuring that the policies and procedures required by this Code are established and maintained by the fund;

- (b) approving and periodically reviewing the significant policies of the fund;
- (c) ensuring that -
 - (i) appropriate and effective procedures are established, maintained and implemented for giving effect to the policies of the fund, which shall include internal controls and procedures with respect to risk management; and
 - (ii) the public fund complies with its obligations under the Act, the regulations and this Code;
- (d) monitoring the financial condition of the fund; and
- (e) such other responsibilities as are specified in this Code.

Policies and Procedures

Establishment of policies and procedures

6. (1) A public fund shall -
- (a) establish such policies and procedures, including internal controls, as are appropriate given the nature, size, complexity, structure and diversity of its business and the fund property; and
 - (b) ensure that the policies and procedures are fully and clearly documented and communicated, as appropriate, to functionaries and other persons who need to implement them.
- (2) Without limiting subparagraph (1), the policies and procedures of a public fund shall specify the duties and responsibilities of the governing body, including such responsibilities and duties as are imposed on the governing body by this Code.

Conflicts of interest

7. The policies and procedures of a public fund shall include -
- (a) the identification of conflicts of interest, whether arising between the fund and its affiliates, between the fund and its functionaries or their affiliates, the governing body and the fund or the governing body, fund, functionaries or their affiliates and investors, or otherwise; and
 - (b) the management of any conflicts of interest identified.

Segregation and Safekeeping of Fund Property

Custodial arrangements

8. (1) Unless a public fund has been exempted by the Commission from the requirement to appoint a custodian under regulation 26(2) of the regulations, the fund shall ensure that at all times it has a custodial agreement with its custodian which includes provisions for -

- (a) the appropriate segregation of the fund property; and
- (b) the taking of adequate measures by the custodian to ensure the safekeeping of the fund property.

(2) A public fund referred to in subparagraph (1) shall ensure that all fund property is transferred into the custody, or taken under the control, of its custodian as soon as reasonably practicable after it is acquired.

(3) A public fund that has been exempted by the Commission from the requirement to appoint a custodian under regulation 26(2) of the regulations shall put in place, and ensure that at all times it maintains, adequate arrangements for -

- (a) the segregation of the fund property from the property of other functionaries of the fund; and
- (b) the safekeeping of the fund property.

Procedures

9. (1) A public fund shall -

- (a) establish, maintain and implement procedures, appropriate for the nature, size, complexity, structure and diversity of the fund and the fund property, to ensure compliance with this Code; and
- (b) ensure that the procedures are fully and clearly documented.

(2) The procedures established under paragraph (1) shall be approved and reviewed by the governing body on at least an annual basis and the governing body shall make a record of how it has complied with this paragraph.

(3) The governing body shall oversee the implementation of the procedures.

Issue and redemption of fund interests

10. (1) A public fund shall -

- (a) establish and maintain -
 - (i) a policy for the issue and redemption of fund interests; and
 - (ii) procedures that are sufficient to ensure that the policy is effectively implemented; and
- (b) ensure that the issue and redemption policy is fully and clearly documented.

- (2) The issue and redemption policy and procedures shall be -
 - (a) appropriate for the nature, size, complexity, structure and diversity of the fund and the fund property;
 - (b) consistent with the provisions concerning valuation in the constituting documents and the prospectus; and
 - (c) approved and reviewed by the governing body on at least an annual basis.
- (3) Without limiting subparagraph (1), the issue and redemption policy shall make provision for the following matters -
 - (a) the dealing days and times in the dealing day on which the fund will be available to receive requests for the issue and redemption of fund interests;
 - (b) the procedures for effecting the issue and redemption of fund interests and the settlement of transactions;
 - (c) the steps required to be taken by an investor redeeming fund interests before he or she can receive the proceeds of redemption;
 - (d) the amounts of the following minima (if relevant) for each class of fund interest in the fund -
 - (i) the minimum number of fund interests which any one person may hold;
 - (ii) the minimum value of fund interests which any one person may hold;
 - (iii) the minimum number or value of fund interests which may be the subject of any one transaction of purchase; and
 - (iv) the minimum number of fund interests which may be the subject of any one act of redemption;
 - (e) the circumstances in which the redemption of fund interests may be suspended; and
 - (f) where and when the most recent issue and redemption prices will be published.

Valuation and Pricing

Establishment of valuation policy and procedures

- 11.** (1) A public fund shall -
- (a) establish and maintain -
 - (i) a clear and comprehensive policy, or policies, for the valuation of the fund property; and
 - (ii) procedures that are sufficient to ensure that the valuation policy is effectively implemented; and

- (b) ensure that the valuation policy and procedures are fully and clearly documented.
- (2) The valuation policy and procedures shall -
 - (a) be appropriate for the nature, size, complexity, structure and diversity of the fund and the fund property;
 - (b) comply with the requirements of this Code; and
 - (c) be consistent with the provisions concerning valuation in the constitutional documents and the prospectus.
- (3) The valuation policy shall be approved and reviewed by the governing body, following consultation with such persons as the governing body considers appropriate -
 - (a) at any time when the fund's investment strategy changes or its activities involve a new type of fund property;
 - (b) whenever anything occurs that may affect its validity, relevance or appropriateness; and
 - (c) in any case, on at least an annual basis.
- (4) A public fund shall ensure that its fund property is consistently valued in accordance with the valuation policy.

Independence of, and within, valuation process

- 12.** (1) The governing body of a public fund shall ensure that -
- (a) the persons controlling the investment manager, or such other persons having responsibility for the fund's investment function, are independent from the persons controlling the fund administrator, or such other person having responsibility for the fund's valuation process;
 - (b) where appropriate, there is segregation of responsibilities between those parties concerned with the process of valuing the fund property and calculating the fund's NAV, with the objective of ensuring that there is adequate independence in the application of the valuation policy; and
 - (c) the parties concerned in the valuation process have the appropriate level of experience and competence to properly fulfil their roles.
- (2) Subject to subparagraph (4), a public fund shall ensure that the valuation and NAV functions are undertaken by the fund administrator or by a

third-party valuation service provider, independent of the governing body and the fund's other functionaries, appointed for the purpose.

(3) For the purposes of subparagraphs (1) and (2), a public fund may consider an affiliate of the investment manager to be independent of the investment manager, if it is satisfied that the group structure ensures functional independence.

(4) Where it considers that the circumstances so require, the governing body may approve the involvement of the investment manager in the valuation process provided that the investment manager's involvement is fully disclosed in the prospectus, together with an explanation for the investment manager's involvement.

Pricing and price overrides

13. (1) Subject to subparagraph (3), the assets of a fund shall be valued using market prices.

(2) Wherever practicable, the valuation of an asset shall be checked against a primary and secondary source and the valuation policy shall specify the hierarchy of sources to be used for each asset and the tolerance levels for variances between the sources.

(3) Hard-to-value assets may be valued using pricing models to determine a fair value, provided that the use of the pricing model has been approved by the governing body.

(4) Where a pricing model is used -

- (a) its use shall be justified by appropriate testing; and
- (b) it shall be capable of practical implementation by the parties concerned in the valuation process.

(5) Where the valuation policy permits price overrides, it shall require an independent review of the price override to be conducted as soon as reasonably practicable and provide for the appropriate reporting of the results of the review.

NAV reports

14. (1) A public fund shall ensure that it prepares reports of its NAV in accordance with the valuation policy.

(2) A NAV report shall be -

- (a) addressed directly to investors of the fund; and
- (b) published in such a way that the investors have ready access to it.

Disclosure to investors

15. (1) If the investment manager has a material role in the valuation of the fund property or the calculation of the NAV, the fund shall make adequate disclosure of the investment manager's involvement to the investors.

(2) Subparagraph (1) applies, even if the fund administrator or a third-party valuation service provider is appointed.

(3) The procedures of a public fund shall include arrangements for the provision of information concerning the valuation process to investors on request.

(4) The procedures specified in subparagraph (3) shall include -

- (a) the valuation information that will be made available to investors, without the need for a request;
- (b) the valuation information that may be requested by investors; and
- (c) how valuation information will be disseminated to investors, which may include by placement on a website, electronically or otherwise.

Relationship with, and Reporting to, the Commission

Significant regulatory impact disclosure

16. (1) A public fund shall disclose to the Commission any matter that might reasonably be expected to have a significant regulatory impact.

(2) Without limiting subparagraph (1), the following shall be regarded as matters that might reasonably be expected to have a significant regulatory impact -

- (a) the suspension of valuation, dealing or redemptions;
- (b) any matter that could impact on the ability of the public fund to continue to carry on business; and
- (c) any incidence of fraud or other criminal activity that is connected with, or may affect, the public fund's business if the fraud or criminal activity is material to the safety, soundness or reputation of the public fund.

(3) In determining whether a disclosure should be made under this paragraph, a public fund shall consider -

- (a) its business and activities that are not subject to supervision by the Commission; and
- (b) the business and activities of its affiliates.

(4) Disclosure under subparagraph (1) shall be made immediately after the public fund -

- (a) becomes aware of the matter concerned; or
- (b) has reasonable grounds for believing that the matter concerned has occurred or that it may occur in the foreseeable future.

Required standard of disclosure

17. A public fund shall use its best endeavours to ensure that all information and documents that it provides to the Commission are accurate and complete.

Disclosure to Investors

Changes to investor rights

18. (1) Where a public fund proposes to make any changes to the rights of investors which the investors are not required to approve, the fund shall give each investor notice of the change.

(2) Wherever practicable, notice under subparagraph (1) shall be given prior to the change.

SCHEDULE 11

RECOGNISED JURISDICTIONS

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Made by the Governor this day of , 2022

GOVERNOR OF ANGUILLA

1st Draft, For Consultation Purposes Only