

CAYMAN ISLANDS



Supplement No. 1 published with Gazette No. 01  
dated 13 January, 2014.

**THE CAYMAN ISLANDS MONETARY AUTHORITY STATEMENT OF GUIDANCE – CORPORATE  
GOVERNANCE FOR REGULATED MUTUAL FUNDS**



December 2013

---

# Statement of Guidance for Regulated Mutual Funds

## Corporate Governance

### Statement of Objectives

- 1.1 The Authority expects the oversight, direction and management of a regulated mutual fund, as defined by the Mutual Funds Law (2013 revision) to be conducted in a fit and proper manner. The purpose of this Statement of Guidance ('Statement of Guidance') is to provide the governing body of a regulated mutual fund ('Governing Body') and its operators (as defined in the Mutual Funds Law (2013 revision)) ('Operators') with guidance on the minimum expectations for the sound and prudent governance of the regulated mutual fund.
- 1.2 This Statement of Guidance sets out the key corporate governance principles pertaining to the Governing Body and Operators of a regulated mutual fund. This Statement of Guidance is not intended as a prescriptive or exhaustive guide to the Authority's expectations with regard to the governance of a regulated mutual fund.
- 1.3 The governance structure of a regulated mutual fund must be appropriate and suitable to enable 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. Factors determining the size, nature or complexity of the regulated mutual fund could include, but are not limited to: assets under management, number of investors, complexity of the regulated mutual fund structure, nature of investment strategy, or nature of the operations.



December 2013

---

## **Application**

- 2.1 This Statement of Guidance applies to all regulated mutual funds as defined by section 2 of the Mutual Funds Law (2013 Revision) (as amended) (the “Mutual Funds Law”) and includes funds licensed or administered under section 4(1) or registered under section 4(3) of the Mutual Funds Law (‘Regulated Mutual Fund’).

## **Oversight Function**

- 3.1 The Governing Body of a Regulated Mutual Fund is the directing will and mind of the Regulated Mutual Fund and has ultimate responsibility for effectively overseeing and supervising the activities and affairs of the Regulated Mutual Fund.
- 3.1.1. The Governing Body of Regulated Mutual Fund is the board of directors where the Regulated Mutual Fund is a corporate, the general partners where the Regulated Mutual Fund is an exempted limited liability partnership, and the trustees where the Regulated Mutual Fund is a unit trust.
- 3.2 The Governing Body should monitor and regularly take steps to satisfy itself that the Regulated Mutual Fund is conducting its affairs in accordance with all applicable laws, regulations, rules, statements of principles, statements of guidance and anti-money laundering or combating terrorist financing requirements, including those of the Cayman Islands and the Authority.



December 2013

---

- 3.2.1 The Governing Body should regularly take steps to satisfy itself that the Regulated Mutual Fund's service providers ('Service Providers') are monitoring compliance with applicable laws, regulations, rules and statements of principle, statements of guidance and anti-money laundering or combating terrorist financing requirements.
- 3.2.2 The Governing Body should request appropriate information from the Service Providers and/or professional advisors of the Regulated Mutual Fund to enable it to satisfy itself regularly that the Regulated Mutual Fund is operating in compliance with the applicable laws, regulations, rules and statements of principles, statements of guidance and anti-money laundering or combating terrorist financing requirements.
- 3.3 Where required, the Governing Body shall provide appropriate directions to the Service Providers to rectify any non-compliance with the applicable laws, regulations, rules, statements of principles, statements of guidance and anti-money laundering or combating terrorist requirements.
- 3.4 The Governing Body 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.

### **Conflicts of Interest**

- 4.1 The Governing Body the Regulated Mutual Fund and its Operators must suitably identify, disclose, monitor and manage all its conflicts of interest.
- 4.2 The Governing Body of the Regulated Mutual Fund must document the disclosed conflicts of interest.



December 2013

---

### **Governing Body Meetings**

- 5.1 The Governing Body of the Regulated Mutual Fund should meet at least twice a year in person or via a telephone or video conference call.
- 5.2 Where the circumstances or size, nature and complexity of the Regulated Mutual Fund necessitates it, the Governing Body should meet more frequently than suggested in paragraph 5.1 so as to enable it to fulfil its responsibilities effectively.
- 5.3 Where necessary, the Governing Body shall request the presence of its Service Provider/s at its Governing Body meetings.

### **Operators Duties**

- 6.1 The Operator must exercise independent judgment, always acting in the best interests of the Regulated Mutual Fund, taking into consideration the interests of its investors as a whole.
- 6.2 The Operator must operate with due skill, care and diligence.
- 6.3 The Operator must make relevant enquires where issues are raised with it on matters fully within the scope of the Operator's responsibility as an Operator of a Regulated Mutual Fund and be satisfied that appropriate and timely course of action is being taken.
- 6.4 The Operator should communicate adequate information to the Regulated Mutual Fund's investors where it is properly able to disclose.
- 6.5 The Operator must act honestly and in good faith at all times.
- 6.6 The Operator must ensure it has sufficient capacity to apply its mind to overseeing and supervising each Regulated Mutual Fund it is an Operator of and



December 2013

---

to all matters falling within the scope of its responsibilities as an Operator of each Regulated Mutual Fund. Consequently, before taking on any additional funds, the Operator should always ensure that it is able to perform the functions and duties of an Operator in a responsible and effective manner in accordance with relevant laws, regulations, rules, statements of principles and the provisions of this Statement of Guidance.

6.7 Upon registration of a Regulated Mutual Fund with the Authority, and on a continuing basis, the Operator is responsible for:

6.7.1 Ensuring or receiving confirmation that the constitutional and offering documents of the Regulated Mutual Fund comply with Cayman Islands law, and for licensed funds, the Rule on Contents of Offering Documents;

6.7.2 Ensuring the investment strategy and conflicts of interests policy of the Regulated Mutual Fund are clearly described in the offering documents; and

6.7.3 Ensuring that the offering documents describe the equity interest in all material respects and contains such other information as is necessary to enable a prospective investor to make an informed decision as to whether or not to subscribe for or purchase the equity interest.

6.8 The Operator is responsible for approving the appointment and removal of the Regulated Mutual Fund's Service Providers and the terms of the contracts with each of its Service Providers.

6.8.1 The Operator is responsible for ensuring that its investors and the Authority are notified of any changes to these appointments.



December 2013

---

- 6.9 The Operator retains ultimate responsibility for functions delegated to Service Providers and should regularly monitor and supervise the delegated functions.
- 6.10 The Operator should review all of its Service Provider contracts to ensure roles and responsibilities are clearly defined and that the responsibilities are clearly divided between each Service Provider. The Operator should make sufficient enquiries to enable it to properly understand the scope and nature of the responsibilities of each Service Provider.
- 6.11 The Operator must satisfy itself that the various professional Service Providers to whom it has delegated a function/s are performing their functions in accordance with the terms of their respective contracts.
- 6.12 Upon registration of the Regulated Mutual Fund with the Authority, and on a continuing basis, the Operator of the Regulated Mutual Fund is responsible for regularly assessing the suitability and capability of its Service Providers.
- 6.13 The Operator should regularly verify or seek confirmation from the Service Providers that they are acting in accordance with the Regulated Mutual Fund's constitutional and offering documents.
- 6.14 The Operator must regularly monitor whether the investment manager is performing in accordance with the defined investment criteria, investment strategy and restrictions.
- 6.15 The Operator should, as necessary, and at all material times inform itself of the Regulated Mutual Fund's investment activities, performance and financial position.



December 2013

---

- 6.16 The Operator should review and approve the Regulated Mutual Fund's financial results and audited financial statements.
- 6.17 The Operator should regularly monitor the Regulated Mutual Fund's net asset valuation policy and that the calculation of its net asset value is being calculated in accordance with this policy.
- 6.18 An Operator should ensure that it has sufficient and relevant knowledge and experience to carry out its duties as an Operator.
- 6.19 Each Operator should assess whether it has, together with any other Operator of the Regulated Mutual Fund, sufficient and relevant collective knowledge and experience to perform the duties imposed upon the Operator of the Regulated Mutual Fund.
- 6.20 Each Operator must exercise the care, skill and diligence that would be exercised by a reasonably diligent person with the general knowledge, skill and experience that such an Operator has.

## **Documentation**

- 7.1 The Operators are responsible for ensuring that a full, accurate and clear written record is kept of the Governing Body's meetings.
- 7.2 The records of the Governing Body meetings should include:





December 2013

---

- 7.2.1 The agenda items and circulated documents;
- 7.2.2 A list of attendees present at the meeting and whether that attendance was in person or via telephone or videoconference;
- 7.2.3 The matters considered and decisions made; and
- 7.2.4 The information requested from, and provided by, Service Providers and advisors.

### **Relations with the Authority**

- 8.1 The Operator should conduct the Regulated Mutual Fund's affairs with the Authority in a transparent and honest manner always disclosing to the Authority
  - a) any matter which could materially and adversely affect the financial soundness of the Regulated Mutual Fund; and
  - b) any non-compliance with the laws, regulations, rules and statements of principles, statements of guidance and anti-money laundering or combating terrorist requirements applicable, including those of the Cayman Islands and the Authority.
- 8.2 Where the Operator is uncertain whether to communicate information in accordance with 8.1 to the Authority, it should be prudent and diligent and communicate the information.

### **Risk Management**

- 9.1 The Operator should ensure it provides suitable oversight of risk management of the Regulated Mutual Fund, ensuring the Regulated Mutual Fund's risks are always appropriately managed and mitigated, with material risks being discussed at the Governing Body meeting and the Governing Body taking appropriate action where necessary.