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THE SECURITIES ACT 2005

The Securities (Collective Investment Schemes and Closed-end Funds) Regulations 2008

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THE SECURITIES ACT 2005

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PART I

INTERPRETATION AND EXEMPTIONS

1. Citation

These Regulations may be cited as the Securities (Collective Investment Schemes and Closed-end Funds) Regulations 2008.

2. Interpretation

“Act” means the Securities Act 2005;

“CIS manager” means the board of the collective investment scheme when that scheme is constituted as a company or the CIS manager if that particular function has been delegated to the CIS manager by the board.

“custodian agreement” means any agreement relating to the appointment and functions of the custodian to which the collective investment scheme or the CIS manager and the custodian are parties;

“contractual plan” means a plan under which an investor undertakes to make periodic investments in a collective investment scheme where the investor has the ability to terminate the plan at any time;

“expert fund” means a fund which is only available to expert investors;

“expert investor” has the meaning assigned to it in regulation 78;

“FSC Rules” refers to rules made by the Commission under the Act and the Financial Services Act 2007;

“Global scheme” means a company, a trust or any other legal entity approved by the Commission, holding a Category 1 Global Business Licence and authorised to carry out activities falling within the definition of a collective investment scheme;

“illiquid asset” means an asset that may not be readily disposed of through market facilities on which public quotations are widely available, at an amount at least equal to the amount at which the asset is valued in calculating the net asset value, or a restricted security, the resale of which is prohibited for any reason;

“participant or shareholder” means a person who holds shares in a collective investment scheme;

“professional collective investment scheme” has the meaning assigned to it in regulation 75;

“promoter” means a person who, whether, acting alone or in conjunction with one or more other persons, directly or indirectly, takes the initiative in founding, organising or substantially reorganizing a collective investment scheme;

“scheme” means a collective investment scheme;

“self-managed scheme” means a company managing its own scheme as approved by the Commission under Section 103 of the Act and pursuant to regulation 30(2);

“shares” mean the participating interest of a person in a collective investment scheme irrespective of its legal form;

“specialised collective investment scheme” has the meaning assigned to it in regulation 77.

3. Application of these Regulations

- (1) Except where otherwise expressly provided, these Regulations shall apply to all collective investment schemes, including Global schemes, which have been authorised by the Commission.
- (2) No provisions in these Regulations shall be taken as derogation from any condition and requirement a Global Scheme may have under its Category 1 Global Business Licence or under an application made for a Category 1 Global Business Licence.

4. Investment clubs

- (1) An investment club shall be exempted from the requirements of these Regulations where -
 - (a) it does not have more than 30 participants;
 - (b) it does not issue debt securities;
 - (c) except for normal brokerage commissions, it does not pay any remuneration to securities advisers, CIS managers, investment advisers and portfolio managers;

- (d) all of its participants are required to make proportionate contributions to finance its operations;
 - (e) it establishes rules of operation approved by the participants of the club;
 - (f) it does not make any public solicitation for participants; and
 - (g) a copy of its rules of operation is filed with the Commission.
- (2) For the purposes of paragraph (1), “investment club” means an association or a grouping of investors constituted in accordance with the Stock Exchange (Investment Clubs) Rules 1994.

PART II

TYPES OF COLLECTIVE INVESTMENT SCHEMES (CIS)

5. Legal Form of Collective Investment Schemes

- (1) A collective investment scheme may be constituted -
- (a) as a company limited by shares;
 - (b) as a trust; or
 - (c) in any other legal form approved by the Commission.
- (2) The constitutive documents of any collective investment scheme shall include-
- (a) provisions for the matters specified in the First Schedule or the Second Schedule as may be applicable;
 - (b) subject to these Regulations, the conditions for the replacement of the CIS manager, the custodian, a member of the board of directors, a trustee or a member of the governing body; and
 - (c) relevant provisions to ensure the protection of interests of participants in the event of a replacement under paragraph (b).

PART III
LICENSING, AUTHORISATION AND APPROVAL
SUB-PART A
LICENSING - CIS MANAGERS AND CUSTODIANS

6. CIS manager

- (1) A CIS manager holding a licence issued by the Commission shall be a company which-
- (a) shall be incorporated and have its place of business in Mauritius;
 - (b) is engaged solely in the business of management of collective investment schemes, unless otherwise authorised under regulation 32(1).
- (2) An application for a CIS manager licence under Section 98 of the Act shall be filed with the Commission, and shall be accompanied by -
- (a) the constitutive documents of the applicant;
 - (b) a detailed description of how the applicant intends to comply with the Act, including any regulations and rules made thereunder;
 - (c) information that demonstrates that it has suitably qualified staff with the appropriate expertise and experience to carry out the functions of a CIS manager;
 - (d) the personal questionnaire form specified in the FSC Rules for every officer or proposed officer, controller, shareholder and beneficial owner of the CIS manager;
 - (e) a list of the persons responsible for the management of securities portfolios of the collective investment schemes under management and the competence of these persons;
 - (f) the audited financial statements of the applicant as at the last balance sheet date; and
 - (g) the fees specified in FSC Rules.
- (3) Notwithstanding paragraphs (1) and (2), a Global scheme may appoint and retain a CIS manager established in a foreign jurisdiction subject to the approval of the Commission.

7. Custodian

- (1) Subject to paragraph (3), a person wishing to hold the assets of a collective investment scheme for safe keeping shall apply to the Commission for a custodian licence under Section 100 of the Act.
- (2) The application for a custodian licence shall include -
 - (a) the constitutive documents of the applicant;
 - (b) the audited financial statements of the applicant as at the last balance sheet date;
 - (c) the list of collective investment schemes for which the applicant proposes to act as custodian;
 - (d) save where the applicant is a bank, the personal questionnaire form specified in the FSC Rules for every officer or proposed officer, controller, shareholder and beneficial owner of the custodian;
 - (e) the fees specified in FSC Rules; and
 - (f) any other information or document requested by the Commission.
- (3) A person applying for a custodian licence as a trust company established as a subsidiary of a bank or as a trustee of a trust, shall have and maintain a minimum stated unimpaired capital of Mauritian rupees 10 million or an equivalent amount.
- (4) Notwithstanding paragraphs (1) to (3), a Global scheme may appoint and retain a custodian established in a foreign jurisdiction subject to the approval of the Commission.

SUB-PART B

AUTHORISATION - COLLECTIVE INVESTMENT SCHEMES

8. Application of this Sub-Part

For the purpose of this sub-part, regulations 9 and 10 shall not apply to an application for authorisation as a Global scheme.

9. Application for authorisation

- (1) An application to the Commission for the authorisation of a collective investment scheme under section 97 of the Act shall be made by the CIS manager or

proposed CIS manager or by the promoter of the CIS, in accordance with this Sub-Part and such FSC Rules as may be applicable.

- (2) Where the scheme has the legal form of a trust, the application shall be made jointly by the CIS manager or the proposed CIS manager, and the trustee.
- (3) An application under this Sub-Part shall contain the information specified in the Third Schedule and be accompanied by -
 - (a) the constitutive documents of the scheme;
 - (b) the prospectus prepared in accordance with the Fourth Schedule;
 - (c) the personal questionnaire form set out in the FSC Rules which shall be completed by each of the officers of the collective investment scheme;
 - (d) the fees specified in FSC Rules.
- (4) Unless such information is already included in the prospectus referred to under paragraph (3)(b), the application shall also be accompanied by-
 - (a) a memorandum describing the functions and duties of the CIS manager, and where the CIS manager has delegated such functions and duties under regulation 18 to third parties, by a description and a copy of the contract delegating functions and duties to the third parties;
 - (b) the letter of acceptance of the custodian to act as such;
 - (c) information concerning the auditor to be appointed;
 - (d) the audited annual financial statements as at the last balance sheet date of the CIS manager or, where applicable, a certificate signed by the CIS manager to the effect that such financial statements have already been filed with the Commission; and
 - (e) the audited financial statements as at the last balance sheet date of the custodian or, where applicable, a certificate signed by the custodian to the effect that such financial statements have already been filed with the Commission.
- (5) The Commission may require the applicant to furnish such additional information as it considers appropriate to process the application.

10. Conditions for authorisation

- (1) The Commission may authorise a collective investment scheme under section 97(5) of the Act where-
 - (a) the scheme is established or incorporated under the laws of Mauritius;
 - (b) the scheme has both a CIS manager and a custodian or, for a self-managed scheme, the scheme has a custodian;
 - (c) the constitutive documents and the prospectus or offer documents of the scheme comply with the relevant provisions of these Regulations and any relevant rules;
 - (d) the officers of the scheme are fit and proper persons; and
 - (e) the requirements under regulation 11 as regards to minimum funding are met.
- (2) The Commission may recognise a scheme constituted in a foreign jurisdiction provided the scheme -
 - (a) furnishes documentary evidence of its constitution, establishment and good standing in the relevant jurisdiction, including complete details of the authoritative body having the regulatory and supervisory functions in the jurisdiction the scheme is established; and
 - (b) meets the requirements of these Regulations as the Commission considers applicable.
- (3) An authorisation under section 97(5) of the Act may be granted subject to such terms and conditions the Commission considers necessary or desirable for the protection of participants.

11. Minimum funding

- (1) The prospectus of a scheme shall specify that the scheme must receive a minimum amount of subscriptions of at least 5 per cent of the total amount to be raised from investors so as to begin operating the scheme, or such higher amount as may be disclosed in its prospectus.
- (2) Where the minimum amount of subscriptions indicated in the prospectus is not reached during the first 6 months of the offering period, the funds shall be returned to the investors together with any interest earned thereon, unless the collective investment scheme can justify a request for extension and the

Commission agrees to such an extension, which shall not exceed a further 6

months.

- (3) The prospectus of a scheme shall also specify where the funds collected from investors will be kept and how they will be returned to investors, if necessary.

12. Establishment costs

- (1) The costs of the establishment or initial organisation of a collective investment scheme and the application for authorisation may be borne by the scheme, the CIS manager or the promoter.
- (2) For a self-managed scheme, or where proper arrangements have been made, the costs of the establishment of the scheme may be borne by the scheme as pre-operational expenses.

13. Withdrawal of authorisation

- (1) Without prejudice to any other enactment, the Commission may, after allowing for representations to be made by a collective investment scheme, withdraw the authorisation of the collective investment scheme where the Commission has reason to believe that –
 - (a) any of the requirements for the granting of authorisation are no longer satisfied;
 - (b) it is undesirable in the interests of the participants or potential participants that the scheme should continue to be authorised; or
 - (c) the applicant has, for the purpose of regulation 9(3), knowingly submitted information which is false and misleading.
- (2) For the purpose of paragraph (1)(b), the Commission may take into account any matter relating to the scheme, the CIS manager or the custodian, an officer or controller of the CIS manager, or any person employed by or associated with the CIS manager in connection with the scheme.

14. Avoidance of exclusion clauses

Any provision in the constitutive documents of a collective investment scheme which has the effect of exempting the CIS manager, the CIS administrator or the custodian or any other person from liability for any failure to exercise due care and diligence in the discharge of their functions in respect of the collective investment scheme shall be null and void.

SUB-PART C

AUTHORISATION - GLOBAL SCHEMES

15. Application of this Sub-Part

The conditions and requirements under this sub-part shall apply to all applicants for authorisation under regulation 16 and Global schemes, including –

- (a) a person holding enough voting securities in the scheme to control management and operations and elect a majority of the board of directors, or governing body having an equivalent capacity, of the collective investment scheme;
- (b) a person controlling a body corporate or unincorporated, as the case may be, referred to in (a); or
- (c) an umbrella fund whose shares are split into a number of different class funds or sub-funds.

16. Authorisation

- (1) An application to the Commission for the authorisation of a collective investment scheme under section 97 of the Act shall be made by the CIS manager or proposed CIS manager or by the promoter of the CIS, in accordance with this Sub-Part and such FSC Rules as may be applicable.
- (2) Subject to regulation 17, the application for authorisation as a Global scheme shall contain the information specified in the Third Schedule and shall include -
 - (a) the following documents or information –
 - (i) a prospectus in accordance with the Fourth Schedule or a copy of the prospectus or similar offering document filed in another jurisdiction;
 - (ii) the constitutive documents of the scheme;
 - (iii) measures taken to prevent money laundering and financing of terrorism;
 - (iv) latest audited financial statements as applicable;
 - (b) the personal questionnaire form set out in the FSC Rules which shall be completed by each of the officers or proposed officers of the collective investment scheme;
 - (c) the fees specified in FSC Rules;

- (d) such other information or document as the Commission may require in order to process the application.
- (3) Subject to the approval of the Commission, an application under paragraph (2) may exclude such information and documents already filed with the Commission, provided the information and documents are not different to those already submitted.

17. Conditions applicable to Global schemes

- (1) The Commission may grant an authorisation for a Global scheme provided that –
 - (a) information relating to the CIS manager and the custodian as prescribed in these Regulations is submitted with the application for authorisation;
 - (b) a CIS administrator with a place of business in Mauritius is appointed;
 - (c) the accounting and reporting services are carried out by the CIS manager, or the CIS Administrator of the scheme, having a place of business in Mauritius.
 - (d) The prospectus or other offering document contains the following statements in a prominent position -

"Investors in [name of the Global scheme] are not protected by any statutory compensation arrangements in Mauritius in the event of the fund's failure."

"The Mauritius Financial Services Commission does not vouch for the financial soundness of the fund or for the correctness of any statements made or opinions expressed with regard to it."

- (e) a certified copy of the prospectus or other offering document filed in a jurisdiction where the collective investment scheme is regulated or exempted from regulation is filed with the Commission;
- (f) information is provided on the CIS manager and the custodian, including name and registered addresses and where regulated, if applicable;
- (g) information is given on whether the collective investment scheme is regulated, or shall be subject to regulation, in any jurisdiction and if so, a copy of the authorisation or similar consent of the regulator and if not, indication on what basis it is exempted from securities regulation in other jurisdictions;

- (h) adequate measures are taken to prevent money laundering and financing of terrorism and provided that the Commission is satisfied that these measures meet legislative requirements.
- (2) An authorisation under section 97(5) of the Act may be granted subject to such terms and conditions the Commission considers necessary or desirable for the protection of participants.

SUB-PART D

APPROVAL OF CIS ADMINISTRATORS

18. CIS administrator

- (1)
 - (a) Subject to the prior approval of the Commission and on such terms and conditions as the Commission deems appropriate, a CIS manager or a collective investment scheme, where appropriate, may appoint a CIS administrator to provide administrative services with respect to a collective investment scheme. .
 - (b) For the purposes of sub-paragraph (a) administrative services shall have the same meaning as provided under Section 99(3) of the Act.
- (2) When seeking the approval of the Commission under paragraph (1)(a), the CIS manager or the collective investment scheme shall –
 - (a) specify which administrative services the CIS administrator may provide;
 - (b) give complete details of the CIS administrator, including its constitution, resources, past experience in providing such services, names of the collective investment schemes to which administrative services have been or are presently provided;
 - (c) provide any other information required by the Commission;
 - (d) include the fees specified in FSC Rules.
- (3) The CIS manager or the collective investment scheme, where appropriate, shall seek the prior approval of the Commission for a change of CIS administrator.

SUB-PART E

CHANGES TO THE INFORMATION PROVIDED TO THE COMMISSION

19. Changes subject to the prior approval of the Commission

- (1) No alteration to a collective investment scheme shall be effective unless-
 - (a) the Commission has been informed; and
 - (b) where required under the constitutive documents of the scheme, the shareholders of the scheme have approved the change.
- (2) The prior approval of the Commission shall be required for –
 - (a) the nomination of an officer of the scheme, the CIS manager or the custodian;
 - (b) change in or addition to portfolio managers;
 - (c) change in ownership or the acquisition of shares in the CIS manager;
 - (d) the establishment of a subsidiary by the CIS manager.
- (3) Unless the Commission requires additional information as may be necessary to determine a request under paragraph (2) (a) or (b), it shall, within 10 business days from the date it receives the request, approve or object to the request.
- (4) For the purpose of this regulation, a CIS manager or a custodian refers to a CIS manager or a custodian holding a licence issued by the Commission.

20. Changes in the appointment of the CIS manager or Custodian

- (1) The CIS manager or the collective investment scheme shall give written notice to the Commission of any proposal to replace the custodian of the collective investment scheme.
- (2) The collective investment scheme shall give written notice to the Commission of any proposal to replace its CIS manager.
- (3) No replacement under paragraph (1) or (2) shall be effective unless -
 - (a) the shareholders of the scheme have approved the change in accordance with the constitutive documents; and
 - (b) the Commission has given its approval to the proposed replacement.

PART IV
CUSTODIAN

21. Appointment of custodian

Every collective investment scheme shall appoint and shall at all times have a custodian.

22. Custody of assets

- (1) The custodian of a collective investment scheme shall -
 - (a) take the assets of the scheme into its custody for safe-keeping pursuant to a written agreement with the collective investment scheme in accordance with regulation 24; and
 - (b) hold and deal with the assets of the scheme in accordance with the provisions of these Regulations and the constitutive documents of the collective investment scheme.
- (2) Except where it is appropriate to keep them outside the country to facilitate transactions outside Mauritius, assets of a collective investment scheme, other than a Global scheme, shall be kept in Mauritius.
- (3) Where the assets of a scheme are kept outside Mauritius under paragraph (2), the custodian shall appoint a sub-custodian in accordance with the provisions of these Regulations.
- (4) The delegation of custodial authority to a sub-custodian does not relieve the custodian from any of its obligations to the collective investment scheme, the CIS manager or to the Commission.
- (5) Both the custodian and the sub-custodian shall act independently from the CIS manager and the collective investment scheme.
- (6) The custodian shall not exercise any function or activity in relation to a collective investment scheme, other than that for which it has been licensed.

23. Sub-custodian

- (1) No sub-custodian shall be appointed in relation to a collective investment scheme unless it is a bank, a trust company which is a subsidiary of a bank or a trustee of a trust and which shall have and maintain a minimum stated unimpaired capital of Mauritian rupees 10 million or an equivalent amount.

- (2) The appointment of a sub-custodian shall be subject to the prior approval of the Commission.
- (3) A sub-custodian shall not exercise any function or activity in relation to a collective investment scheme, other than that specified under the agreement with the custodian.
- (4) The custodian shall –
 - (a) ensure that the appointed sub-custodian satisfies the requirements of these Regulations; and
 - (b) not more than 60 days after the end of each financial year of the collective investment scheme, advise the collective investment scheme in writing of the names and addresses of all sub-custodians and state whether each satisfies the requirements of these Regulations.
- (5) The requirements of paragraphs (1) to (4) shall apply only where the appointment of a sub-custodian is made by a custodian holding a licence issued by the Commission.

24. Custody agreements

- (1) An agreement for custody and safe-keeping of the assets of the scheme shall provide for -
 - (a) the custodian accepting custody of such assets;
 - (b) the custodian agreeing to observe the provisions of the constitutive documents or prospectus or offering document of the collective investment scheme and of the custodian agreement;
 - (c) requirements with regards to the location of assets;
 - (d) the method of holding assets;
 - (e) the standard of care to be exercised by the custodian and its responsibility for loss;
 - (f) that only the CIS manager or the self-managed scheme may give instructions to the custodian;
 - (g) the custodian to forthwith submit a report to the Commission, and a copy thereof to the CIS manager and scheme, in relation to any failure of the CIS manager or scheme to meet the requirements applicable to the conduct of its business activities.

- (2) No agreement between a CIS manager or a collective investment scheme with a custodian or between a custodian and a sub-custodian shall provide for the creation of any encumbrance on the assets of the collective investment scheme except in relation to a claim for payment of the fees and expenses of the custodian or sub-custodian for acting in that capacity.

25. Care of Assets

- (1) Subject to paragraph (2), the assets of a collective investment scheme not registered in its name shall be registered in the name of the custodian or a sub-custodian of the collective investment scheme, or any of their respective nominees, with an account number or other designation in the records of the custodian or sub-custodian so as to establish that the ownership of the assets is vested in the collective investment scheme.
- (2) A custodian or sub-custodian may arrange for the deposit of assets of the collective investment scheme with, and their delivery to, the CDS or a clearing and settlement facility or a foreign regulated depository or clearing agency provided that the records of either the participant in the book-based system or the custodian or sub-custodian establish that the ownership of the assets is vested in the collective investment scheme.

26. Change of address

A custodian holding a licence issued by the Commission shall notify the Commission in writing forthwith of any intended change of address in its registered office or of its permanent place of business in Mauritius.

27. Liability of custodian

- (1) Without prejudice to its other obligations and liabilities, the custodian shall be liable to the collective investment scheme and participants of the scheme, as the case may be, for any loss suffered which may result from-
 - (a) any unreasonable failure by it to perform its obligations; or
 - (b) any improper performance by it of its obligations.
- (2) Where a sub-custodian has been appointed, the agreement with the sub-custodian shall provide the collective investment scheme with means to enforce rights of participants against the assets of the collective investment scheme to be held by the sub-custodian.

28. Notification of contraventions

The custodian holding a licence issued by the Commission shall notify the Commission in writing forthwith of any failure, act or omission of the CIS manager or the scheme, as may be applicable, constituting a breach or contravention of any of the provisions of the Act, these Regulations, FSC Rules or of the constitutive documents of the collective investment scheme and of the steps taken by the custodian to recommend the CIS manager or the scheme to rectify the breach or contravention as soon as is reasonably practicable.

29. Financial statements

- (1) A custodian holding a licence issued by the Commission shall file with the Commission quarterly financial statements as soon as possible, but not later than 45 days after the closing date of the relevant quarter, relating to the custodial activities.
- (2) A custodian holding a licence issued by the Commission shall, as soon as possible but not later than 90 days of its balance sheet date, file with the Commission audited financial statements prepared in accordance with IFRS and audited in accordance with the International Standards on Auditing and such other standards as may be issued under the Financial Reporting Act 2004.
- (3) Paragraphs (1) and (2) shall not apply to a custodian who is also a reporting issuer under the Act.

PART V

CIS MANAGER

30. Appointment of CIS manager

- (1) Subject to paragraph (2), a collective investment scheme, other than a Global scheme, shall appoint and have at all times a CIS manager holding a license issued by the Commission and having a place of business in Mauritius.
- (2) The Commission may, on application, allow a company to be managed by its own board of directors, provided that the board of directors performs the functions of a CIS manager and that such directors are jointly bound and responsible to perform the functions of the CIS manager.
- (3) In addition to complying with these Regulations, the constitution of a self-managed scheme shall contain the provisions that participants may convene a meeting and, by way of an ordinary resolution, remove any director considered no longer fit and proper to manage the assets of the self-managed scheme.

- (4) Where a collective investment scheme is constituted in any other legal form and wishes to be self-managed, the Commission will only grant authorisation upon satisfactory proof that the governing body of the collective investment scheme will be able to independently perform such functions as are called on a CIS manager, and subject to such terms and conditions as it may deem fit.

31. Activities permitted to CIS managers

- (1) Subject to paragraph (2), a CIS manager may carry out any of the activities related to the management of a collective investment scheme, including –
- (a) all administrative services required by the scheme;
 - (b) provision of registrar and transfer facilities;
 - (c) distribution of the securities of the scheme;
 - (d) maintaining accounting records of the scheme;
 - (e) giving investment advice in relation to the scheme; and
 - (f) managing the portfolio of the scheme.
- (2) The activities under paragraph 1(c), (e) and (f) are subject to the CIS manager and its officers meeting the relevant conditions and requirements under the Act, these Regulations or any relevant rules.

32. Restrictions on activities of CIS managers

- (1) Unless authorised by the Commission, the CIS manager holding a licence issued by the Commission shall not engage in any activity other than the management of collective investment schemes.
- (2) A CIS manager holding a licence issued by the Commission shall give prior written notice to the Commission of any proposal to carry on the business of CIS management in connection with collective investment schemes that are established and authorised in a jurisdiction other than Mauritius.
- (3) The notice required in paragraph (2) shall be accompanied by-
- (a) the prospectus of the non-Mauritian scheme;
 - (b) details of any regulatory approval, given by or applied for, from the authorities in the countries in which the non-Mauritian scheme is, or is to be, established; and
 - (c) such other information as the Commission may require.

33. Change in officers

When appointing or replacing an officer or employee, the CIS manager shall ensure that such person is a fit and proper person and where the approval of the Commission is required with respect to any such officer or employee under the Act or these Regulations, the CIS manager shall ensure that such approval is obtained prior to the appointment.

34. General duties of CIS manager

The CIS manager shall -

- (a) ensure that the assets of a scheme are clearly identified and held separately from the assets of the CIS manager and the assets of any other scheme managed by the CIS manager;
- (b) ensure that the assets are entrusted to a custodian for safe-keeping;
- (c) manage the assets of the collective investment scheme in accordance with:
 - (i) the provisions of these Regulations;
 - (ii) the constitutive documents;
 - (iii) the latest published prospectus or offer document;
- (d) take all reasonable steps and exercise all due diligence to avoid the assets of the collective investment scheme being invested in contravention of these Regulations;
- (e) ensure that the assets of the collective investment scheme are valued at regular intervals appropriate to the nature of the assets;
- (f) except in the case of a self-managed scheme, have prepared in the form required under the Act or any regulations or rules made thereunder, the accounts required and shall arrange for such accounts to be audited in accordance with the Act;
- (g) where applicable, ensure that the constitutive documents are made available for consultation free of charge in Mauritius, unless otherwise restricted by an enactment;
- (h) maintain adequate resources in terms of personnel and infrastructure for the nature and development of its activities, at least as efficient as the resources described at the time of approval of a collective investment scheme;

- (i) ensure that officers carrying on functions that require a licence or approval under the Act are properly licensed or approved;
- (j) maintain such books and records as set out in the Eighth Schedule;
- (k) report to the Commission any breach of the Act and these Regulations that-
 - (i) relates to the scheme; and
 - (ii) has had, has or is likely to have a materially adverse effect on the interest of participantsas soon as practicable after it becomes aware of the breach;
- (l) carry out or comply with any other duty, not inconsistent with this Act, that is conferred upon the CIS manager by the constitutive documents of the collective investment scheme; and
- (m) ensure that it has relevant and reasonable written policy in place to cater for conflict of interest.

35. Change of address

A CIS manager holding a licence issued by the Commission shall forthwith notify the Commission in writing of any intended change in its registered office or permanent place of business in Mauritius.

36. Liability of CIS manager

Without prejudice to any other of its obligations, the CIS manager shall be liable to the collective investment scheme for any loss suffered as a result of any unjustifiable failure by it to perform its obligations or the improper performance by it of its obligations.

37. Termination of office

- (1) The CIS manager of a collective investment scheme shall cease to hold office where it-
 - (a) goes into liquidation, becomes bankrupt or has a receiver appointed over its assets;
 - (b) ceases to be licensed to act as such by the Commission or the relevant authority in the jurisdiction it is established; or

- (c) retires in accordance with the constitutive documents.
- (2) Where the office of the CIS manager is terminated under paragraph (1), the scheme shall notify forthwith the Commission of the steps taken to safeguard the interests of the shareholders of the scheme and the Commission may impose such conditions as it finds appropriate.

PART VI

PRUDENTIAL AND CONDUCT OF BUSINESS RULES

38. Minimum Capital

- (1) A CIS manager holding a licence issued by the Commission shall maintain a minimum stated unimpaired capital of at least Mauritian rupees 1 million or an equivalent amount;
- (2) A CIS administrator shall at all times have a minimum stated unimpaired capital of Mauritian rupees 500,000 or an equivalent amount.

39. Prohibitions

- (1) A CIS manager shall not –
 - (a) hold securities or funds of clients of a collective investment scheme, except in transit to the custodian charged with the custody of assets of the collective investment scheme;
 - (b) subject to paragraph (2), loan funds to clients of a collective investment scheme or members of the CDS or members of any other clearing and settlement facility;
- (2) A CIS manager may, with the prior approval of the Commission, loan securities to members of the CDS or members of any other clearing and settlement facility, provided a contract has been signed between the members of the CDS or members of the other clearing and settlement facility and the CIS manager.
- (3) Subject to paragraph (4), the contract under paragraph (2), which may be general or specific, shall determine the conditions of the loan and the compensation to be paid to the CIS manager.
- (4) The compensation received by the CIS manager under paragraph (3), from which reasonable charges may be deducted, shall be credited to the collective investment scheme where the securities came from.

- (5) For the purpose of this regulation “clients” means a participant or a person intending to invest in a collective investment scheme managed by the CIS manager.

40. General Rules of Conduct

- (1) A CIS manager shall have in place such code of ethics and conduct which shall be binding on its officers, advisers, managers and employees and shall ensure that they are fit and proper for management of a scheme.
- (2) A CIS manager shall be responsible for any act and omission of any of its officers, portfolio managers and employees.

41. Internal Control

Every CIS manager shall establish documented rules of internal control to allow -

- (a) the efficient supervision of the activities of the CIS manager;
- (b) the effective supervision of all employees of the CIS manager; and
- (c) to ensure compliance with the Act and any regulations and rules made thereunder.

42. Insurance

- (1) Every CIS manager shall subscribe to an insurance policy to cover the following risks -
 - (a) fraudulent activities of employees;
 - (b) fraudulent instructions;
 - (c) losses arising from the malicious or fraudulent corruption of electronic data or electronic transactions;
 - (d) legal liability to third parties arising from breaches of professional duty.
- (2) Evidence of the insurance subscribed under paragraph (1) must be provided to the Commission within 10 business days from the date the CIS manager licence has been granted.

43. Publicity and Sales Literature

- (1) No CIS manager shall issue to the public or participate in or knowingly allow its name to be used in respect of any advertisement, sales literature or

correspondence, or shall issue or send any advertisement, sales literature or correspondence in connection with its business which –

- (a) contains any untrue statement or omission of a material fact or is otherwise false or misleading;
 - (b) contains an unjustified promise of specific results;
 - (c) uses unrepresentative statistics to suggest unwarranted or exaggerated conclusions, or fails to identify the material assumptions made in arriving at these conclusions;
 - (d) contains any opinion or forecast of future events which is not clearly identified as such;
 - (e) fails to fairly present the potential risks to the participant;
 - (f) is detrimental to the interests of the public.
- (2) A copy of any advertisement or sales literature proposed to be issued by a CIS manager holding a licence issued by the Commission shall be submitted to the Commission before it is issued.

44. Books and Records

- (1) A CIS manager shall keep its books and records and those of the collective investment scheme in accordance with the Eighth Schedule on a continual basis so that at all times records are up-to-date or able to be brought up-to-date within a reasonable time.
- (2) A CIS manager shall keep accounting records in such a manner that they are sufficient to show and explain transactions and commitments, whether effected on its own behalf or on behalf of others, and in particular so that these records –
- (a) disclose with accuracy its financial position at any point in time within the previous 7 years;
 - (b) demonstrate whether or not the CIS manager is or was at that time complying with its minimum stated unimpaired capital requirements; and
 - (c) enable it to prepare and provide to the Commission within a reasonable time any financial report as at the close of business of any date.
- (3) All records and documents required to be maintained by a CIS manager in writing or otherwise may be kept by means of mechanical, electronic or other devices provided -

- (a) such method of record keeping is not prohibited under any applicable legislation;
- (b) there are appropriate internal controls in place, to maintain the integrity of the information recorded;
- (c) such method provides a means to furnish promptly to the Commission upon request legible and complete copies of those records of the CIS manager which are required to be preserved; and
- (d) the CIS manager has suitable back-up and disaster recovery plans.

PART VII

SUB-PART A

AUDIT OF COLLECTIVE INVESTMENT SCHEMES

45. Appointment and qualifications of auditor

- (1) The appointment of an auditor of a collective investment scheme shall be made in accordance with section 107 of the Act.
- (2) The auditor of a collective investment scheme shall not be an officer of the custodian, the CIS manager or any support functionary of the collective investment scheme.
- (3) An auditor shall cease to hold appointment as auditor of a collective investment scheme where the auditor no longer fulfils the requirements of this regulation or where the Commission withdraws its approval.
- (4) Where the CIS manager or the collective investment scheme revokes the appointment of the auditor it shall forthwith notify the Commission of the revocation and the reasons thereof.
- (5) Where there is no auditor appointed, the CIS manager or the collective investment scheme shall as soon as practicable appoint a new auditor.

46. Audit of accounts

The auditor shall audit the financial statements of the collective investment scheme in accordance with section 106 of the Act and these Regulations.

47. Duty to report

- (1) The auditor of the collective investment scheme shall report forthwith to the Commission any matter arising under section 107 of the Act and any matter he becomes aware of in his capacity as auditor which -
 - (a) is likely to lead to a serious qualification or total disclaimer of opinion or refusal of the auditor's report on the accounts of the collective investment scheme; or
 - (b) indicates material defects in the internal control systems or in the accounting records of the scheme.
- (2) The Commission may call upon the auditor of a scheme to supply it with such information as it may specify.
- (3) The auditor shall send to the board of the collective investment scheme and to the CIS manager a copy of any written report made by him to the Commission under paragraph (1).

48. Safe-harbour provisions

No duty to which an auditor of a collective investment scheme may be subject shall be regarded as breached by reason of his communicating in good faith to the Commission any information under these Regulations or by his complying with any obligation imposed on him by these Regulations or the Commission.

SUB-PART B

AUDIT OF CIS MANAGERS

49. General Requirements

Regulations 45 to 48 apply, mutatis mutandis, to the auditor of a CIS manager.

PART VIII

**COLLECTIVE INVESTMENT SCHEME PROSPECTUS, ANNUAL REPORTS
AND INTERIM REPORTS**

50. Documents to be filed and published by CIS managers

- (1) In accordance with section 106 of the Act and the provisions of this Part, the CIS manager or a self-managed scheme shall file with the Commission the following documents relating to the scheme it manages -
 - (a) the prospectus or offer document of the collective investment scheme;

- (b) the annual report of the scheme prepared in accordance with the Sixth Schedule; and
 - (c) the interim report, prepared in accordance with the Seventh Schedule, for each quarter of a financial year.
- (2) In accordance with section 106(2) of the Act a CIS Manager holding a licence shall file interim financial statements with the Commission for each quarter of a financial year.
 - (3) Subject to Paragraph (4), the interim report and annual report of a scheme, filed with the Commission, shall be made public.
 - (4) Paragraph (3) shall not apply to a Global scheme unless the Commission deems it is required.
 - (5) The requirement to file interim reports with the Commission shall not apply for the quarter where the closing date coincides with the balance sheet date.
 - (6) A corporation holding a Category 1 Global Business Licence shall be deemed to comply with section 106 of the Act and this regulation where the interim financial statements and audited annual financial statements are prepared in accordance with such internationally recognised accounting standards as may be agreed with the Commission from time to time.

51. Prospectus or offer document of a collective investment scheme

- (1) For the purposes of this Part, the constitutive documents of a collective investment scheme shall, except as provided by paragraph (3), form an integral part of the prospectus or offer document of a collective investment scheme.
- (2) The prospectus or offer document of a collective investment scheme shall include-
 - (a) information prescribed in the Fourth Schedule and any other information provided for under these Regulations, and
 - (b) any further information that may be necessary to enable participants to make an informed judgement as to the investment proposed.
- (3) Notwithstanding paragraph (1), the constitutive documents of a collective investment scheme may not be annexed to the prospectus or offer document of a collective investment scheme where-

- (a) participants and potential participants are informed of its contents in the prospectus or offer document of the collective investment scheme,
 - (b) the constitutive documents will be sent to them free of charge on request; or
 - (c) participants and potential participants are informed of the place in Mauritius where the documents are available for inspection.
- (4) Where any significant change occurs or any new information arises which should be stated in the prospectus or offer document after it has been filed with the Commission, an addendum may be inserted into the prospectus or offer document of the collective investment scheme and it shall forthwith notify the Commission by filing a copy of the addendum therewith.
- (5) An addendum filed with the Commission shall be valid unless the Commission rejects such a change or such new information.
- (6) Subject to paragraph (5), the Commission may request the collective investment scheme to file a new prospectus if it so deems appropriate.

52. Approval of financial statements

The financial statements of a collective investment scheme shall be approved by the board of directors, or governing body having equivalent capacity, of the collective investment scheme.

53. Contents of annual and interim reports

- (1) The annual report of a collective investment scheme shall comply with the requirements of the Sixth Schedule.
- (2) The interim report of a collective investment scheme shall comply with the requirements of the Seventh Schedule.

54. Publication of documents

- (1) The CIS manager shall submit to the Commission, on request, all information relevant to the reports and accounts of the collective investment scheme.
- (2) Any prospectus, advertisement or other information promoting a collective investment scheme in Mauritius shall indicate where those documents or particulars may be accessible to the public.

- (3) The CIS manager shall not cause a sale of shares in the collective investment scheme to any person unless it has offered to that person a copy of-
 - (a) the prospectus or offer document of the collective investment scheme;
 - (b) the most recent annual report;
 - (c) any subsequent interim report.
- (4) The CIS manager shall make copies of-
 - (a) the collective investment prospectus or offer document;
 - (b) the constitutive documents, where not annexed to the collective investment prospectus or offer document; and
 - (c) the annual and interim reportsavailable for inspection by potential participants at the place specified in the prospectus or offer document.
- (5) The CIS manager shall, at the request of any participant in the collective investment scheme, supply to that person free of charge a copy of the most recent collective investment prospectus or offer document, annual report and any subsequent interim report.

PART IX

GENERAL REQUIREMENTS FOR COLLECTIVE INVESTMENT SCHEMES

55. Publication of prices

- (1) Subject to paragraph (2), the collective investment scheme shall in the manner and at the frequency described in the prospectus, publish the issue, sale, repurchase and redemption prices of the shares of the collective investment scheme.
- (2) Any publication under paragraph (1) shall be done at least once in every week or at such frequency as may be approved by the Commission.

56. Shares

The interests of participants in a collective investment scheme shall consist of shares or fraction of shares and each share or fraction of share shall be treated as representing the interest of the participant in the capital assets of the collective investment scheme.

57. Payments out of and into the assets of a collective investment scheme

- (1) No expense shall be paid out of the assets of a collective investment scheme unless clearly disclosed in the prospectus or offer document of the collective investment scheme.
- (2) The periodic fees of the CIS manager paid out of the assets of a collective investment scheme by way of remuneration, shall be calculated and accrued and be paid in the manner determined by the constitutive documents of the collective investment scheme.
- (3) The fees of the custodian paid out of the assets of a collective investment scheme shall be calculated and accrued and be paid in the manner determined by the constitutive documents of the collective investment scheme.
- (4) All payments or repayments of an income nature payable out of or into the assets of a collective investment scheme shall be paid out of or into the income assets of the collective investment scheme.
- (5) All payments or repayments of a capital nature payable out of or into the assets of a collective investment scheme shall be payable out of or into the capital assets of the collective investment scheme.
- (6) All payments of an income nature payable out of the assets of a collective investment scheme shall, to the extent that the income assets of the collective investment scheme are insufficient to meet them when they fall due for payment, be paid out of the capital assets of the collective investment scheme.

58. Creation, issue, repurchases and redemptions of shares

- (1) The constitutive documents of a collective investment scheme shall provide for the creation, cancellation, sale, repurchase and redemption of shares, the valuation of the assets of the collective investment scheme and the calculation of the sale, issue, repurchase and redemption prices of shares.
- (2) Subject to these Regulations, a participant in a collective investment scheme shall be entitled to have his shares repurchased or redeemed in accordance with the terms of the constitutive documents of the collective investment scheme at a price

related to the net value of the assets to which the shares relate and determined in accordance with the terms published in the prospectus or offer document.

- (3) A collective investment scheme shall be treated as complying with paragraph (2) where the constitutive documents of the collective investment scheme require the CIS manager to ensure that a participant is able to sell his shares on a licensed securities exchange at a price not significantly different from that mentioned in paragraph (2).
- (4) The CIS manager may suspend the repurchase or redemption of shares at any time for a period not exceeding 30 days, if it is of the opinion that there is good and sufficient reason to so suspend the repurchase or redemption of shares having regard to the interests of the participants.
- (5) A collective investment scheme shall not accept a purchase order for shares of the collective investment scheme throughout the duration of the suspension.
- (6) The CIS manager shall –
 - (a) forthwith give written notice to the Commission of any suspension under paragraph (4); and
 - (b) publish the notice of the suspension in two daily local newspapers where shares are offered in Mauritius or otherwise inform participants by way of reasonable means.
- (7) Where the Commission is satisfied that the suspension is necessary in the interest of the participants or of the public it may by notice in writing to the CIS manager require it to suspend the repurchase or redemption of shares for a period specified in the notice.

59. Valuation and pricing

- (1) Except in the case of the first public offering, purchase and redemption prices of shares of a collective investment scheme shall be established on the basis of the net asset value calculated as provided in the prospectus or offer document of the scheme.

- (2) The net asset value of a collective investment scheme shall, preferably, be calculated at least once every business day and where such calculation is not possible for the reasons stated in the prospectus of the scheme, it shall be calculated at least once every week or at such frequency as may be approved by the Commission.
- (3) The collective investment scheme shall describe in its prospectus, the valuation method that it will employ in valuing its portfolio securities to arrive at a net asset value.
- (4) The collective investment scheme shall describe in its prospectus the valuation method used for illiquid assets.

60. Advertising

- (1) A collective investment scheme offering shares in Mauritius shall not issue, use or cause to be issued or used for any purpose any advertisement for or in connection with the collective investment scheme unless a copy of the advertisement is forwarded to the Commission not later than 5 working days prior to the date of first issue or use.
- (2) Where on receipt of a copy of the advertisement under paragraph (1), the Commission is not satisfied with the advertisement, it shall before the date of first issue or use require the collective investment scheme to amend, withdraw or refrain from issuing or using an advertisement as in its discretion it may determine.
- (3) For the purposes of paragraphs (1) and (2), “advertisement” does not include any publication of the issue, sale, repurchase or redemption prices of shares.
- (4) An advertisement of a collective investment scheme shall include a warning statement that -
 - (a) the price of shares, and the income from them (if the collective investment scheme pays a dividend), may decrease or increase; and
 - (b) in certain circumstances a participant’s right to redeem his shares may be suspended.
- (5) The warning statement shall be printed in type of at least the same size as the rest of the text in the advertisement or in smaller text where it is prominently outlined.

61. Inclusion of performance data

- (1) Where performance data or estimated yield is quoted in the prospectus or offer document of a collective investment scheme or in an advertisement or any other invitation to the public to invest, the Commission may require justification of the calculation.
- (2) No forecast of the performance of a collective investment scheme shall be made in the prospectus or offer document of a collective investment scheme or in an advertisement or any invitation to the public to invest.
- (3) For the purposes of paragraph (2), a prospective yield shall not constitute a forecast of performance.
- (4) The requirements under this regulation shall apply to a collective investment scheme offering shares in Mauritius.

62. Changes to collective investment scheme documentation

- (1) Subject to paragraph (2) and except with the prior approval of the Commission and, if applicable, of the shareholders of the collective investment scheme, no alteration shall be made to the constitutive documents of a collective investment scheme.
- (2) The constitutive documents may be altered by the CIS manager or the self managed scheme where in its opinion the proposed alteration-
 - (a) is necessary to enable compliance with fiscal or other statutory or official requirements;
 - (b) is necessary to correct a manifest error;
 - (c) does not materially prejudice participants' interests;
 - (d) does not to any material extent release the custodian, CIS manager or any other person from any liability to participants; or
 - (e) does not increase the costs and charges payable from the collective investment scheme assets.

63. Transactions with connected persons

- (1) No person shall enter into underwriting or sub-underwriting contracts on behalf of a collective investment scheme.
- (2) Cash received on behalf of the collective investment scheme by the custodian, the CIS manager, the investment adviser or with any associates of these companies, being an institution authorised to accept deposits, shall be negotiated at arm's length.
- (3) All transactions carried out by or on behalf of the collective investment scheme must be at arm's length and, in particular, any transactions between the collective investment scheme and
 - (a) the CIS manager;
 - (b) the investment adviser or investment dealer;
 - (c) the directors, the trustee or a member of the governing body of the collective investment scheme or any of their associates as principal.

64. Meetings

A collective investment scheme, other than a Global scheme, shall arrange to conduct general meetings of participants as follows-

- (a) participants must be able to appoint proxies;
- (b) votes should be proportionate to the number of shares held, or to the value of shares held where there are accumulation shares;
- (c) the quorum for meetings at which a special resolution is to be considered shall be the holders of 25 % of the shares in issue, and 10% if only an ordinary resolution is to be considered;
- (d) if within half an hour from the time appointed for the meeting a quorum is not present, the meeting should stand adjourned for not less than 14 days and the quorum at an adjourned meeting will be those persons present in person or by proxy;
- (e) if the possibility exists of a conflict of interest between different classes of participant there should be provision for class meetings;
- (f) a Special Meeting shall be called for the following purposes-

- (i) to modify, alter or add to the constitutive documents, except as provided in these Regulations;
- (ii) subject to the terms of the constitutive documents, to terminate the collective investment scheme;
- (iii) to increase the maximum fees paid to the CIS manager, custodian or directors of the collective investment scheme; or
- (iv) to impose other types of fee;
- (g) the officers of the collective investment scheme, the custodian, the CIS manager, investment adviser and any connected persons shall be prohibited from voting their beneficially owned shares at, or counted in the quorum for, a meeting at which they have a material interest in the business to be conducted;
- (h) an ordinary resolution may be passed by a simple majority of the votes of those present and entitled to vote in person or by proxy at a duly convened meeting; and
- (i) a special resolution may only be passed by 75% or more of the votes of those present and entitled to vote in person or by proxy at a duly convened meeting.

PART X

INVESTMENT RESTRICTIONS AND PRACTICES

65. Investment restrictions

Subject to regulation 67, a collective investment scheme shall not -

- (a) purchase a security, other than a debt security issued by the Government of Mauritius or the government of any other country, if, immediately after the purchase, more than 5% of its net assets, taken at market value at the time of purchase, would be invested in securities of that issuer;
- (b) purchase a security of an issuer where, immediately after the purchase, the collective investment scheme would hold more than 10% of a class of securities of that issuer;
- (c) purchase real estate;
- (d) purchase a mortgage;

- (e) purchase a security for the purpose of exercising control or management of the issuer of the security;
- (f) purchase an illiquid asset if, immediately after the purchase more than 10% of the net assets of the collective investment scheme, taken at market value at the time of the purchase, would consist of illiquid assets;
- (g) except within the limits established by the Commission or, in the case of a specialised fund authorised by the Commission, purchase or sell derivatives;
- (h) except in the case of a specialised CIS authorised by the Commission, purchase or sell a physical commodity, including precious metals.

66. Investment practices

Subject to regulation 67, a collective investment scheme shall not -

- (a) borrow money or provide for the creation of any encumbrance on its assets except in the two following situations –
 - (i) the transaction is a temporary measure to accommodate requests for the redemption of securities of the collective investment scheme while the collective investment scheme effects an orderly liquidation of its assets, and, after giving effect to the transaction, the outstanding amount of all borrowings of the collective investment scheme does not exceed 5% of the net assets of the collective investment scheme taken at market value at the time of the borrowing;
 - (ii) the encumbrance secures a claim for the fees and expenses of the custodian or a sub-custodian for services rendered in that capacity;
- (b) subscribe securities offered by a company under formation;
- (c) engage in the business of underwriting or marketing securities of any other issuer;
- (d) subject to these Regulations lend money, securities or other assets,
- (e) guarantee securities or obligations of another person;
- (f) purchase or sell securities other than through market facilities where these securities are normally bought and sold unless the transaction price approximates the prevailing market price or is negotiated on an arm's length basis;

(g) purchase a security from, or sell a security to, one of the following persons-

- (i) the CIS manager or the custodian;
- (ii) an officer of the CIS manager or the custodian;
- (iii) an affiliate of a person referred to in subparagraphs (g)(i) and (ii), unless the purchase from or sale to the affiliate is carried out at arm's length.

67. Exemptions

Where the Commission is satisfied that a collective investment scheme has sufficient justification to depart from regulations 65 and 66, the scheme may be exempted from the application of these Regulations subject to such terms and conditions as the Commission deems appropriate and provided that the prospectus or offer document of the collective investment scheme shall describe-

- (a) the investment rules that the collective investment scheme shall follow;
- (b) the nature of the risks, including minimum exposure to stock market, sensitivity to rate of interest risk, exposure to currency, concentration risk, derivative risk, foreign investment risk, in illiquid securities risk; and
- (c) the degree of specialisation, in a geographic region or in a particular class or kind of industry.

68. Investment in other collective investment schemes

- (1) Where a collective investment scheme intends to invest in foreign collective investment schemes, it shall -
 - (a) file, where available, a copy of the prospectus or other offering document of the foreign collective investment scheme with the Commission; and
 - (b) make adequate disclosure of its intentions in the prospectus, including the risks associated with the investments.
- (2) A collective investment scheme shall not invest in aggregate more than 5% of its net asset value in the shares of other collective investment schemes.
- (3) A collective investment scheme shall not acquire more than 10% of the shares of any single collective investment scheme.

- (4) Notwithstanding paragraphs (2) and (3), a collective investment scheme may invest all of its assets in a single collective investment scheme and be authorised as a feeder collective investment scheme, provided that the Commission is satisfied that the feeder collective investment scheme shall meet such terms and conditions as the Commission may deem fit .

PART XI

OTHER TYPE OF FUNDS

SUB-PART A

CLOSED-END FUNDS

69. Application

- (1) This Part shall apply -
- (a) to all closed-end funds which are reporting issuers; or.
 - (b) where the closed-end fund is filing a prospectus in accordance with Part V of the Act with the intention, indicated in the prospectus, of applying for a listing on a licensed securities exchange.
- (2) An application to the Commission for the authorisation of a closed-end fund under section 97 of the Act shall be made in accordance with regulation 9 or in accordance with regulation 16 where a closed-end fund holds or proposes to hold a Category 1 Global Business Licence.
- (3) The Commission may, after reviewing the information submitted by the closed-end fund in accordance with paragraph (2) and where the prospectus of the closed-end fund includes the additional disclosure requirements under regulation 74, grant an authorisation under section 97 of the Act.
- (4) Employees and other functionaries of the closed-end fund performing activities which require a licence under the Act shall submit an application for a licence at the time of submitting the information under paragraph (2).
- (5) Closed-end funds are exempted from the provisions of Part II to X of these Regulations, except as otherwise provided.

70. CIS manager

- (1) Subject to paragraph (2), a closed-end fund shall appoint and have at all times a CIS manager in accordance with these Regulations and the CIS manager shall be

subject to all provisions relating to CIS managers under the Act and these Regulations.

- (2) Where the closed-end fund is self-managed in accordance with these Regulations, the board of directors of the fund shall be subject to all provisions relating to a CIS manager.

71. Rules of Conduct, internal control and books and records

Regulations 40, 41 and 44 shall apply to a closed-end fund.

72. Annual and interim reports

- (1) In addition to the disclosure obligations of a reporting issuer prescribed in Part VI of the Act, a closed-end fund registered as reporting issuer shall file with the Commission annual report and quarterly interim report prepared in accordance with the Sixth and Seventh Schedule.
- (2) The requirement under this regulation shall not apply to a closed-end fund holding a Category 1 Global Business Licence.

73. Publicity

Regulation 43 shall apply to closed-end funds.

74. Prospectus

The prospectus of a closed-end fund, shall comply with the provisions of Part V of the Act and any relevant rules concerning prospectuses and shall include additional disclosure requirements as set out in the Fifth Schedule.

SUB-PART B

PROFESSIONAL COLLECTIVE INVESTMENT SCHEMES

75. Application

- (1) This sub-part applies to collective investment schemes offering their shares –
 - (a) solely to sophisticated investors as defined in the Act;
 - (b) as private placements as defined in the Act.

- (2) This sub-part also applies to –
 - (a) closed-end funds which are not reporting issuers;
 - (b) those collective investment schemes that the Commission classifies by rules as professional collective investment schemes.
- (3) The professional collective investment schemes are exempted from the provisions of Parts II to X of these Regulations provided the –
 - (a) shares acquired by the participants shall not be resold to the public and the participants are advised of this restriction at the moment of subscription;
 - (b) collective investment scheme is not listed for trading on a securities exchange.

76. Conditions of exemptions

- (1) The exemptions under regulation 75(3) shall apply only where the collective investment scheme or closed-end fund, duly authorised under Section 97 of the Act, has notified the Commission 15 days before the offering is made and has filed a copy of the prospectus or offering document prepared for the purpose of the offering with the Commission at the same time.
- (2) The collective investment scheme or closed-end fund shall advise the Commission at the conclusion of the offering indicating the total amount and value of shares sold.
- (3) Any departure from the regulations in this sub-part shall require the prior approval of the Commission which may grant such approval subject to such terms and conditions as it deems fit.

SUB-PART C

SPECIALISED COLLECTIVE INVESTMENT SCHEMES

77. Specialised Collective Investment Schemes

- (1) For the purposes of this regulation, a specialised collective investment scheme is one that invests in real estate, derivatives, commodities or any other product authorised by the Commission.
- (2) A person wishing to establish a specialised collective investment scheme as defined in these Regulations shall apply to the Commission for a decision as to whether or not such a scheme would be authorised.

- (3) The Commission shall not give such a decision until it has determined -
- (a) which of the regulations would apply;
 - (b) whether specific rules should be issued;
 - (c) conditions that would apply to such a scheme.

SUB-PART D

EXPERT FUNDS

78. Expert Investor

For the purposes of regulations 78 to 80-

- (a) An **expert investor** means-
 - (i) an investor who makes an initial investment, for his own account, of no less than US\$ 100 000; or
 - (ii) a sophisticated investor as defined in the Act or any similarly defined investor in any other securities legislation.
- (b) “**Board of the fund**” in the case of a company shall mean its board of directors, in the case of a trust shall mean its trustees and in any other case shall refer to the governing body of the fund.
- (c) Any figure expressed in US Dollars shall be taken as including its equivalent in any other currency.

79. Authorisation

- (1) A collective investment scheme may apply to the Commission under this regulation for authorisation as an expert fund.
- (2) The application for authorisation of an expert fund shall include the following documents or information –
 - (i) constitutive document of the scheme;
 - (ii) measures taken to prevent money laundering and financing of terrorism;
 - (iii) latest audited financial statements;
 - (iv) a copy of the offering document given to potential investors; and

- (v) if applicable, information on the CIS manager as requested in regulation 6.

80. Conditions

- (1) An expert fund shall only be available to expert investors.
- (2) An expert fund may appoint a manager who, where appointed, shall be the holder of -
 - (a) a CIS manager licence; or
 - (b) a licence issued by a regulatory body in a jurisdiction having comparable regulation as Mauritius for investor protection.
- (3) The CIS manager of an expert fund need not be resident in Mauritius.
- (4) The Board of the fund or the CIS manager where appointed must satisfy itself that the fund is and continues to be managed in accordance with the fund's constitutive documents.
- (5) The Board of the fund, or the CIS manager where appointed, shall be responsible for ensuring that the provisions of these Regulations applicable to expert funds are complied with.
- (6) The expert fund shall accept as investors in the fund, only such persons as the Board or CIS manager where appointed is satisfied are expert investors.
- (7) The offering document or any other similar document of an expert fund shall -
 - (a) contain a statement to the effect that the expert fund shall be available only to expert investors,
 - (b) contain in a prominent position, the definition of an expert investor; and
 - (c) shall have the following statements in a prominent position -
 - "Investors in [name of the expert fund] are not protected by any statutory compensation arrangements in Mauritius in the event of the fund's failure."*
 - "The Mauritius Financial Services Commission does not vouch for the financial soundness of the fund or for the correctness of any statements made or opinions expressed with regard to it."*

- (8) In accordance with section 30 of the Financial Services Act 2007 the audited accounts of the expert fund shall be filed by the scheme, the CIS manager or the CIS Administrator as appropriate.

81. Exemptions

An expert fund, subject to authorisation from the Commission, shall be exempt from the provisions of these Regulations except for regulations 78 to 81 and Part I and XII.

PART XII

MISCELLANEOUS

82. Notification of winding up

- (1) A collective investment scheme shall forthwith inform the Commission of any winding-up petition or bankruptcy petition served on the CIS manager, custodian or trustee related to it and the measures taken to safeguard the interest of participants.
- (2) The Commission may give such directions it deems fit or take such action it considers necessary to protect the interest of participants.

83. Language

Where any document being submitted to the Commission is in a language other than English or French, it should be translated into either of these languages and certified by a qualified translator before submission.

84. Offences

Without prejudice to any other enactment, any contravention to these Regulations shall be subject to such sanctions as may be specified under the Act and the Financial Services Act 2007.

85. Commencement

These Regulations shall be deemed to have come into operation on 28 September 2007.

Made by the Minister on 6 May 2008

FIRST SCHEDULE

(rule 5)

A collective investment scheme constituted as a trust

1. NAME OF THE SCHEME

A statement of the name of the scheme being a name consistent with the objectives of the scheme stated in accordance with clause 2.

2. INVESTMENT OBJECTIVES

General description of investment objectives to be detailed in the prospectus or offer document.

3. GOVERNING LAW

A statement that the -

- (a) scheme is established under and governed by the laws of Mauritius; or
- (b) scheme is established in such jurisdiction and governed by such laws as the Commission may approve, where a scheme is recognised by or is seeking recognition as a foreign scheme from the Commission.

4. TRUST DEED TO BE BINDING AND AUTHORITATIVE

A statement that the trust deed is binding on each participant as if he had been a party to it and so to be bound by its provisions and authorises and requires the custodian and the CIS manager to do the things required of them through the terms of the deed.

5. DECLARATION OF TRUST

A declaration that the assets of the scheme are held by the custodian for and on behalf of the participants *pari passu*, according to the number of shares held by each participant.

6. CURRENCY

A statement indicating in what currency the accounts of the scheme will be held.

7. ANNUAL ACCOUNTING PERIOD

State the dates in the calendar year on which the annual accounting begins and ends which must, in the case of an umbrella scheme, be the same for all the constituent schemes.

8. ANNUAL ENTITLEMENT DATE

State the date in the calendar year (not being later than two months after the date on which the immediately preceding annual accounting period ends) that is to be the annual entitlement (not including bonus issues and other benefits in kind) date that must, in the case of an umbrella scheme, be the same for all the constituent schemes.

9. PARTICIPANTS LIABILITY TO PAY

A provision that a participant is not liable to make any further payment after he has paid the purchase price of his shares and that no further liability can be imposed on him in respect of the shares which he holds.

10. DURATION OF THE SCHEME

If the scheme is to terminate after the expiration of a particular period, a statement to that effect.

11. CIS MANAGER'S PERIODIC CHARGE

Subject to these regulations-

- (1) a statement authorising the CIS manager to make a periodic charge payable out of the assets of the scheme and specifying how it shall accrue and be paid, with a statement of the maximum of that charge expressed as an annual percentage of the value of the assets of the scheme.
- (2) alternatively a statement authorising the CIS manager to make a periodic charge payable out of the assets of the scheme expressed as a specified annual percentage of the value of the assets of the scheme lower than the maximum referred to in sub-clause (1) with authority to increase it to a larger percentage of that value (not greater than that maximum) but with effect only from the expiry of three months from the date on which the CIS manager gives notice in writing to each participant entered on the register of its intention to do so.

12. UMBRELLA COLLECTIVE INVESTMENT SCHEMES: CIS MANAGER'S CHARGE ON AN EXCHANGE OF SHARES

Subject to these regulations, a statement authorising the CIS manager of an umbrella collective investment scheme to make a charge of a fixed amount on the exchange of shares in one constituent part (other than the first exchange by a participant in any one annual accounting period) and specifying what the maximum of that amount may be.

13. CUSTODIAN'S REMUNERATION

A statement authorising the CIS manager to make payments to the custodian by way of remuneration for its services, relieving the custodian from any obligation to account for those payments to the participants or any of them and specifying the basis on which that remuneration is to be calculated and how it should accrue and be paid.

14. CUSTODIAN'S REMUNERATION CHARGEABLE TO THE ASSETS OF THE SCHEME

A statement authorising any payments to the custodian, by way of remuneration for its services, to be paid (in whole or in part) out of the assets of the scheme.

15. CUSTODIAN'S DISBURSEMENTS

The descriptions of expenses or disbursements of the custodian which are payable out of the assets of the scheme.

16. INITIAL PRICE

A statement of the initial offering price of shares, including a breakdown on how it has been calculated and by identifying clearly the preliminary charges or expenses.

17. INVESTMENT IN COLLECTIVE INVESTMENT SCHEMES MANAGED BY THE CIS MANAGER OR A CONNECTED PERSON

Subject to these Regulations, a statement as to whether or not the assets of the scheme may include shares in another collective investment scheme that is

- (a) managed by the CIS manager or by another company in the same group as the CIS manager; or
- (b) managed by any person who is a controller of the CIS manager or of which the CIS manager is the controller.

18. INTERIM ENTITLEMENT DATE

A provision authorising or requiring interim entitlement, not including bonus issues and other benefits in kind and either specifying what the interim accounting period or periods is or are to be and what the interim entitlement date or dates is or are to be or stating that those matters are left to the discretion of the collective investment scheme CIS manager.

SECOND SCHEDULE

(rule 5)

A collective investment scheme constituted as a company

1. GOVERNING LAW

A statement that the -

- (a) constitution is made under and governed by the laws of Mauritius; or
- (b) constitutive documents are made in such jurisdiction and governed by such laws as the Commission may approve, where a scheme is recognised by or is seeking recognition as a foreign scheme from the Commission.

2. INVESTMENT OBJECTIVES

A broad description of the investment objectives to be detailed in the prospectus or offer document

3. BASE CURRENCY

A statement indicating in what currency the accounts of the scheme will be held.

4. ANNUAL ACCOUNTING PERIOD

State the dates in the calendar year on which the annual accounting begins and ends which must, in the case of an umbrella collective investment scheme, be the same for all the constituent collective investment schemes.

5. ANNUAL ENTITLEMENT DATE

State the date in the calendar year (not being later than two months after the date on which the immediately preceding annual accounting period ends) that is to be annual entitlement (not including bonus issues and other benefits in kind) date that must, in the case of an umbrella collective investment scheme, be the same for all the constituent collective investment schemes.

6. NO PARTLY PAID SHARES

A provision that no partly paid shares may be issued and no credit shall be granted to participants or potential participants.

7. MANAGEMENT OR INVESTMENT COMPANY'S PERIODIC CHARGE

Subject to these regulations-

- (1) a statement authorising the company to make a periodic charge payable out of the assets of the scheme and specifying how it should accrue and be paid with a statement of the maximum of that charge expressed as an annual percentage of the value of the assets of the scheme.
- (2) alternatively a statement authorising the company to make a periodic charge payable out of the assets of the scheme expressed as a specified annual percentage of the value of the assets of the scheme lower than the maximum referred to in sub-clause (1) with authority to increase it to a larger percentage of that value (not greater than that maximum) but with effect only from the expiry of three months from the date on which the scheme CIS manager gives notice in writing to each participant entered on the register of its intention to do so.

8. CUSTODIAN'S REMUNERATION

Subject to these regulations, a statement authorising the CIS manager to make payments to the custodian by way of remuneration for its services, relieving the custodian from any obligation to account for those payments to the participants or any of them and specifying the basis on which that remuneration is to be calculated and how it should accrue and be paid.

9. CUSTODIAN'S REMUNERATION CHARGEABLE TO THE ASSETS OF THE COLLECTIVE INVESTMENT SCHEME

A statement authorising any payments to the custodian by way of remuneration for its services to be paid (in whole or in part) out of the assets of the scheme.

10. CUSTODIAN'S DISBURSEMENTS

The description of any expenses or disbursements of the custodian which are payable out of the assets of the scheme.

11. INITIAL PRICE

A statement of the initial offering price of shares, including a breakdown on how it has been calculated and by identifying clearly the preliminary charges or expenses.

12. INTERIM ENTITLEMENT DATE

If interim entitlement, not including bonus issues and other benefits in kind, are to be authorised or required, a provision so stating and also either specifying what the interim accounting period or periods is or are to be and what the interim entitlement date or dates is or are to be or stating that those matters are left to the discretion of the scheme CIS manager and directors.

THIRD SCHEDULE
(rule 9 and 16)
**INFORMATION TO BE CONTAINED IN AN APPLICATION FOR
AUTHORISATION**

(Note: If the information required is contained in the prospectus, it may be omitted from the form of application)

General details of the collective investment scheme

1. Name of the collective investment scheme.
2. Names of the sub-collective investment schemes (if any).
3. Structure of the collective investment scheme (including number of sub classes/funds, if any).
4. Applicable Act and the date and country of establishment/incorporation.
5. Listing on any securities exchange and authorisation granted by other regulatory bodies.
6. Undertakings given to other regulatory bodies.
7. Launch: date and place.
8. Dealing: daily/weekly/other.
9. Valuation of assets: daily/weekly/other.
10. Pricing: forward/ other.
11. Investment plans to be offered in Mauritius and other jurisdictions.
12. (a) Customer Due Diligence ('CDD') documents on:
 - (i) the promoter(s) of Collective Investment Schemes, Private Equity Funds, Venture Capital Funds, Investment Companies, CIS manager and Investment Adviser/ Manager and
 - (ii) each controlling shareholder of CIS manager are to be submitted in original or as certified true copies. *(Where any of the documents is in a language other than English or French, it should be translated into either of these languages and certified by a qualified translator before submission to the Commission).*
- (b) Subject to paragraph (a), the documents to be submitted, as the case may be, are as follows:
 - (i) Individual
 1. CV details
 2. Valid passport copy
 3. Bank Reference from a recognized banking institution which has known the person for at least the last two years
 - (ii) Corporate Body
 1. Certificate of Incorporation/Certificate of Good Standing
 2. List of controlling shareholders and directors

3. (a) Latest audited financial statements
(b) Corporate Profile - in case latest audited accounts are not available
(e.g. Name of entity-partnership/Date of formation/Country of formation/Registered Address/Issued Capital, and Committed Capital if higher/controlling shareholders/members/directors-managing principals/business activity/financial highlights[dt/mn/yr]-total assets-total liabilities)
4. Confirmation from the Management Company to the effect that it holds on records CDD documents on the controlling shareholders of the corporate body and that these will be made available to the Commission upon request

(iii) Trust

1. Name of the trust, its date and place of registration
2. An indication of the value of assets held by the trust
3. CDD documents on the -
 - (a) settlor/contributor and the trustee
 - (b) beneficiaries, or confirmation from the management company that it holds on records comfort on the beneficiaries, that has been obtained from a recognized source
4. For a discretionary trust, a written confirmation from the Management Company to the effect that it has adequate arrangements in place with the trustee of the trust to make available to the Management Company, CDD documents on the beneficiaries at the time of distributions to beneficiaries of the trust and that it is comfortable that these arrangements will enable it to satisfy its obligation under Section 4.1 of the Code on the Prevention of Money Laundering and Terrorist Financing intended for Management Companies.

(iv) Limited Partnership

1. Certificate of Registration/Establishment/Good Standing of the Limited partnership and its General Partner
2. (a) Latest audited financial statements of the Limited Partnership and its General Partner
(b) Corporate profile – in case latest audited accounts are not available
3. Confirmation from the Management Company to the effect that it holds on records CDD documents on the significant Limited Partners of the Limited Partnership and that these will be made available to the Commission upon request

- (v) Société
 - 1. Profile of the Société (including a copy of the acte de société)
 - 2. Details and comfort (as per 7a above) on the principals, administrators or gérants of the société
- (c) Where reliance is placed upon Eligible or Group Introducer to satisfy obligations as regard Customer Due Diligence checks, a copy of the Eligible or Group Introducer Certificate – specifying that the Eligible or Group Introducer is regulated for money laundering purposes or/is subject to rules of professional conduct pertaining to money laundering
- (d) Where the applicant for business is a listed company or a regulated financial service business or a government administration/enterprise or statutory body or a pension, superannuation or similar scheme, reference should be made to the relevant section of the Code on the Prevention of Money Laundering and Terrorist Financing intended for Investment Businesses ('Code').

For each collective investment scheme or sub-collective investment scheme

- 13. (1) Fee structure
 - (a) level of all charges payable by participant; and
 - (b) level/basis of calculation of all charges payable by the collective investment scheme.
- (2) Subject to these regulations, for equity or bond collective investment schemes
 - (a) investment objective and borrowing powers; and
 - (b) currency of denomination.
- (3) Minimum initial subscription and the minimum subsequent holding.

Details of the parties to the collective investment scheme

- 14. The CIS manager (if applicable)
 - (a) Name
 - (b) Registered/business address.
 - (c) Name of the ultimate holding company.
 - (d) (i) Previously licensed by the Commission to manage authorised collective investment schemes?
(ii) If no, whether an application for a CIS manager licence has been or will be submitted to the Commission.

- (iii) For a Global scheme whether the CIS manager is established in a foreign jurisdiction and specify the jurisdiction.
 - (e) Details of contact person(s).
 - (f) Resumes of directors of the CIS manager and details of key contact person(s).
- 15. The custodian
 - (a) Name .
 - (b) Registered/business address.
 - (c) Name of the ultimate holding company.
 - (d) (i) Previously licensed by the Commission as custodian under the Act?
 - (ii) If no, whether an application for a custodian licence has been or will be submitted to the Commission.
 - (iii) For a Global scheme whether the custodian is established in a foreign jurisdiction and specify the jurisdiction and any licence held.
 - (e) Details of contact person(s).
- 16. The investment adviser (if any)
 - (a) Name.
 - (b) Registered/business address.
 - (c) Name of the ultimate holding company.
- 17. For the custodian, CIS manager and investment adviser
 - (a) which, if any, of these companies are connected persons,
 - (b) name anyone who holds appointments, as director or officer, with more than one of these companies.
- 18. The auditor
 - (a) Name.
 - (b) Registered/business address.
- 19. The principal investment dealer\ broker (if any)
 - (a) Name.
 - (b) Registered/business address.
 - (c) The approximate percentage of the scheme's transactions in value of securities carried out by the principal broker/ investment dealer within the latest financial year of the scheme.
 - (d) Whether the custodian, the directors of the scheme, the CIS manager or the investment adviser is a connected person of the principal broker/ investment dealer.

20. Legal advisers in Mauritius (if any).

- (a) Name.
- (b) Details of contact person(s).

Additional details on the collective investment scheme

21. Details of the main clauses or drafts of agreements to be concluded with the different functionaries, if not included in the Private Placement Memorandum.

22. In case the CIS is structured as a trust under the Trust Act 2001, please provide the following:

- (a) A certified true copy of the Trust Deed
- (b) Details of the Trustee:
 - (i) Certificate of Incorporation
 - (ii) List of directors and controlling shareholders
(not applicable if trustee is from an equivalent jurisdiction)
 - (iii) Copy of the latest available audited financial statements
(not applicable if trustee is from an equivalent jurisdiction)
 - (iv) Certified true copy of any licence/registration/authorization held which enables it to act as Trustee

23. Customer Due Diligence ('CDD') and Anti-Money Laundering ('AML') measures.

Confirmation is required from the Applicant that all CDD and AML check documents on investors in the CIS will be made available to the FSC upon request.

24. In case the Global scheme is structured as a Protected Cell Company, please provide the following:

- (i) Details of first cell/s to be created
- (ii) Confirmation that at least one cell will be operational as and when the Company is licensed.
- (iii) An indication as to the number of cells to be set up initially
- (iv) Confirmation that no cell will be created unless the prior approval of the FSC is secured. (Please note that a copy of the supplemental offer document or any document to be circulated for the new cell created should accompany the request).

25. Structure Chart

26. Incorporation Documents:

- (a) Copy of the Constitution and the required legal certificate
- (b) Certified copies of statutory documents required for the incorporation.

27. Additional documentation required in case of Application for Conversion of a GBC2 to a GBC1
- (a) Declaration By Existing Applicant
 - (b) Certified copy of an updated register of directors and shareholders of the Applicant
 - (c) An indication as to how active the Company has been since inception
 - (d) Original Certificate of Current Standing by the Registrar of Companies
 - (e) Certified copy of the shareholder's resolution for the change in legal regime of the Applicant
 - (f) Original Category 2 Global Business Licence - if still valid as at that date

FOURTH SCHEDULE
(rule 9, 16 and 51)
PROSPECTUS OF A COLLECTIVE INVESTMENT SCHEME

IMPORTANT

The prospectus constitutes the fundamental base of information for the subscribers of shares of a collective investment scheme and must be reviewed and updated by the scheme as it becomes necessary. Whenever the prospectus is amended, a copy of the addendum shall be filed with the Commission.

Information under all headings must be completed in accordance with the requirements of this Schedule and specific requirements of the Securities Act, including any regulations and rules made thereunder. The information must be presented in a clear manner that will facilitate reading and understanding by the investors.

The information required by this Schedule constitutes a minimum and the collective investment scheme may add other information as long as it is not misleading and is designed to increase the comprehension of the investment being proposed.

In the case of a family of schemes, the prospectus may be divided into different parts. For example, specific information about each scheme in the family could be in the first part and general information that applies to all the schemes could be in the last part of the prospectus. Also, in the first part, general information on collective investment schemes may be given to assist the investor in the understanding of that type of investment and the risks involved.

The prospectus shall include full disclosure of the information required by the investors to make a decision on the investment.

Heading I: Presentation of the Collective investment scheme

- (1) **General Information concerning the collective investment scheme, indicating its principal sphere of activity from among the following list or another activity defined by the scheme -**

Mauritian Shares CIS

The CIS will invest at least 60% of its assets in shares of Mauritian companies.

Foreign Securities CIS

The CIS will invest at least 60% of its assets in foreign securities. If the

CIS wishes to invest at least 60% of its assets in European securities then it should identify itself as a ***European Securities CIS***.

Debt Securities CIS

The CIS will invest at least 60% of its assets in debt securities. The CIS must indicate if debt securities of foreign markets are included in the amount to be invested. If more than 50% of the assets are to be invested in foreign debt securities, then the CIS should be identified as a ***Foreign Debt Securities CIS***.

Diversified CIS

The CIS will invest in a mix of assets, including domestic and foreign securities. As much as possible, the mix should be described, without restricting the investing activities of the CIS.

Money Market CIS

The CIS restricts its investments to short term (less than one year to maturity) corporate and government debt securities (such as Treasury bills) and commercial paper. The CIS could also include debt securities of a maturity of between one to two years. In this case, the CIS should indicate what percentage of assets these securities will represent.

This list is not exhaustive and if the activity of the CIS does not fit within this list, it must clearly identify its sphere of activity so that investors will be able to evaluate the risks of their investment.

(2) Name and Address of Collective investment scheme

State the full name of the collective investment scheme and the address of its head office.

If the name of the scheme was changed during the past twelve months, state its former name.

State the name and address of the promoter, if any.

(3) Constitution of the collective investment scheme

State the law under which the scheme was constituted, the manner, the date of formation and any particularities relating to its legal structure.

Give a summary of the particulars of the constitutive documents, attach copy to the prospectus or indicate where the investor can obtain a copy free of charge.

Heading II: Organisation and Management of the CIS

(1) Give details and principal functions of the

- (a) CIS manager;
- (b) trustee, if applicable;
- (c) principal distributor of the securities of the CIS, if any;
- (d) custodian and, if applicable, sub-custodian;
- (e) CIS administrator;
- (f) auditor;
- (g) investment adviser, if applicable.

(2) Give the names of the members of the board of the CIS and the members of its Compliance Committee, indicating those members that are independent. For each member, provide the following information

- (a) full name;
- (b) functions with date of appointment and duration of term;
- (c) principal occupation outside of the collective investment scheme;
- (d) positions held as a member of the board in other companies.

Where the legal form of the scheme differs, the same information shall be provided for members of the governing body.

Heading III: CIS Manager

Name and address of head office of the CIS manager, date of constitution and law under which constituted.

Name and address of each member of the board of directors, indicating those members that are independent. In the case of independent members, indicate their principal employment.

Name of natural persons acting as portfolio managers, with details qualifications and any previous experience in the management of portfolios of CIS.

Description of the principal functions of the CIS manager and names of the persons occupying these functions.

Circumstances under which the management agreement may be terminated.

If applicable, names of the investment dealers responsible for the marketing of securities of the collective investment scheme and details on the contractual arrangements with this company.

Heading IV: Investment Objectives and Practices and Financial Characteristics

(1) Investment Objectives and Practices

State the fundamental investment objectives of the collective investment scheme, the types of securities in which the collective investment scheme proposes to invest (bonds, shares, money market instruments, etc.), as well as investment policies and practices of the collective investment scheme in pursuing its objectives.

Describe the investment rules to be followed by the collective investment scheme and an explanation as to why these rules may differ from these regulations, if applicable.

Explain the nature of the risks, including minimum exposure to stock market, sensitivity to rate of interest risk, exposure to currency risk, concentration risk, derivative risk, foreign investment risk, investment in illiquid securities risk, etc.

Degree of specialisation (in a geographic region or in a particular class or kind of industry).

Changes in the net asset value.

Diversification: specific limitations imposed and list of companies in which the collective investment scheme holds more than 5% of the securities of a class.

In the case of a collective investment scheme that proposes to acquire securities of other collective investment schemes, describe the measures put in place to resolve the conflicts that may arise, the additional risks, if any and whether the strategy will have an impact on the fees charged and the return on investment.

(2) Type of investors

Type of investors for whom shares of the collective investment scheme would be suitable. In particular, lock-in period recommended for an investment in the fund.

(3) Guarantee or protection

Nature of the guarantee or protection, if any, institution providing the guarantee, purpose, terms and conditions.

(4) Financial Statements

Audited financial statements of the collective investment scheme for the last financial year, presented in accordance with the Sixth Schedule.

(5) Dividends or Distributions

State the amount of dividends or other distributions, if any, paid by the collective investment scheme including income distributed by way of dividend reinvestment, during its last three completed financial years preceding the date of the prospectus.

In the case of a new collective investment scheme, explain when and how the gains of the collective investment scheme will be distributed, if applicable.

(6) Performance

Except in the case of a first offering, provide information on the performance of the collective investment scheme during its last three completed financial years preceding the date of the prospectus, including net asset value at the beginning, plus results (net income and net capital

gain), less distributions of income, net asset value at the end, total return for the year.

The information on performance must follow the requirements prescribed.

(7) Tax Status of Collective investment scheme and Shareholders

Where applicable, state in general terms, if any, the income or other tax consequences to the holders of the shares of the collective investment scheme, either in Mauritius or in a foreign country.

Heading V: Conditions of Operation

(1) Description of Securities Offered

Describe all significant characteristics of the securities offered (dividend rights, liquidation rights, voting rights, etc.) and conditions under which these characteristics may be modified.

Describe the shares being offered, including the currency of denomination and the method of indicating the ownership.

(2) Contractual Plans

Describe all significant characteristics of the contractual plan, including minimum initial investment and subsequent minimum investment, frequencies of investment (weekly, monthly, quarterly, interim or yearly) and rate of the sales charge as a percentage of the net amount invested.

State that the shareholder may cancel the plan at any time at his own discretion, without any additional charges.

(3) Net Asset Value

Describe the method used to calculate the net asset value, including the frequency of the calculations and any other information in accordance with these regulations.

Describe the method used to calculate the value of illiquid assets as defined in the Regulations.

Give, if applicable, the net asset value at the end of the last three completed financial years preceding the date of the prospectus, unless the information is given in the financial statements.

(4) Purchases and Redemptions

Explain the procedure for purchases and redemptions of shares of the collective investment scheme, including places where purchase and redemption orders are received by the collective investment scheme.

If applicable, indicate if a minimum purchase is required.

Indicate that the price of subscription must be fully paid up before the collective investment scheme can act on the order to purchase shares of the collective investment scheme. Indicate that the CIS manager is not allowed to give credit to participants or potential participants.

In the case of a new collective investment scheme where a minimum amount of securities must be subscribed, describe the terms according to which funds will be kept and returned to subscribers if that minimum is not reached, including the name and address of the bank where the funds will be kept.

Give the sales and redemption charges, given as a percentage of the net investment or of the redemption price. If applicable, rates of charges depending on the amount of the purchases or the redemptions. Where investors have a choice between different types of payment of the charges (front load, no load, back load, etc) explain each type in detail and indicate the effect on return on investment of the choice made.

In the case of a contractual plan, give details on sales charges, including a comparison with a one-time purchase. State any right for the investor to recover charges paid if the plan terminates before expiration of the term.

In the case of a collective investment scheme that intends to invest in securities of another collective investment scheme, give details of the agreement concerning sales charges and management fees. Indicate the additional risks, if any, in that type of scheme. Give comparison, if appropriate, of the charges.

Provide a summary of fees and charges payable by the collective investment scheme as follows -

Type of charge	Description including amount or rate
-----------------------	---------------------------------------------

Purchases or redemptions

Amounts payable on -

- (a) purchase of shares
- (b) exchange/transfer of shares to a related fund
- (c) redemption of shares

Services

Amounts payable with respect to -

- (a) management fees paid directly by shareholder
- (b) obtaining certificates
- (c) purchase plans
- (d) withdrawal plans
- (e) other (insert descriptions) - e.g. dividend reinvestment charges, wire order charges

(5) Management Fees and Other Fees and Charges

Method used for calculation of management fees, taking into account the various components and any other information in accordance with these regulations.

Except in the case of a first offering, give the management expense ratio or MER (MER is the percentage that the management expenses represent of the fund's average net assets - For example, if a 100 million fund has 2 million in costs for the year its MER will be 2%) for each of the last three financial years of the collective investment scheme. Where a change to the basis of this calculation is proposed, indicate the effect the proposed change would have had on the ratio during the last financial year. Give a clear explanation as to the MER so that investors will understand.

Indicate any other fees and expenses, including the expenses set out below, that will be charged to the investment scheme and the effect of these fees and expenses on the return on investment.

- (a) the costs of dealing in the assets of the collective investment scheme;
- (b) interest on borrowings permitted under the collective investment scheme and charges incurred in effecting or varying the terms of such borrowings;

- (c) the costs and expenses incurred in obtaining a listing of the shares of the collective investment scheme on any licensed securities exchange;
- (d) taxation and duties payable in respect of the assets of the collective investment scheme, the constitutive documents of the collective investment scheme and the creation and sale of shares;
- (e) any costs incurred in modifying the constitutive documents of the collective investment scheme;
- (f) any costs incurred in the preparation and publication of the collective investment scheme prospectus and other disclosure documents;
- (g) any costs incurred in respect of meetings of the participants;
- (h) any periodic charge payable to the CIS manager;
- (i) the fees of the custodian, and the administrator, if any;
- (j) any expenses or disbursements of the custodian which are authorised by the constitutive documents of the collective investment scheme to be paid out of the assets of the collective investment scheme;
- (k) the fees and expenses of the auditor of the collective investment scheme;
- (l) the costs incurred in respect of the distribution of income to participants;
- (m) the costs incurred in respect of the printing and posting of certificates where applicable;
- (n) costs reasonably incurred in respect of the publication of prices of shares and in respect of the publication and distribution of the collective investment prospectus, annual and interim reports and accounts;
- (o) the costs incurred by the CIS manager and permitted by the constitutive documents; and
- (p) any other costs, incidental to its operation that may be charged to the CIS.

Heading VI: General

(1) Information

Indicate where a subscriber may obtain the constituting documents of the collective investment scheme, if it is not included in the prospectus.

(2) Listing

Indicate if the shares of the CIS will be listed and, if so, where they will be listed, how the quotations are to be understood by the investors and what effect this will have on the net asset value, if any, at the time of purchase or redemption.

(3) Termination

Indicate when and how the investment scheme may be terminated.

Heading VII: Signatures

(1) Company

In the case of a collective investment scheme constituted as a company, the prospectus shall be signed by two authorised members of the board of the collective investment scheme or by two authorised members of the board of the CIS manager.

(2) Trust

In the case of a collective investment scheme constituted as a trust, the prospectus shall be signed by the trustee and by two members of the board of the CIS manager.

(3) Other legal forms

In all other cases, the governing body shall determine who will sign the prospectus

(4) Interpretation

In this schedule, “authorised” means duly authorised by a resolution of the particular board of directors, or the governing body.

FIFTH SCHEDULE
(rule 74)
**PROSPECTUS, ANNUAL AND INTERIM REPORTS
OF CLOSED-END FUNDS**

1. PROSPECTUS

In addition to the contents of the prospectus prescribed in Part V of the Act, the prospectus of a closed-end fund shall, include the following additional information –

- (a) information required in Headings II and III of the Fourth Schedule;
- (b) detailed information required in Heading IV of the Fourth Schedule including, a full description of the investment practices and policies to be followed by the fund and then risks associated with any of these practices and policies.
- (c) other items of information in Heading I of the Fourth Schedule as far as the information requested is applicable.

**2. ANNUAL REPORT AND INTERIM REPORT OF CLOSED-END FUND
REGISTERED AS REPORTING ISSUER**

In addition to the annual report and interim financial statements required under section 88 of the Act, the Sixth Schedule and Seventh Schedules shall apply to closed-end fund registered as reporting issuer.

SIXTH SCHEDULE
(rule 50, 53 and 72)
**CONTENTS OF THE ANNUAL REPORT OF A COLLECTIVE
INVESTMENT SCHEME**

1. ANNUAL AUDITED FINANCIAL STATEMENTS

The audited annual financial statements of a collective investment scheme shall be prepared in accordance with IFRS and audited in accordance with the International Standards on Auditing, and such other standards as may be issued under the Financial Reporting Act 2004.

2. SPECIFIC FINANCIAL STATEMENTS REQUIREMENTS

(1) Notes to the financial statements

The collective investment scheme shall provide, in notes to the financial statements, a detailed description of its expenses, including-

- (a) management fees;
- (b) transfer agent and registrar fees;
- (c) pricing and book keeping fees;
- (d) other expenses such as custodian, audit, filing and legal fees and applicable taxes; and
- (e) any other significant expenses.

(2) Securities lending

- (a) A collective investment scheme shall disclose, in the statement of investment portfolio included in the annual financial statements of the collective investment scheme, or in the notes to the financial statements -
 - (i) the aggregate value of securities that were lent in the securities lending transactions of the collective investment scheme that remain outstanding as at the date of the financial statements; and
 - (ii) the type and aggregate amount of collateral received by the collective investment scheme under securities lending transactions of the collective investment scheme that remain outstanding as at the date of the financial statements.

Commented [FSC1]: Requirement for custodian to report on compliance with the Act, Regulations and FSC Rules has been removed. However, custodians still have the duty to report on non-compliance by virtue of Rule 28 of these Regulations.

Commented [FSC2]: Option to provide only the annual management report to investors no longer valid. The full annual report has to be provided to all investors

- (b) The statement of financial position of a collective investment scheme that has received cash collateral in securities lending transactions that remain outstanding as of the date of the financial statements shall present -
 - (i) the cash collateral received by it as an asset; and
 - (ii) the obligation to repay the cash collateral as a liability.
- (c) The asset and liability referred to in paragraph (b) shall be shown as separate line items in the statement of financial position.
- (d) The statement of profit or loss/ comprehensive income of a collective investment scheme shall present income from securities lending transactions as revenue and not as deductions from expenses.

3. ANNUAL REPORT

- (1) The annual report of a collective investment scheme shall be in accordance with the Companies Act 2001 and shall include:
 - (a) audited financial statements of the scheme;
 - (b) corporate governance report of the scheme; and
 - (c) an annual management report on fund performance as of the date of the annual financial statements prepared by the CIS manager or the Board of a self-managed scheme.
- (2) The annual management report specified in subsection (c) above shall be prepared using plain language and shall present all information concisely in a format that assists in readability and comprehension.
- (3) The annual management report shall be approved by the Board of the CIS Manager and be signed by two directors of the CIS Manager. For self-managed scheme, the annual management report shall be approved by the Board of self-managed scheme and signed by two directors of the self-managed scheme.
- (4) The annual management report shall include-
 - (i) brief summary of the fundamental investment objectives and strategies of the CIS;

Commented [FSC3]: Global Schemes, Retail Funds and Domestic Closed-End Funds that are registered as Reporting Issuers are required to comply with Section 221 of the Companies Act 2001. Exemption provided under the Thirteen Schedule of the Companies Act 2001 for Section 221 shall not be applicable.

Commented [FSC4]: By virtue of Circular letter - CL010705 issued in 2005, Collective Investment Schemes and Closed-End Funds are required to adopt the Code of Corporate Governance. Thus, the requirement to produce a corporate governance report.

Commented [FSC5]: The Board of the CIS Manager or Board of Directors of the Fund in case of self-managed scheme will have to ensure that a signed Annual Management Report is filed with the Commission.

- (ii) discussion on how any material or significant changes in the risk level of the CIS over the financial year affected the overall level of risk associated with an investment in the scheme;
- (iii) provide a summary of the results of operations of the CIS for the financial year to which the annual management report pertains, including, if applicable –
 - any material changes in investments in specific securities and overall asset mix from the previous period;
 - unusual trends such as higher than usual redemptions or sales and the effect of these on the CIS;
 - any other material information or information required to be disclosed pursuant to a direction or exemption received by the CIS.
- (iv) recent developments including discussion of unusual or infrequent events or transactions, economic changes and relevant market conditions that affected performance;
- (v) discussion of the performance of the scheme, including a discussion of the significant components of, and changes to, the statement of financial highlights and past performance;
- (vi) summary of the investment portfolio as of the date of the annual financial statements presented as per table 1 below.
- (vii) financial highlights presented as per table 2 below.

Commented [FSC6]: A format is now prescribed for investment portfolio

Commented [FSC7]: Table for financial highlights has been streamlined.

Table 1: Format for summary of investment portfolio

Name of Security	Type of instrument	Sector	Quoted/ Unquoted	Name of exchange where instrument is quoted	Country of incorporation	Number & type of shares	% Holding	Cost	Market value	Unrealised gain/ (loss)	% of NAV*	Compliance with Reg 65, 66 or 68 of these Regulations

*% of NAV: Market value of investment held in a particular entity at reporting date divided by total NAV.

Table 2: Format for financial highlights

	(insert year/ period)	(insert year/ period)	(insert year/ period)
Total revenue			
Total expenses			
Net asset value			
Realised gains (losses) for the period			
Unrealized gains (losses) for the period			
Total Annual Distributions			
Shares/ units issued			
NAV per share			
Closing market price if quoted			
Management expense ratio			
Portfolio turnover rate			

Notes to table 2:

- (i) Amounts to be shown in Mauritian Rupees unless the financial statements are in a different currency. If so, indicate exchange rate as of the date of the Report.
- (ii) Provide financial data up to a maximum of three years.
- (iii) Management expense ratio is based on total expenses for the stated period and is expressed as an annualized percentage of daily average net assets during the period. In the case of CIS investing in other CIS, the calculation includes an allocation of expenses incurred in the underlying CIS.
- (iv) The CIS portfolio turnover rate indicates how actively the CIS manages its portfolio investments. A portfolio turnover rate of 100% is equivalent to the CIS buying and selling all of the securities in its portfolio once in the course of the year. The higher a CIS portfolio turnover rate in a year, the greater the trading costs payable by the CIS in the year. There is not necessarily a relationship between a high turnover rate and the performance of a CIS. Portfolio turnover rate is not applicable to a money market fund.
- (v) Closing market provided only if CIS is listed on a securities exchange.

Commented [FSC8]: The new format requires Licensee to disclose more information on individual investment and require licensee to ensure that provisions of Rule 65, 66 and 68 are adhered to at all times.

4. APPROVAL OF ANNUAL REPORT

The annual report shall be reviewed and approved by the Board of Directors of the CIS when it is constituted as a company or by the Board of Directors of the CIS manager in other cases.

The annual report shall be signed by two directors of the CIS if constituted as a company or by two directors of the CIS manager in other cases.

SEVENTH SCHEDULE
(rule 50, 53 and 72)
CONTENTS OF THE INTERIM REPORT OF A COLLECTIVE INVESTMENT SCHEME

1. INTERIM REPORT

The interim report shall include the following:

- (a) interim financial statements prepared in accordance with IFRS and such other standards as may be issued under the Financial Reporting Act 2004. The notes to the financial statements shall include:
 - (i) information on securities lending as required by the Sixth Schedule;
 - (ii) a detailed description of the expenses of the collective investment scheme, including-
 - (i) management fees;
 - (ii) transfer agent and registrar fees;
 - (iii) pricing and book keeping fees;
 - (iv) other expenses such as custodian, audit, filing and legal fees and applicable taxes;
 - (v) any other significant expenses relating to the period under review.
 - (iii) breakdown of the assets and liabilities of the scheme; and
 - (iv) any other significant information.
- (b) interim management report of fund performance as of the date of the interim report prepared by the CIS manager or the Board of a self-managed scheme and signed by at least one director of the CIS manager or self-managed scheme, whichever is applicable.

The interim management report shall contain, as much as possible, information required for the annual management report prescribed in the Sixth Schedule and shall include the following:

- (i) a summary of portfolio investments as at the end of the most recently completed interim period of the collective investment scheme presented in the form of table 1 of the Sixth Schedule;

Commented [FSC9]: Previously a list of statements were prescribed. With the coming in force of these amendments, the interim report will have to be prepared in accordance with IFRS specifically IAS 24.

Commented [FSC10]: Licensee is required to file a signed interim management report

(ii) a statement of financial highlights in the form of Table 2 of the Sixth Schedule showing comparative figures for the 2 previous periods.

2. APPROVAL OF INTERIM REPORT

The interim report shall be reviewed and approved by the Board of Directors of the CIS in the case of a CIS constituted as a company or by the Board of Directors of the CIS manager in other cases.

The interim report shall be signed by at least one director of the CIS if constituted as a company or by at least one director of the CIS manager in other cases.

Commented [FSC11]: Requirement to file interim report as signed by at least 1 Director

EIGHTH SCHEDULE
(rule 34 and 44)
BOOKS AND RECORDS

1. BOOKS AND RECORDS

Every CIS manager shall keep such books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs and the transactions that it executes on behalf of the CIS or participants of the CIS.

2. ACCOUNT STATEMENT OF PARTICIPANTS

- (1) Each CIS manager shall send, on behalf of the collective investment scheme, an account statement to each participant in accordance with the following minimum standards –
- (a) once every 12 months for the account of a participant;
 - (b) once a month for nominee accounts of participants where there is an entry during the month and a cash balance or security position.
- (2) Each account statement must contain full information regarding the investment, including -
- (i) market value of investments and other details that will allow each participant to be fully aware of the overall investment; and
 - (ii) contact details of the CIS manager or the Board of the scheme, where it is self-managed.
- (3) The account statement shall be signed by -
- (i) the CIS manager; or
 - (ii) where the scheme is self-managed, the Board of the scheme or the governing body having an equivalent capacity.

3. CONFIRMATIONS OF TRANSACTIONS IN SHARES OF THE SCHEME

- (1) Subject to (2), every CIS manager authorised to carry out transactions in the shares of a collective investment scheme on behalf of participants shall send a confirmation of the transaction to the client in the same manner as prescribed under section 56 of the Act.
- (2) The CIS manager need not send the confirmation if the transaction has taken place with a licensed investment dealer.
- (3) In the case of a participant in a contractual plan, the CIS manager needs only to send a confirmation for the first transaction.