

The text below is an internet version of the Rules made by the Stock Exchange Commission under the repealed Stock Exchange Act 1988 and is for information purpose only. Whilst reasonable care has been taken to ensure its accuracy, the authoritative version is the one published in the *Government Gazette of Mauritius*.

STOCK EXCHANGE (INVESTMENT BY FOREIGN INVESTORS) RULES 1994

GN 162/94-Section 56(f)-17 September 1994

1. These rules may be cited as the Stock Exchange (Investment by Foreign Investors) Rules 1994.
2. In these rules -

“Commission” means the Financial Services Commission established under the Financial Services Act 2007;

[13/01]

“exempt foreign investor” means a foreign investor which is a body corporate (whether open-ended or close-ended), a unit trust or any other collective investment vehicle incorporated or otherwise established with the objective of spreading investment risk and managing assets for the benefit of shareholders and participants and which has been designated as exempt by the Commission under rule 5;

[13/01]

“foreign investor” means a non-citizen or an entity which is not resident in Mauritius;

“group” means corporation, its parent, subsidiaries and fellow subsidiaries and their associated companies (and for this purpose, ownership of 20% or more of the voting capital of a company is regarded as the test of associated company status);

“investment” includes the acquisition by a foreign investor of any interest in a Mauritian company (including either equity or debt securities) or any increase in the percentage of its interest in a Mauritian company as a result of a rights, bonus or similar issue or as a result of a capital reconstruction;

“investment dealer” means a person licensed under section 29 of the Securities Act 2005;

“investor” includes foreign investor and exempt foreign investor;

“Mauritian company” means a company, partnership, société or any other body corporate or unincorporated association which is listed on a securities exchange licensed under the Securities Act 2005 other than -

(a) any such entity which has been designated as an approved investment institution under section 50(A) of the Stock Exchange Act 1988; and

(b) any other such entity as the Commission may from time to time designate;

[13/01; SA 2005]

“Mauritian Sugar Company” means a Mauritian company whose principal activity involves either the cultivation of sugar cane in Mauritius or the production or marketing of sugar and related products or a combination of any of those activities;

“non-citizen” has the same meaning as in the Non-Citizens (Property Restriction) Act.

“resident in Mauritius” has the same meaning as in the Non-citizens (property Restriction) Act;

“securities exchange” means a securities exchange licensed under the Securities Act 2005.

3. (1) No foreign investor shall, without the prior written consent of the Commission, make any investment in securities -
 - (a) for the purpose of or resulting in, the exercise of legal or management control of a Mauritian company;
 - (b) where, as a result, 15 per cent or more of the voting capital (including any capital having an element of equity) of a Mauritian sugar company would be held by foreign investors.
- (2)
 - (a) No investment dealer shall implement any investment transaction if, to its knowledge, having made all reasonable enquiries, it would result in a breach of any restriction specified in paragraph (1).
 - (b) Investment dealers shall take all reasonable steps to determine whether a proposed investment transaction is to be made by or on behalf of a foreign investor.
- (3) The restrictions specified in paragraph (1) (b), shall not apply to exempt foreign investors.
[2/95; 13/01]
4. (1) Any sale or purchase by or on behalf of an investor of securities in Mauritius companies listed on a securities exchange shall be carried out through an investment dealer.
 - (2)
 - (a) The investor shall appoint an investment dealer or such other custodian resident in Mauritius which is acceptable to the Commission to be responsible for the safe custody of documents of title relating to the investors’ investments in Mauritius companies and for arranging for the settlement of purchases and sales of such investments.
 - (b) The investment dealer or such other custodian shall report to the securities exchange (in the format from time to time approved by the Commission) on each purchase and sale of an investment in a Mauritian company made by or on behalf of an investor not later than the business day following the purchase or sale.
 - (3) The securities exchange shall post at a conspicuous place on the trading floor after each trading day all transactions undertaken by foreign investors in each security listed on the securities exchange.
 - (4)
 - (a) Where the securities exchange becomes aware that 10 per cent or more of the voting capital of a Mauritian sugar company is held by foreign investors, other than exempt foreign investors, notification of this fact shall be made to the Commission and all investment dealers, naming the company concerned.
 - (b) Where notification is made under this paragraph (and before its withdrawal), no investment may be made by any foreign investor other than an exempt foreign investor in the company concerned, and no investment dealer shall permit any such investment to be made, without the prior consent of the Commission.

- (5) Companies listed on a securities exchange shall file with the Commission and the securities exchange each month a list of the foreign investors holding investments in them so far as the companies are aware.

[2/95; 13/01]

- 5 (1) The Commission may designate certain foreign investors as exempt foreign investors in accordance with the provisions of this rule.
- (2) An application for the designation of a foreign investor as an exempt foreign investor shall be made to the Commission and shall be accompanied by -
- (a) the Memorandum and Articles of Association or other equivalent constitutional documents of the applicant;
 - (b) a statement of the current investment policy and a copy of the current prospectus or equivalent offering document of the applicant;
 - (c) a statement of the investment restrictions applicable to the applicant where this has not already been provided in the documents submitted under subparagraphs (a) and (b);
 - (d) particulars of the regulatory regime governing the applicant;
 - (e) details of the procedure whereby an applicant may alter its investment policy and restrictions; and
 - (f) any further information that the Commission considers necessary in order to consider the application.
- (3) No foreign investor shall be designated by the Commission as an exempt foreign investor unless the Commission is satisfied that -
- (a) the applicant is an entity of the nature outlined in the definition of exempt foreign investor in these rules;
 - (b) the applicant's investment policy and restrictions are such that it is a passive investor and does not exercise or seek to exercise control over any entity in which it invests, including any Mauritian company;
 - (c) the regulatory regime governing the applicant is at least as rigorous as that imposed upon an approved investment institution in Mauritius; and
 - (d) the applicant is suitable to be accorded the privilege of exempt foreign investor status.
- (4) Any designation by the Commission of a foreign investor as an exempt foreign investor may be subject to conditions, and these conditions may include -
- (a) restrictions as to the percentage of voting capital (including any capital having an element of equity) of any Mauritius company which an exempt foreign investor may hold;
 - (b) the requirement that the Commission be given prior notification of any proposed amendments to the investment policy or restrictions of the exempt foreign investor; and
 - (c) further restrictions which the Commission considers necessary in order to provide for the smooth and orderly operation of the securities exchange.
- (5) The Commission may cancel the designation of an exempt foreign investor where the exempt foreign investor -

- (a) fails to comply with the conditions of its designation as specified by the Commission; or
 - (b) ceases to be regulated by an appropriate regulatory authority; or
 - (c) is no longer considered suitable by the Commission to be accorded the privilege of exempt foreign investor status.
- (6) Where the designation of an exempt foreign investor is cancelled, the foreign investor in question shall have a reasonable time within which to reduce its holdings in Mauritian companies in order to comply with the conditions regarding investments specified in paragraph (2).
- [13/01]**