

**UNIT TRUSTS AND MUTUAL FUNDS  
REGULATIONS, 2001**

IN the exercise of the powers conferred on the Minister for Finance by section 141 of the Securities Industry Law, 1993 (P.N.D.C.L. 333) as amended and on the recommendations of the Securities and Exchange Commission these Regulations are made this 2nd day of November, 2001.

PART I—SCOPE OF REGULATIONS AND APPLICATION TO OPERATE A  
UNIT TRUST OR MUTUAL FUND SCHEME

**Scope of application of Regulations**

1. These Regulations apply to the operation of unit trusts and mutual funds under the Securities Industry Law, 1993 (P.N.D.C.L. 333).

**Application to operate a unit trust or mutual fund**

2. An application to operate a unit trust or mutual fund scheme shall be as in the form and contain the particulars specified in Schedule 10 and shall be accompanied by the scheme particulars.

**Application fee and annual fees**

3. (1) An application for a licence to operate a scheme shall not be considered by the Commission unless the applicant pays to the Commission the application fee specified in Schedule 11.

(2) In addition to the application fee referred to in subregulation (1) there shall be paid not later than the 31st day of January of each year to the Commission for every unit trust and mutual fund scheme licensed by the Commission, an annual fee specified in Schedule 11.

**Rejection of and consequences of a failure to take steps on an application**

4. (1) Where an application made to operate a scheme is rejected by the Commission, the application fee paid by the applicant shall be refunded to the applicant, less a sum equivalent to thirty percent of the fee which shall be retained by the Commission to cover administrative expenditure incurred by the Commission in processing the application.

(2) In the event of the applicant withdrawing the application or being unable to or failing to proceed with the application within a period of three months of being required to do so by the Commission, the applicant shall forfeit the application fee paid.

**Capital requirements**

5. (1) A manager of a unit trust shall as at the date of the application have a minimum issued and paid up capital of €1 billion.

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(2) Every trustee of a unit trust and every custodian of a mutual fund shall as at the date of the application have a minimum issued and paid up capital of ¢5 billion.

(3) Every manager of a mutual fund shall have a minimum issued and paid up capital of ¢1 billion.

(4) The capital requirements stated in subregulations (1),(2) and (3) are subject to review by the Commission.

**Power to require removal of a manager, trustee or custodian**

6. The Commission may require the removal of a manager, trustee or custodian of a scheme where the capital of the manager, trustee or custodian falls below the required minimum specified in regulation 5.

**Minimum subscription requirement for issue of licence**

7. (1) The manager of a unit trust and the promoters of a mutual fund shall set a minimum amount referred to in these Regulations as the “minimum initial subscription” to be raised by the scheme; the minimum initial subscription shall be subject to the approval of the Commission which shall take into account the particulars of the scheme sought to be licensed.

(2) The manager of a unit trust and the promoters of a mutual fund shall guarantee the minimum initial subscription.

(3) The guarantee shall be as in the form and contain the particulars specified in Schedule 9.

(4) The manager of a unit trust and the promoters of a mutual fund shall contribute a minimum of 5 per cent of the minimum initial subscription.

(5) The redemption or cancellation of the minimum initial subscription shall be with the prior approval of the Commission.

(6) The Commission may institute proceedings for the termination of a scheme where the value of the assets of the scheme falls below the value of the initial minimum subscription or such other minimum asset value as the constitution of the scheme or the Commission at the time of issue of a licence may specify.

**PART II —CONSTITUTION OF UNIT TRUST AND MUTUAL FUND SCHEMES****Trust deed of a unit trust**

8. (1) The trust deed of a unit trust shall be in the form prescribed in Schedule 1 and contain the particulars specified in Schedule 2.

(2) A deviation in form shall not affect the validity of the trust deed.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Regulations of a mutual fund**

**9.** (1) The regulations of a mutual fund shall be in the form prescribed either in Schedule 3 for open-end mutual fund or Schedule 4 for closed-end mutual fund and shall contain the particulars specified in either Schedule 5 or Schedule 6.

(2) Any deviation in form shall not affect the validity of the regulations.

## PART III—SCHEME PARTICULARS

**Sale of interests in a scheme and scheme particulars**

**10.** (1) A person shall not directly or indirectly market, offer or sell interests in a scheme, unless a document prepared in English and containing the latest particulars of the scheme and the matters prescribed by these Regulations has been provided to the prospective investor, free of charge.

(2) Any letter, notice, circular, document or prospectus, whether electronic or otherwise that contains scheme particulars shall

- (a) be prepared and issued by the persons specified in Schedule 7;
- (b) contain information that relates to the matters provided in Schedule 7 in addition to any other information required to be disclosed under any other law regulating offers to the public;
- (c) be approved by the manager and trustee of a unit trust or by the manager and board of directors of a mutual fund; and
- (d) be submitted to the Commission for approval prior to dissemination to the public.

(3) A document that contains scheme particulars issued under these Regulations shall

- (a) be updated at least once every twelve months;
- (b) be accordingly amended upon any change or submission of new matter in respect of the particulars; and
- (c) not be disseminated to the public without the prior approval of the Commission.

(4) A document that contains scheme particulars shall be made available for inspection to any person during office hours at the principal place of business of the manager of the scheme in this country without charge.

**Liability for scheme particulars**

**11.** (1) A person responsible for issuing a document that contains the particulars of a scheme is liable to pay compensation to any person who

- (a) purchases or agrees to purchase interests in the scheme; and

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(b) suffers loss due to an untrue or misleading statement or the omission of any particulars required by these Regulations to be in the scheme particulars.

(2) Where the form of a scheme particulars requires details which are not relevant to the particular scheme, the omission of those details shall not be considered as an omission for purposes of these Regulations.

(3) A person shall not incur any liability under these Regulations for any loss in respect of interests in a scheme if the person satisfies the court that at the time when the scheme particulars were prepared or ought to have been revised the person reasonably believed, having made such enquiries as were reasonable, that the statement was true and not misleading or that the matter which caused the loss was properly omitted if

(a) the person continued in that belief until the time when the interests were acquired;

(b) the interests were acquired before it was reasonably practicable to bring a correction to the attention of persons likely to acquire them;

(c) before the interests were acquired the person had taken such steps as were reasonable for the person to have taken to ensure that a correction was brought to the attention of persons likely to acquire them; or

(d) the person who acquired the interests was not influenced, or not influenced to any material extent, by that statement or would not have been influenced to any material extent, by the inclusion of the matter omitted in deciding to acquire the interest.

(4) A person shall not incur any liability under these Regulations if the person satisfies the court that

(a) before the interests were acquired, a correction was published in such a manner as to inform prospective participants in the scheme;

(b) the person took such steps as were reasonable to secure the publication and believed it had taken place before the interests were acquired;

(c) the purchaser acquired the interests with the knowledge that the statement was misleading or with the knowledge of the omitted matter; or

(d) the failure to revise the scheme particulars was because the person reasonably believed that the change or new matter was not such as to require a revision of the scheme particulars.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Advertisements**

- 12.** (1) Any advertisement issued in connection with a scheme
- (a) shall conform to Regulations issued under the Law on the subject of advertising;
  - (b) must have been approved by the trustee of the unit trust in writing or the board of directors of the mutual fund by a duly passed resolution, prior to dissemination.

(2) A person shall not, by an advertisement invite the public to acquire an interest in a scheme unless the scheme particulars prepared and approved under these Regulations are reproduced in the same invitation, except that where the advertisement is only meant to inform the public about the offer, it shall indicate from where the scheme particulars may be obtained.

(3) An advertisement inviting the public to acquire an interest in a scheme shall, where applicable, include the most recently published issue, sale, and repurchase or redemption price of an interest.

**Warning statement**

**13.** (1) An advertisement published in connection with a scheme shall in addition to whatever warning statements are required in respect of advertisements under the Law, include a statement that in certain circumstances an investor's right to redeem the investor's interests may be suspended by the Commission.

(2) Warning statements shall be printed in type of the same size as the rest of the type in the advertisement.

(3) Notwithstanding subregulation (2), warning statements may be in smaller text, if printed in bold type or prominently outlined and reasonably legible.

**Investment plans**

**14.** (1) If an investment plan is offered, it should be described sufficiently in the scheme particulars.

(2) The manager of a scheme shall give to a prospective investment plan holder

- (a) full details, in writing of the rights and obligations of the plan holder;
- (b) the fees, costs and charges to be imposed; and
- (c) the consequences that can accrue from the termination of plans, before the prospective plan holder enters into a contract for the plan.

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(3) The investment plan-holder shall be advised at least once every six months of the opening balance of interests, latest transaction details and the closing balance of interests.

(4) A plan-holder shall be given at least thirty days' notice of any increase in the fees, costs or charges of an investment plan.

**Publication of prices**

**15.** (1) The manager of a unit trust and the board of directors of a mutual fund shall publish or cause to be published in such manner as may be approved by the Commission, the issue, and redemption prices of interests in the scheme on every business day except that with the prior approval of the Commission, the frequency of the publication may be reduced if the reduction is not prejudicial to the interests of investors.

(2) The prices published in consequence of subregulation (1), shall be those calculated at the last valuation point prior to the publication of the prices and shall apply only in respect of prospective transactions.

(3) For the purposes of these Regulations the last valuation point shall be the close of business day immediately preceding the day on which prices of the scheme are published.

## PART IV—PRICING, VALUATION AND DEALING

**Creation and issue of interests**

**16.** (1) The manager of a unit trust and the board of directors of a mutual fund have the exclusive right to create and issue interests for the account of the scheme.

(2) The issues of interests may be subject to a prospective investor purchasing interests of a minimum number and value.

(3) Other than the initial offer and fixed price offer all issues of interests shall be created and issued only on a dealing day.

(4) The creation and issue of interest shall be reported to the trustee or custodian on weekly basis.

(5) Every interest created and every fraction of an interest shall rank *pari passu* proportionately with all other interests of the scheme that are in issue, unless otherwise prescribed by Regulations.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Preliminary charges and exit fees**

**17.** (1) A preliminary charge shall not be paid by an investor or an exit fee recovered from an investor in a scheme, unless specifically authorised by the constitution of the scheme.

(2) The constitution of the scheme shall only authorise a preliminary charge or exit fee and in no event should the investor be required to pay both a preliminary charge and exit fee.

(3) Any charge or fee and the amount of it shall be disclosed to investors prior to investment.

(4) The preliminary charge may be included in the issue price of an interest and expressed as a fixed amount or calculated as a percentage of the creation price of an interest except that the preliminary charge shall not in any event exceed 7 percent of the issue price of an interest.

(5) An exit fee may be included in the redemption price of an interest and expressed as a fixed amount or calculated as a percentage of the price per interest paid on liquidation except that an exit fee shall not in any event exceed 5 per cent of the liquidation price of an interest.

**Initial issue of interests**

**18.** (1) The assets of a scheme may initially be constituted out of the proceeds of an offer of interests at a price per interest exclusive of any floatation cost to be determined by either the manager and the trustee of a unit trust or the manager and board of directors of a mutual fund.

(2) The initial offer shall be at a fixed price.

(3) An initial offer shall remain open for a period not exceeding twenty-one days inclusive of the days on which the offer opens and closes, but the period may be extended with the approval of the Commission.

(4) An initial offer may be subject to a prospective investor purchasing interests of a minimum number and value.

(5) The proceeds of the initial offer, subject to the deduction of preliminary charges if any shall constitute and be included in the assets of the scheme only upon being handed over to the trustee or custodian of the scheme.

(6) An investment of the assets of the scheme shall not be made until the conclusion of the initial offer, except with the approval of the Commission.

**Issues at fixed prices**

**19.** (1) Without prejudice to the preceding provisions of these Regulations, the manager of a unit trust and the board of directors of a mutual fund shall with the approval of the Commission be entitled from time to time to make an invitation to the public to apply for interests at a fixed price (in these Regulations referred to as "the fixed price").

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(2) The fixed price per interest shall be calculated in accordance with regulation 21 and shall be the price per interest at the valuation point immediately preceding the date of publication of the offer.

(3) The fixed price offer shall be kept open for a period not exceeding seven days from the date of the publication.

(4) Any invitation to subscribe to the purchase of units at the fixed price must name at least one newspaper in which the current offer price computed in accordance with these Regulations has been published during the period of the offer.

**Closure of an offer**

**20.** Except in the case of an initial offer of interests, the trustee of a unit trust or the board of directors of a mutual fund shall immediately close or procure to be closed any offer of interests in a scheme if because of fluctuations in value of the assets of the scheme, the fixed price would exceed or be less by more than 10 per cent of the current price per interest calculated in accordance with regulation 21.

**Valuation and pricing**

**21.** (1) The offer and redemption prices of a scheme shall be calculated on the basis of the net asset value of the scheme divided by the number of interests outstanding.

(2) The offer and redemption prices of a scheme may be adjusted by the fees, levies and charges permitted to be made from the assets of the scheme in accordance with regulation 23.

(3) An issue price quoted or published shall be the maximum price payable on the purchase of interests and the redemption price shall be the net prices receivable on the redemption of interests.

(4) There shall be no further charges payable by investors other than stamp duty or other taxes.

**Valuation of unquoted securities**

**22.** (1) The value of investments not listed or quoted shall be based on the net asset value per share based on the last available financial statements subject to an adjustment upwards or downwards of up to 10 per cent to take into account post-balance sheet market conditions except that any adjustment in the price by more than 10 per cent in view of market conditions may be made only in consultation with the trustee of a unit trust or the board of directors of a mutual fund.

(2) The manager shall keep all records used to support the valuation of unquoted securities.



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**23.** (1) The price at which any subsequent issue of interests can be effected shall be ascertained by dividing the value of the assets of the scheme as at the relevant valuation point specified in regulation 19 (2) by the number of interests in issue and deemed to be in issue on that date after adding:

- (a) such sum as the manager of the unit trust or the manager and board of directors of the mutual fund considers represents the appropriate provision for any fees, levies and charges; and
- (b) any preliminary charges, and adjusting the resulting quotient to the nearest cedi per interest.

(2) Any commission or other sum payable in respect of the issue or sale of any interests shall not be added to the price of the interest but shall be paid out of the preliminary charge.

(3) Where arrangement is made for the issue of interests for delivery in any country outside this country, the price at which the interests may be issued may include, as an addition to the price of an interest, a further amount sufficient to cover any additional stamp duty or taxation which may be levied from the issuer either in this country or in the country in which the investor resides.

**Adjustment to issue price**

**24.** Where the trustee of a unit trust or the board of directors of a mutual fund determines after consultation with the manager that it would be detrimental to existing investors to issue or continue to issue interests at a price based on the value of the assets of the scheme, in the case of subsequent issue at a fixed price, the manager may discontinue the issue or adjust the issue price with the approval of the Commission to address any loss caused, except that the issue of interests shall be suspended during any period of consultation under this subregulation.

**Suspension in dealings**

**25.** (1) The manager may, with the approval of the trustee or board of directors of a mutual fund, suspend dealings during

- (a) any period when the stock exchange on which any investments that forms a part of assets of the scheme for the time being are listed, is closed or when dealings at that exchange are restricted or suspended;
- (b) the existence of any state of affairs as a result of which disposal of investments of the scheme would not be reasonably practicable or might seriously prejudice the interests of the investors as a whole and of the assets of the scheme;

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- (c) any breakdown in the means of communication normally employed in determining the value of any investments of the scheme or the current price on any stock exchange or when, for any reason, the value of investments of the scheme cannot be promptly and accurately ascertained; or
  - (d) any period when remittance of money which will or may be involved in the realization of the investment of the scheme or in the payment for investments cannot be carried out.
- (2) The manager of a unit trust or the board of directors of a mutual fund shall immediately notify the Commission of any suspension in dealings and shall provide the reasons for it.
- (3) Notwithstanding subregulation (1), a suspension in dealings may be permitted in exceptional circumstances having regard to the interests of investors and with the prior written consent of the Commission.
- (4) The suspension shall take effect immediately upon its declaration by the manager and dealings shall resume on the first dealing day after the day on which the condition that caused the suspension ceased.
- (5) A notice to the effect that dealings have been suspended or resumed shall be published immediately in the newspaper in which the scheme's prices are normally published and shall be published at least once a month after the first publication during the period of suspension.

**Redemption as applicable to open end schemes**

- 26.** (1) The manager of a scheme shall on receipt by it or by its duly authorized agent of a request in writing from an investor to redeem all or any part of the interests comprised in the investor's holding, proceed to do so at a price per interest as at the date of receipt of the request less any fees, levies and charges attached to the redemption.
- (2) A request for redemption should be satisfied by the manager on first come first serve basis.
- (3) A request for redemption is not valid unless the investor has delivered to the manager or its authorized agent the certificate representing the interests to be purchased, with an endorsement duly completed by the investor or in the case of joint investors, by both or all of them; and where the constitution of the scheme has dispensed with the issue of certificates, the document evidencing ownership of interests in the scheme issued to the investor.

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(4) An investor is not entitled to require the manager to purchase only a part of the investor's interests if, as a result of the purchase, the investor would remain an investor with less than a minimum number of interests where such a minimum has been specified.

(5) The maximum interval between the receipt of a properly documented request for the purchase of interests in a scheme by the manager and the payment of the redemption money to the investor shall not exceed five working days, except that if for any reason it is not possible to make payment of the redemption money within this time frame, the Commission shall be notified immediately of this with reasons.

(6) The payment for redemption shall be the responsibility of the trustee or custodian but this may be delegated to the manager.

(7) The manager of a scheme shall ensure that a level of liquidity amounting to at least 5 per cent of the assets of the scheme is maintained in cash or near cash, to facilitate redemption, except that this level of liquidity may be varied with the prior approval of the Commission.

(8) The expression 'near cash' in this regulation means liquid investments that are readily convertible into known amounts of cash and those that present insignificant risk of change of value.

(9) A receipt signed by the investor for the monies paid to the investor in respect of the interests held by the investor shall be a valid and sufficient discharge to the manager and the trustee of a unit trust or the manager and board of directors of a mutual fund, of all obligations on account of an application for the redemption of interests, and in the case of several persons who are registered as joint investors, the receipt shall be signed by every one of the investors.

**Redemption in excess**

27. (1) Where redemption or requests to purchase on any dealing day exceed 5 per cent of the total number of interests of the scheme in issue,

(a) redemption requests in excess of the 5 per cent may be deferred to the next dealing day; and

(b) the Commission shall be notified in writing of the deferrals within three working days of the date of the deferrals.

(2) Where an investor wishes to redeem interests which amount to 3 per cent or more of the net assets of the scheme, the manager shall within ten working days of the request, satisfy the request.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Purchase of own shares (as applicable to closed end mutual funds)**

**28.** (1) The board of directors of a closed end mutual fund may repurchase the company's own shares with the prior approval of the shareholders.

(2) In the event of such repurchase, the shares may be held in treasury until they are re-issued or cancelled with the prior approval of the custodian.

**Dealing**

**29.** (1) Dealings shall be done on every business day.

(2) Dealings shall be at the last published prices except that dealings in orders received on any trading day of an organised stock market on which any of the securities held by the scheme is traded shall be at the next published price.

(3) If dealings are in fractions of units or shares, it shall be to three decimal places.

**Interests as consideration for the acquisition and investment**

**30.** (1) Interests in a scheme may be issued as consideration for the acquisition of any investments by the scheme provided the price at which the investments are to be acquired and other terms and conditions of the transaction are not likely to prejudice the holdings of the existing investors.

(2) An acquisition shall be with the prior approval of the trustee of the unit trust or the board of directors of the mutual fund.

**Exchange of interests**

**31.** The manager of a scheme may on the application of an investor, exchange the interests the investor has in one scheme for interests of any other scheme licensed in accordance with the Law.

**Sub-division and consolidation of interests**

**32.** (1) The interests of a scheme may be subdivided or consolidated.

(2) A subdivision or a consolidation shall be approved by a special resolution passed by the investors of the scheme at a meeting convened for that purpose in accordance with these Regulations.

(3) Where a subdivision or a consolidation is approved, the manager shall notify each investor to deliver up the investor's certificate for endorsement with the number of interests to be represented as a result of the subdivision or consolidation, or if the issue of certificates has been dispensed with by the constitution of the scheme, provide the investor with such documentary evidence of the investor's holding after the subdivision or consolidation has occurred.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Transfer of interests**

**33.** (1) An investor is entitled to transfer interests held by the investor in a scheme, other than interests listed on an approved stock exchange, by a duly executed and legally accepted instrument of transfer subject to the following conditions:

- (a) the interests shall be transferable only in blocks of a number of interests prescribed by the manager excluding fractions unless the transfer comprises the whole of the holding of interests of the investor; and
- (b) no transfer shall be registered if the registration would result in the transferor or transferee becoming an investor with less than a prescribed minimum interests.

(2) The transferor shall, until the name of the transferee is entered in the register of investors in respect of the investment, remain the holder of the investment.

(3) An instrument of transfer of interest shall

- (a) be accompanied with
  - (i) certificates, if any, issued in respect of the interests;
  - (ii) any relevant declarations required under any law; and
  - (iii) such other evidence as the manager may require to prove the title of the transferor or the transferor's right to transfer the interest.

(4) The manager of a scheme may charge a reasonable fee computed with the approval of the trustee of the unit trust or the board of directors of a mutual fund for the registration of each transfer and the issue of a new certificate in the name of the transferee.

**Transmission of interests**

**34.** (1) Where interests are held jointly by investors and the death of any of the investors occurs, in the absence of any evidence to the contrary,

- (a) upon the production of any evidence of the death that the manager may require, the surviving investor shall be recognised as the person entitled to the interest; and
- (b) upon the delivery of the relevant certificate, the surviving investor is entitled to have the certificate duly endorsed or to have a fresh certificate issued in the survivors name.

(2) In all cases other than as provided under subregulation (1), the executors or the administrators of a deceased shall be the only persons recognized by the manager as having title to the interests held by the deceased investor.

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## PART V—INVESTMENTS OF A SCHEME

**Investment objectives**

**35.** The investment strategy adopted by the manager of a scheme shall be subject to

- (a) the provisions of the Law and Regulations made under the Law;
- (b) the scheme particulars;
- (c) the constitution of the scheme; and
- (d) any directions or guidelines issued by the Commission, the trustee of a unit trust or the board of directors of a mutual fund.

**Exceeding of investment limits**

**36.** The manager of a scheme shall inform the Commission and the trustee of a unit trust or the board of directors of a mutual fund in writing immediately upon any investment exceeding any limits or breach of a prohibition,

- (a) provided under the Law or Regulations made under the Law;
- (b) specified in the scheme particulars or the constitution of the scheme
- (c) contained in any directions or guidelines issued by the Commission, the trustee of a unit trust or the board of directors of a mutual fund

together with the reasons for the excess or breach and the steps to remedy the excess or breach.

**Application of cash**

**37.** (1) Subject to the Law, and Regulations made under the Law, the scheme particulars, the constitution of the scheme and any directions or guidelines issued by the Commission, the trustee of a unit trust or the board of directors of a mutual fund, all cash included in the assets of the scheme shall be applied at the discretion of the manager in the acquisition of investments.

(2) Notwithstanding subregulation (1), any amount of cash in any currency may, during such time as the manager may think fit, be retained in cash or on deposit with the trustee or custodian if the trustee or custodian is a bank or in any other bank or financial institution.

(3) Where cash that forms part of the assets of a scheme is deposited as described in subregulation (2) with the trustee or custodian, the interest on the cash deposited shall be computed at a rate not below the prevailing rate for an investment of that nature.

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(4) Any investments comprised in the assets of the scheme may at any time be realised at the discretion of the manager either in order to invest the proceeds of sale in other investments or to provide cash required for the purpose of the Law or Regulations made under the Law, the scheme particulars, the constitution of the scheme or any directions or guidelines issued by the Commission, the trustee of a unit trust or the board of directors of a mutual fund.

**Investment in other schemes**

**38.** (1) The manager may invest in other collective investment schemes licensed under the Law, but

- (a) no increase shall result in the overall total of preliminary charges, manager's fees or any other costs and charges borne by the investor or by the assets of the scheme, if the schemes in which the manager invests are managed by the same manager or a person associated with the manager; and
- (b) the value or the aggregate of the value of the scheme's investment in other schemes does not exceed the limits prescribed by the Law or Regulations made under the Law, the scheme particulars, the constitution of the scheme or any directions or guidelines issued by the Commission, the trustee of a unit trust or the board of directors of a mutual fund immediately after the investment has been made;

(2) The manager may with the approval of the Commission invest in other schemes not licensed under the Law.

**Restriction on investments**

**39.** Except with the prior approval of the Commission, the manager shall not for or on behalf of a scheme,

- (a) invest in commodities, futures or options;
- (b) invest more than 10 per cent of the net asset value of the scheme in any type of real estate other than the securities of real estate companies or companies that have engaged in real estate investment activities;
- (c) invest more than 25 per cent of the net asset value of the scheme in securities issued by a single issuer;
- (d) invest more than 10 per cent of the net asset value of the scheme in any particular class of securities issued by a single issuer;

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- (e) invest more than 10 per cent of the net asset value of the scheme in other collective investment schemes;
- (f) invest more than 15 per cent of the total net asset value of the scheme in securities not listed or quoted on an authorised stock exchange,
- (g) purchase securities on margin, except that the manager may obtain such short term credit as may be necessary for the clearance of purchases and sales of securities constituting or to be included in the assets of the scheme;
- (h) make any investment that will result in the manager, trustee or the scheme gaining management control of a company in which the investment has been made;
- (i) make short sales of securities or maintain a short position;
- (j) acquire any securities which are unpaid or partly-paid for;
- (k) apply any part of the assets of the scheme in the acquisition of an investment which is likely to involve the scheme in any liability, contingent or otherwise;
- (l) enter into underwriting or sub-underwriting contracts in relation to the subscription or purchase of any investment; or
- (m) invest in any securities of a class in a company or other body if any officer or collectively officers of the manager of the scheme own more than 5 per cent of the total nominal amount of the securities of that class issued by the company or body.

## PART VI—DISTRIBUTIONS

**Income accounts**

**40.** (1) Income of the scheme shall, as and when received by the trustee or the custodian, be paid into a special account known as the “Income Account” and shall be held there pending disbursement of expenses, distribution or capitalization in accordance with the constitution of the scheme and the scheme particulars.

(2) The proceeds of sale of rights and other receipts considered by the manager, after consulting the auditors, to be in the nature of capital accruing from investments of the scheme, shall not be regarded as income but shall be retained as a part of the capital of the assets of the scheme.



*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Deductions from and additions to income account**

**41.** The following deductions and additions may be made in consultation with the auditor of the scheme and the trustee of a unit trust or board of directors of a mutual fund to the income account:

- (a) deduction of the remuneration of the manager, trustee or custodian for the relevant period;
- (b) deduction of interest paid during the relevant period, together with any amount of interest accrued but that remains unpaid at the end of the relevant period on any borrowings effected by the scheme;
- (c) addition or deduction of a sum by way of adjustments to allow for the effect of sales or purchases of securities, with or without, dividend;
- (d) addition of a sum that represents any interest or dividend accrued but not received by the trustee or custodian at the end of the relevant period;
- (e) deduction of a sum that represents any interest or dividends accrued at the end of a previous period, to the extent that an adjustment by way of addition has been made in respect of such previous period, except that,
  - (i) income from an investment quoted on a stock exchange shall be deemed to have accrued on the first date on which that investment is quoted excluding that income; and
  - (ii) income from any other investment shall be deemed to have accrued on the date which, in accordance with the normal practice adopted by the scheme, is treated as being the first date on which the value of the investment would be calculated, excluding the income;
- (f) addition of a sum representing amounts included in the price of an interest for income accrued prior to the date of issue and deduction of a sum that represents participation in income distributed upon the cancellation of interests and a reduction of the scheme during the relevant period;
- (g) deduction of professional fees, including disbursements, in connection with matters pertaining to the affairs of the scheme and of any expenses incurred by the trustee or custodian in effecting registration or safe custody of the documents of title to any investments of the scheme;

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- (h) addition or deduction of such sums as the auditors shall certify to be appropriate to take account of liability for tax and of repayments receivable or received on account of double or other tax relief; and
- (i) deduction of a sum that represents expenses directly incurred in effecting, maintaining and terminating borrowings of the scheme.

**Distribution from income**

**42.** The manager may with the prior written approval of the trustee of a unit trust or board of directors of a mutual fund, make distributions of the net income of a scheme to investors in respect of such period, not exceeding 12 months and at such times and in accordance with such method of computation as the trustee of the unit trust or the board of directors of the mutual fund and the manager may agree, having regard to the constitution of the scheme and the scheme particulars.

**Distribution from capital**

**43.** (1) The manager may, after consulting the auditors and with the prior written approval of the trustee of a unit trust or board of directors of a mutual fund, distribute amongst the investors an amount which represents part of the capital of the assets of the scheme if the distribution does not adversely affect the interest of the investors of the scheme.

(2) Where distribution to investors is made from capital, that fact shall be notified to unit holders or shareholders at the time of the distribution.

**Distribution account**

**44.** Where distribution is made, an appropriate amount shall be transferred out of the Income Account or the assets of the scheme and paid into a special account known as the "Distribution Account" and the amount standing to the credit of the Distribution Account shall not be treated as part of the assets of the scheme but shall be held by the trustee or custodian pending distribution.

**Auditors statement on distribution**

**45.** (1) Where distribution is made, the manager shall cause to be made up and audited a statement showing the net amount qualifying for distribution in respect of the relevant period.

(2) The statement, with the auditor's report annexed, shall be filed with the trustee of a unit trust or the board of directors of a mutual fund and shall be conclusive and binding on all investors.

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(3) Copies of the documents referred to in this regulation shall be available for inspection during usual business hours by an investor at the office of the manager.

**Declaration of a distribution**

**46.** (1) Immediate notice shall be given to all investors of any distribution declared by the scheme through a publication in the newspaper in which the dealing prices of the scheme are usually published.

(2) The notice may request investors who wish to have their distributions paid to them in cash, to intimate that desire to the manager not later than ten business days from the publication of the notice.

(3) If no intimation is received by the manager under subregulation (2), the manager shall, not later than fifteen business days after the amount to be distributed has been declared, apply the amount in the acquisition of further interests full and fractional on behalf of the investor at the issue price per interest on the day of the re-investment.

(4) Where request for payment is made by an investor, the distributions shall be paid to the investor prorated in accordance with the number of interests held or deemed to be held by the investor as at the accounting date.

## PART VII—ACCOUNTS AND AUDIT

**Accounts**

**47.** (1) The manager of a unit trust and the board of directors of a mutual fund shall be responsible for keeping the accounts of the scheme and for preparing and publishing the financial statements of the scheme, except that the income and distribution accounts provided for in these Regulations shall be maintained by the trustee or custodian of the scheme.

(2) The statement of assets and liabilities, income and distribution account, capital account and notes to the account as specified in Parts 2,3,7 and 8 of Schedule 8 shall form the accounts of the scheme.

(3) The accounts shall be prepared in accordance with generally accepted accounting principles and presented in accordance with generally accepted accounting standards.

**Audit**

**48.** (1) The trustee of a unit trust and the board of directors of a mutual fund shall in consultation with the manager or the custodian appoint a person qualified to hold office as an auditor under the Companies Code, 1963 (Act 179) to audit the accounts of the scheme.

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(2) The auditor shall be paid a fee determined by the manager of the unit trust in consultation with the trustee or the board of directors of the mutual fund in consultation with the manager of the mutual fund.

(3) The trustee of a unit trust or the board of directors of a mutual fund may recommend to members the removal of the auditor for stated reasons but the recommendation shall be reported in writing to the Commission.

(4) The auditor appointed under subregulation (1), should not have been the auditor of the manager or the trustee or custodian during the previous financial year.

(5) The auditor shall prepare a report to be distributed to investors confirming that the accounts have been audited in accordance with generally accepted auditing standards and stating the matters prescribed in Part 9 of Schedule 8.

## PART VIII—REPORTS TO INVESTORS

**Annual and half-yearly investors' reports**

**49.** (1) The manager of a unit trust and the board of directors of a mutual fund shall prepare or cause to be prepared, in accordance with these Regulations, a report referred to as an "investors' report" in respect of each annual and half-yearly accounting period in order to facilitate the review of the performance of the scheme by the holders of interests.

(2) The investors' report shall include

(a) a copy of the manager's statement on the performance of the investment of the scheme incorporating the particulars prescribed in Part 1 of Schedule 8;

(b) a statement of assets and liabilities as at the end of the accounting period; and an income and distribution account where a distribution or allocation of income is made for that accounting period containing the details under Parts 2 to 3 of Schedule 8.

(3) In addition to the requirements specified in subregulation (2), an investor's report which relates to an annual accounting period shall also include

(a) a portfolio statement;

(b) a statement of movements in net assets;

(c) a comparative table;

(d) a capital account;

(e) notes to the accounts;

(f) a copy of the auditor's report; and

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(g) in the case of

- (i) a unit trust, a report from the trustee; and
- (ii) a mutual fund company, a report from the custodian each containing the matters specified in Parts 4 to 10 of Schedule 8.

(5) The manager may include a comparative table in a form other than that provided in Schedule 8 if

- (a) the contents relate to an index or comparable product in an investor's report; and
- (b) the table is not misleading and its sources are identified.

(5) If the comparative table includes fund performance, in order to produce a total return, the table shall indicate the basis on which the calculations have been made and whether they are on an offer to offer, or an offer to bid basis and whether income has been re-invested to produce a total.

(6) If the manager or any other person acting on behalf of or with the permission of the manager, has;

- (a) acquired or disposed of, any securities other than government securities, money market instruments and securities traded on an authorised stock exchange, for the account of the scheme;
- (b) disposed of interests at a price lower than the prevailing issue price at the time of disposal or;
- (c) acquired interests at a price higher than the prevailing cancellation price at the time of cancellation, that fact shall be disclosed together with the details of the transactions.

**Availability of investors' reports**

**50.** (1) An investor's report on a half year accounting period shall be submitted to the Commission and circulated to investors before the expiry of two months of the end of the accounting period; the report may with the approval of the Commission be published in the newspaper in which the prices of the scheme are published before the expiry of the two months period as an alternative to circulation.

(2) An investor's report on an annual accounting period shall be submitted to the Commission and circulated to every investor entered in the register before the expiry of four months after the end of the accounting period.

(3) No sale of interests in a scheme shall be made to any person unless there has been delivered to that person, free of charge, a copy of the most recent annual investor's report and the most recent half-year investor's report of the scheme.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Trustee's or custodian's report**

**51.** The trustee or custodian shall enquire into the conduct of the manager and the management of the scheme in each annual accounting period and submit to the investors a report of the auditor stating the matters set out in Part 10 of Schedule 8.

**Statement regarding re-investment of distributions**

**52.** The manager of a scheme shall send or cause to be sent at least once in every year to its unit holders or shareholders who have elected to reinvest distribution into additional interests, a written statement indicating the amount of dividends reinvested on their behalf.

**Register of investors**

**53.** (1) The manager of a scheme shall keep and maintain a register of persons who hold interests in the scheme except that, in the case of a closed-end mutual fund, the board of directors shall arrange with the manager for another person to discharge the obligations imposed on a registration officer under section 32 (7) of the Companies Code 1963 (Act 179).

(2) The register may be kept either in written form or by any other means including electronic recording, which makes it admissible as evidence in a court of law.

(3) The register shall set out

- (a) the name and address of each investor;
- (b) the number including fractions where applicable and class of interest that each investor holds, which distinguishes each interest by its number;
- (c) the date on which each investor's name was entered in the register in respect of the interests that the investor holds;
- (d) the amount paid for the interest;
- (e) the number of interests, including fractions where relevant, for the time being in issue; and
- (f) any other relevant information on the investor.

(4) The manager shall ensure that the information contained in the register is complete and up to date at all times.

(5) The manager shall keep an index to the register that enables information about each investor to be easily accessed.

(6) A register shall be conclusive evidence of the interest of the persons respectively entitled to the interests entered in the register except that the manager, in the case of a unit trust and an open-end mutual fund, shall be deemed to be the holder of all interests in issue for which no person is entered in the register as the holder.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Where register is to be kept**

**54.** (1) The register and the index to the register shall be kept at the registered office or at the principal place of business in Ghana of the manager or in such other place as the Commission may determine.

(2) The manager of the scheme shall notify the Commission in writing of the address at which the register and its duplicate or backup copy is kept.

(3) A duplicate of the register or in the case of electronic recording a backup copy updated from time to time and duly authenticated by the manager shall be kept at a location different to the location at which the original register or recording is kept.

**Right to inspect**

**55.** (1) A manager of a scheme shall permit any trustee or director or custodian of a mutual fund or its duly authorised representative or an investor in the scheme to inspect the register of investors during normal office hours free of charge.

(2) The manager shall provide a copy of the register or any part of it to the investor for a reasonable fee which shall be computed in consultation with the trustee of the unit trust or board of directors of the mutual fund.

**Availability to the public**

**56.** The manager of a scheme shall make available a copy of the constitution of the scheme for inspection free of charge to any member of the public during normal office hours at its place of business and provide copies of these documents upon the payment of a reasonable fee.

**Closure of the register**

**57.** Any closure of the register for a period exceeding thirty business days shall be notified to the Commission and also to the general public by an advertisement in the newspaper or newspapers in which the price of the interests in the scheme are usually published.

PART IX—PROVISIONS RELATING TO THE MANAGER AND  
MANAGEMENT OF A SCHEME

**Qualifications of officers of the manager of a scheme**

**58.** (1) The manager of a scheme shall have at least three directors.

(2) The majority of the directors shall have at least four years experience in either finance, economics or accounting.

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(3) The manager of a scheme shall ensure that the chief executive of the manager has at least a first university degree in business, economics or finance or an equivalent qualification and at least four years experience as specified in subregulation (4) (a) (i) or a non-related first university degree and at least five years experience as specified in subregulation (4) (a) (ii).

(4) The manager of a scheme shall ensure that,

(a) every scheme it is licensed to operate is managed by a designated investment officer who has at least a first university degree in business, economics or finance or an equivalent qualification and at least three years

(i) experience of management and supervision of staff involved in the placement or investment of money for commercial purposes as well as involvement in policy decision concerning such placement or investment in either a commercial, merchant or investment bank or with, a dealer in securities, a finance company, a development finance institution or any other financial institution which deals with the placement or investment of money for commercial purposes; or

(ii) experience at executive level in the placement or investment of money for commercial purposes in either a commercial, merchant or investment bank or with a dealer in securities, a finance company, a development finance institution or any other financial institution which deals with the placement or investment of money for commercial purpose;

(b) every director and employee concerned with the day to day management and administration of the business of the scheme hold valid investment advisor's or investment representative's licence issued by the Commission; and

(c) a director or officer of the manager

(i) has not been convicted, either in this country or elsewhere, within a period of ten years immediately preceding the date on which the application to operate a scheme is made, of an offence involving fraud or dishonesty punishable on conviction with imprisonment for a term of three months or more;



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- (ii) has not been involved in the management of a scheme which has gone into bankruptcy;
- (iii) has not been found guilty of any breach of the Law or Regulations issued under the Law; or
- (iv) is not precluded by any order from a public regulatory authority either in this country or elsewhere from engaging in transactions involving securities.

**Manager's remuneration**

**59.** (1) The manager shall be paid out of the assets of the scheme as remuneration for services rendered, a periodic fee computed and paid at intervals specified in the constitution of the scheme, except that the Commission may place any limits it considers appropriate on the remuneration as a condition for the issue of a licence to operate a scheme.

(2) The basis of remuneration of the manager shall be specified in the constitution of the scheme and the scheme particulars, and disclosed in all documents offering interests in the scheme to the public.

(3) Where the manager's remuneration is based on the value of the assets of the scheme, the remuneration shall begin to accrue only from the closing date of the first offer of interests.

(4) The investors in a scheme and the Commission shall be given not less than three months prior written notice of any increase in the manager's remuneration.

**Supervision and compliance procedures of the manager**

**60.** (1) The manager of a scheme shall establish, maintain and enforce procedures that will

- (a) ensure that only persons of good repute are responsible for the day to day management of the scheme;
- (b) enable the manager to supervise the activities of its employees in order to ensure compliance with the Law and Regulations made under the Law;
- (c) ensure that employees exercise due diligence and care in the performance of their duties and act honestly in matters concerning the scheme;
- (d) ensure that the interests of the scheme shall take priority over the interests of the manager or employees in any matter concerning the management of the scheme;
- (e) ensure that the manager or person concerned with the management of the scheme does not take advantage of information

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acquired in the course of employment for personal gain or make improper use of the information; and

- (f) provide for the removal of any director or employee of the manager who fails to reach the required standards set by the manager in pursuance of these Regulations.

(2) The manager of a scheme shall cause to be filed with the Commission within three months of being granted licence to operate a scheme, documentation containing the procedures referred to in subregulation (1) duly adopted by the manager in the form of an internal compliance manual.

**Management of other schemes and portfolios**

**61.** (1) The manager of a scheme shall only deal with the management of licensed unit trust or mutual fund schemes except that the manager may with the prior written approval of the Commission manage other investment portfolios subject to conditions that the Commission may impose.

- (2) The manager of a scheme may manage more than one scheme if
  - (a) each scheme has an investment officer;
  - (b) the names and characteristics of each scheme operated is disclosed to the investors of all schemes under the management;
  - (c) separate accounts are maintained for each scheme; and
  - (d) the basis of allocation of expenses between each scheme is disclosed to the investors of all schemes under the management.

**Manager as holder**

**62.** Without prejudice to the provisions of these Regulations, the manager of a scheme shall in the absence of any provision in the constitution of the scheme to the contrary, be deemed to hold and be treated for all purposes as the holder of each interest in a scheme during any period when no other person is entered in the register of investors of the scheme as the investor but the interest may be issued to an applicant.

**Manager's own account transactions**

**63.** The manager of a scheme shall not without the prior approval of the Commission

- (a) buy or sell securities in its own name;
- (b) buy or sell securities in the name of a nominee in which it has an interest; or
- (c) have an interest in any person either wholly or partly, directly or indirectly engaged in the business of dealing in securities under its management.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Record of securities or interests**

**64.** (1) The manager of a scheme shall keep a daily record of all securities held for its own accounts and on behalf of the scheme including details of the securities which have been acquired or disposed of and the balance of any acquisitions and disposals.

(2) The manager of a scheme shall make the daily record available for inspection by the Commission, the trustee of the unit trust or the board of directors or custodian of the mutual fund.

(3) The manager of a scheme shall keep or cause to be kept a daily record of interests created, redeemed, disposed of or cancelled and this daily record shall be available for inspection by the trustee of a unit trust or board of directors and custodian of a mutual fund at all times during ordinary office hours.

(4) The trustee or custodian is entitled to obtain a copy of the records specified in this regulation on request free of charge.

**Submission of information by the manager**

**65.** (1) The manager of a scheme shall

(a) make available to the trustee, the board of directors of a mutual fund or an auditor appointed by them, for inspection, the whole of the books of the manager whether kept at the registered office of the manager or elsewhere;

(b) submit to the trustee, the board of directors of a mutual fund or an auditor appointed by them such oral or written information as the trustee, board of directors or auditor may require with respect to matters relating to the scheme; and

(c) make available or cause to be made available to the trustee or board of directors or custodian of a mutual fund such details as they may require with respect to matters relating to the scheme under management.

**Delegation by the manager**

**66.** The manager of a scheme may with the prior approval in writing of the trustee of the unit trust or board of directors of the mutual fund, delegate its functions, powers, discretion, privileges and duties or any of them to any person, except that the manager shall always remain liable for any act or omission of any such person.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Dealings between the manager, trustee and board of directors of a mutual fund and the scheme**

**67.** (1) The trustee of a unit trust, the manager, the directors of a mutual fund or a company controlled by or associated with any of them shall not as principal, sell or deal in the sale of investments to or for the account of the scheme or vest investments in the scheme against the issue of interests or purchase investments from the scheme otherwise than in accordance with the trading procedure of an approved stock exchange, unless:

- (a) the value of the investment in question is certified in writing for the purpose of the transaction by a member of the stock exchange or other professionally recognized person qualified to issue the certificate; and
- (b) the trustee of a unit trust or board of directors of the mutual fund are of the opinion that the terms of the transaction are not likely to result in any prejudice to investors of the scheme.

(2) Subject to subregulation (1) and any other limitations contained in any other law or the constitution of the scheme, the trustee, custodian or the manager of a scheme or the directors of a mutual fund or any person associated with them, is not prohibited from

- (a) becoming the owner of interests in the scheme and holding, disposing or otherwise dealing with such interests;
- (b) buying, holding and dealing in any investments in their respective individual accounts notwithstanding that similar investments may be held as part of the assets of the scheme;
- (c) acting as bankers to the scheme; or
- (d) contracting or entering into any financial, banking, insurance or other transaction with the manager or any investor in the scheme or any company or body whose securities form part of the assets of the scheme.

**Transaction that needs special approval**

**68.** A transaction

- (a) between the scheme and the manager or any person associated with the manager; or
- (b) by or on behalf of the scheme in a security in which the manager has an interest

shall only be executed with the prior written consent of the trustee in the case of a unit trust or the board of directors in the case of a mutual fund.

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## PART X—ADMINISTRATION OF THE SCHEME AND THE ASSETS AND THE SCHEME

**Inclusion in and custody of the assets of the scheme**

**69.** (1) Cash which forms the assets of the scheme shall be paid or transferred to the trustee or custodian within three working days of receipt by the manager of the scheme or by any person authorised to do so for and on behalf of the scheme.

(2) Cheques or other forms of payment which form the assets of the scheme shall be transferred to the trustee or custodian within seven working days of receipt by the manager of the scheme or by any person authorised to do so for and on behalf of the scheme.

(3) Any consideration paid for new interests shall be included in the assets of the scheme as soon as it is received by the trustee or custodian.

(4) Assets in the case of a unit trust shall be held by and under the control of the trustee and assets capable of being registered shall be registered in the name of or to the order of the trustee.

(5) Assets in the case of a mutual fund shall be held in the custody of the custodian and assets capable of being registered shall be registered in the name or to the order of the mutual fund.

(6) The trustee of a unit trust and custodian of a mutual fund shall be responsible for the physical safe-keeping of investments comprised in the assets of the scheme.

(7) The trustee of a unit trust and custodian of a mutual fund remain liable for any act or omission of any agent with whom any investments are deposited.

**Registration of transfers**

**70.** (1) An investment in registered form, shall be registered in the name of the trustee of a unit trust or in the name of the mutual fund as soon as reasonably practicable after receipt of the necessary documents by the trustee of the unit trust or the board of directors of the mutual fund and shall remain so registered until disposed of.

(2) Expenses of whatever nature incurred in effecting the registration of or providing safe custody for investment shall be payable out of the assets of the scheme

**Voting rights and corporate actions accruing to the assets of the scheme**

**71.** (1) Except as otherwise expressly provided in the constitution of the scheme or by law, all rights of voting accruing to any of the assets of the scheme shall be exercised as the manager may in writing direct.

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(2) The trustee of a unit trust and board of directors of a mutual fund shall without any delay forward to the manager all notices of meetings, reports and circulars received by them as holder of any investment included in the assets of the scheme and shall so far as they are permitted by law, upon the written request of the manager, execute and deliver to the manager or its nominees, such powers of attorneys or proxies as may reasonably be required by the manager to authorise the attorneys and proxies to vote, consent or otherwise act in respect of all or any part of the assets of the scheme.

(3) The manager shall at all times exercise the rights in subregulation (2) in the best interest of the investors of the scheme having regard to the constitution of the scheme, the scheme particulars and investment objectives.

(4) The expression “right of voting” and the term “vote” used in these Regulations include not only a vote at a meeting but any consent to or approval of any arrangement, scheme or resolution or any alteration in, or abandonment of any rights attached to any part of the assets of the scheme and the right to requisition or join in a requisition to convene any meeting or to give notice of any resolution or to circulate any statement.

**Payments from the assets of the scheme**

**72.** The following expenses may be paid out of the property of the scheme:

- (a) the cost of dealing in the property of the scheme;
- (b) interest on borrowings permitted under the scheme and charges incurred in effecting or terminating these borrowings or in negotiating or varying the terms of these borrowings;
- (c) taxation and duties payable in respect of the assets of the scheme;
- (d) any costs incurred in respect of meetings of unit holders or shareholders of the scheme;
- (e) any costs incurred in the preparation or modification of the constitution of the scheme or both;
- (f) the audit fees and disbursements to the auditor of the scheme;
- (g) any fees payable to the Commission or the Registrar of Companies on account of the licensing or registration of the scheme;
- (h) any periodic charge payable to the manager under the scheme in respect of services rendered;
- (i) fees and any expenses or disbursements permitted to be paid under the scheme to the board of directors of the mutual fund, trustee or custodian;
- (j) any marketing or advertising expenses; and
- (k) any other expenses or disbursements authorised by the Law or Regulations made under the Law.

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**73.** (1) Any monies payable in respect of any joint interests in any scheme may, in the absence of instructions to the contrary from a joint investor, be paid or made payable to the order of the first named of the joint investors.

(2) Before making any distribution or other payment in or outside this country in respect of any interests held by an investor in a scheme, there shall be made such deductions as is required by the law for the time being in force in Ghana, in respect of any income or other taxes, duties, charges or assessments whatsoever relevant to the payment.

(3) Any monies due to an investor which remain unclaimed shall within six months of the scheduled date of payment, be deposited in a special account opened for that purpose with a bank in this country under the control of and custody of the trustee or the custodian of the scheme.

(4) Upon a deposit or payment being made under subregulation (3), the monies shall be deemed to have been paid off or satisfied in accordance with these Regulations and shall not be included in the assets of the scheme.

(5) The trustee or custodian shall under subregulation (3), be responsible for the safe custody of the monies and any interest that the monies may earn whilst on deposit less any cost, charges or expenses incurred or levied by the trustee or custodian in relation to the monies.

(6) Any monies accruing to the credit of an account opened under subregulation (3) which remain unclaimed after the expiry of a period of five years from the date on which the obligation to make payment arose, and any interest earned on the monies shall vest in the Commission to be put in a special fund for the development of the market.

**Tax certification**

**74.** The Manager shall issue to an investor upon request, tax certificates that may from time to time be required, stating the distribution made to the investor during an accounting period and indicating what proportion of the distribution represents capital and what proportion represents income.

**Participating in and defending actions**

**75.** (1) The trustee of a unit trust or the board of directors of a mutual fund are under an obligation after due consultation with the manager of the scheme to appear in a prosecution or defend any action, suit, arbitration or inquiry in respect of the assets of the scheme or any part of the scheme or participate in

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any corporate or shareholder's action which in the opinion of the trustee or the board of directors,

- (a) is necessary in the interest of the preservation of the assets of the scheme; or
- (b) for which non-participation in the action may cause irreparable loss or damage to the assets of the scheme.

(2) The trustee of a unit trust or the board of directors of a mutual fund is entitled to have recourse to the assets of the scheme or any part of the assets for the purpose of seeking indemnity against any action, costs, claims, damages, expenses or demands to which it may be subject in the course of complying with the provisions of subregulation (1).

**Borrowing powers**

**76.** (1) Subject to any statutory requirements and prohibitions for the time being in force and to the terms and conditions of the constitution of the scheme and the scheme particulars, the trustee of a unit trust or the board of directors of a mutual fund may at any time upon the request of the manager borrow for the account of the scheme, any monies whether in local or foreign currency for the sole purpose of enabling the manager to meet requests for redeeming interests of the scheme.

(2) The following provisions shall apply in connection with the borrowing:

- (a) the borrowing may be from the trustee or the custodian or any associate of any of them on the best commercial terms;
- (b) the aggregate outstanding of borrowings whether in local or foreign currency at any time shall not exceed 15 per cent of the net value of the assets of the scheme;
- (c) any interest on the borrowing and expenses incurred in negotiating, entering into, varying, carrying into effect and terminating the borrowing arrangements shall be payable out of the assets of the scheme;
- (d) for the purposes of securing the borrowing, the trustee of a unit trust or board of directors of a mutual fund is entitled, with the concurrence of the manager, to charge or pledge in any manner all or any part of the assets of the scheme, and where any part of the assets of the scheme or any document of title of the assets is for the time being under the custody and control of a person other than the trustee or custodian in consequence of any charge or pledge, the provisions of these Regulations as to the custody



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and control of the assets of the scheme or the documents of title to the assets shall be deemed not to have been infringed;

- (e) any charge or pledge on the assets of the scheme shall be made upon the terms that no action shall be taken to enforce the security constituted until thirty days after notice in writing has been given to the trustee of the unit trust or the board of directors of the mutual fund demanding repayment of the monies secured;
- (f) where borrowing is undertaken for the account of the scheme, assets that form a part of the deposited property may be registered in the lender's name or in the name of a nominee appointed by the lender; provided that the lender or its nominee, enters into a written commitment that under no circumstances will it pledge or obligate any part of the assets to any other person or use any part of them to margin, guarantee, secure, discharge or settle any borrowing, trades or contracts, or dispose of any part of them, or treat them as if any person other than the trustee, or the mutual fund and the lender had any interest in them.

(3) Where the assets of the scheme or any part of the assets is registered in the name of a lender as security for a loan obtained for and on behalf of the scheme, the trustee or custodian is liable for any act or omission of the lender or the lender's agent with respect to the property.

(4) Any cash raised by borrowing for the scheme shall constitute a part of the assets of the scheme.

## PART XI—MATTERS RELATING TO INVESTORS AND MEETINGS OF INVESTORS

**Inspection of records**

77. On an application for inspection of records made by an investor in a scheme to a court, the court may if satisfied that the inspection is for a proper purpose

- (a) make an order authorising a registered company auditor, or a lawyer, acting on behalf of the investor, at a time that is specified in the order, to inspect, and to make copies of or take extracts from, specified books of the collective investment scheme; and
- (b) make any other order that is just.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Enquiries by investors**

- 78.** The manager of a scheme shall maintain arrangements under which
- (a) investors may make enquiries into the operation or management of the scheme in which the investor has an interest; and
  - (b) the enquiries shall be properly considered and dealt with in an expeditious manner.

**Complaints procedure**

**79.** (1) The manager of a scheme shall maintain a register into which shall be recorded every complaint received, the date on which the complaint was received, and the details of it.

(2) The manager shall investigate or cause the investigation of all complaints received in an expeditious manner.

(3) If, for any reason, the complaint is not settled to the satisfaction of the complainant within three months after its receipt by the manager, the manager shall give notice to the Commission of the details of the complaint, the action taken in response to it and inform the complainant that the Commission has been notified and provide the date of the notice.

(4) After receipt of the notice, the Commission shall investigate the complaint and provide the complainant with such redress as is provided under the Law.

**Meetings, attendance and voting**

**80.** (1) The investors of a scheme shall meet for the transaction of business at such times and places as the manager of the unit trust or the board of directors of the mutual fund may determine except that the manager shall hold such meeting at least once a year.

(2) The manager of a unit trust or the board of directors of a mutual fund shall at the request in writing of investors registered as holding not less than one-twentieth of the number of interests in issue or at the request of a trustee or custodian made in writing, convene a meeting of the investors within thirty days of the date of the request.

(3) The manager may attend any meeting of investors but the manager is not entitled to vote or be counted for a quorum.

**Powers of a meeting of investors**

**81.** (1) The investors may by a special resolution at a meeting duly convened,

- (a) sanction any modification, alteration or addition to the provisions of the scheme, which shall be binding on parties to the scheme.

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- (b) approve a departure from any policy statement included in the scheme particulars;
- (c) give directions to the manager regarding the management of the assets of the scheme;
- (d) remove the manager and replace the manager with a nominated person;
- (e) approve an arrangement for the transfer of the whole or part of the assets of the scheme to another licensed scheme in exchange for the issue of interests in that other scheme;
- (f) sanction an increase in the maximum amount of the manager's periodic charge;
- (g) terminate the scheme;
- (h) take any other decision in pursuance of their interests in the scheme.

(2) Every resolution is binding upon all investors whether present or not present at the meeting and each of the investors, the manager and trustee of a unit trust or the manager, board of directors and custodian of a mutual fund are bound to give effect to the resolution accordingly.

(3) In these Regulations unless the context otherwise requires a "special resolution" means a resolution proposed and passed at a meeting of investors duly convened and held in accordance with this Part and carried, whether on a show of hands or on a poll, by a majority consisting of 75 per cent of the total number of votes cast for or against the resolution.

**Notice of meetings**

**82.** (1) A notice of the meeting of investors shall specify the place, day, time and the terms of the resolutions proposed.

(2) A copy of the notice shall be sent by post or delivered to the offices of the Commission.

(3) A meeting of the investors shall be convened

- (a) by giving at least twenty-one days written notice to investors, exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given, or
- (b) by publishing at least fourteen days, exclusive of the day on which notice is served or deemed to be served and of the day on which the notice is given, before the meeting, the notice of the meeting in a newspaper in which the dealing prices of the scheme are published.

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(4) A meeting of investors shall not be invalidated because of accidental omission to give notice or because of the non-receipt of notice by any of the investors.

**Quorum**

**83.** (1) The quorum for a meeting of investors is,  
(a) twenty investors present in person or by proxy; or  
(b) ten investors present in person or by proxy who hold at least 50% of all the interests in issue.

(2) The investors shall not transact any business at a meeting unless the requisite quorum is present at the commencement of business.

(3) If within an hour from the time appointed for the meeting a quorum is not present the meeting shall not be held.

**Chairperson**

**84.** A person nominated in writing by the trustee of the unit trust or the board of directors of a mutual fund shall chair the meeting of the investors and in the person's absence a person elected by the membership of the investors present from among their number shall preside.

**Votes at meetings**

**85.** (1) At a meeting of investors, a special resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded by  
(a) the chairperson;  
(b) at least three members present in person or by proxy; or  
(c) any member or members present in person or by proxy and representing not less than one-twentieth of the total voting rights of the members who have the right to attend and vote on the resolution.

(2) If a poll is not demanded, a declaration by the chairperson that a resolution is carried or lost by the required majority is conclusive of the votes recorded in favour or against the resolution.

(3) If a poll is demanded, it shall be taken in a manner that the chairperson may direct.

(4) On a show of hands each investor who is present in person or by proxy has one vote.

(5) On a poll,  
(a) each holder who is present in person or by proxy has one vote for every complete undivided interest in the property of the scheme; and  
(b) votes may be given either personally or by proxy.

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(6) The instrument appointing a proxy shall be in writing under the hand of the investor or of the investor's attorney duly authorised in writing or if the investor is a corporate body either under the common seal or under the hand of an officer or attorney authorised in writing but the person appointed to act as proxy need not be an investor in the scheme.

(7) A vote given in accordance with the terms of an instrument of proxy is valid notwithstanding the death or insanity of the principal or revocation of the proxy or of the power of attorney or other authority under which the proxy was signed or the transfer of the interests in respect of which the proxy is given; provided the death, insanity, revocation or transfer has not been intimated in writing and been received at the place appointed or at the registered office of the manager before the commencement of the meeting or adjourned meeting at which the proxy is used.

**Minutes**

**86.** (1) The manager of a unit trust or the board of directors of a mutual fund shall take or cause to be taken minutes of resolutions and proceedings at each meeting of the investors, a copy of which shall be kept in the custody of the trustee of the unit trust or the secretary of the mutual fund for purposes of record.

(2) Any minutes referred to in subregulation (1) signed by the chairperson of the meeting shall be conclusive evidence of the matters stated in the minutes and until the contrary is proved every meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed at the meeting shall be deemed to have been duly passed.

**Commission representation at investors' meetings**

**87.** A member of the Commission, or staff of the Commission authorised in writing by the Commission may attend a meeting of investors and may address the meeting in connection with any business to be dealt with by the meeting.

**Commission requisition of investors' meeting**

**88.** (1) The Commission may, by notice in writing given to the manager of a unit trust or the board of directors of a mutual fund, request a meeting of investors to consider any specified resolution.

(2) The notice shall be accompanied with an explanatory statement relating to the resolution.

(3) The manager of a unit trust or the board of directors of a mutual fund shall, within thirty days of receiving the notice, hold a meeting of investors by giving seven days written notice of the meeting to the investors.

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## PART XII—POWERS OF THE COMMISSION

**Power to issue directives**

**89.** The Commission may in the interest of investors or the general public, issue directives of a general or specific nature to a scheme or the manager, trustee or custodian of a scheme with respect to the management of the scheme.

**Power to call for information**

**90.** The manager of a unit trust and the board of directors of a mutual fund shall furnish to the Commission upon request all relevant information on the scheme's financial position and provide any other information and returns that the Commission may from time to time require.

**Power to issue notices**

**91.** Subject to the Act and these Regulations, the Commission may for the effective implementation of its functions issue notices published in such public media as the Commission shall determine.

## PART XIII—MISCELLANEOUS PROVISIONS

**Certificates**

**92.** (1) Unless the constitution of a scheme and the scheme particulars specifically dispense with the issue of certificates, certificates shall be issued in a form that may from time to time be agreed upon either between the manager and the trustee of the unit trust or the manager and board of directors of a mutual fund.

(2) A certificate shall in addition to whatever requirements that are specified under any other law,

- (a) be dated;
- (b) bear the name of the scheme and the scheme's licence number;
- (c) bear the names and addresses of the manager and the trustee in the case of a unit trust or the manager and the custodian in the case of a mutual fund;
- (d) bear a distinctive serial number;
- (e) specify the number of interests represented by the certificate; and
- (f) bear the name and address of the investor as they appear in the register maintained under the Law.

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(3) Certificates may be issued in denominations of interests that may for the time being be prescribed in writing and in fractions of an interest as agreed upon between the manager and the trustee of the unit trust or the manager and the board of directors of the mutual fund.

(4) Only one class of certificate shall be issued.

(5) Certificates may be engraved or lithographed or printed and shall be signed by a duly authorized officer of the trustee in the case of a unit trust or the board of directors of a mutual fund, except that the trustee of the unit trust or the board of directors of a mutual fund may in writing appoint the manager as its agent for the purpose of issuing and signing certificates.

(6) A certificate shall not be of any effect until signed as provided under subregulation (5).

(7) Certificates signed in the prescribed manner shall be valid and binding notwithstanding that before the date of delivery of the certificate, any person whose signature appears on the certificate as a duly authorised signatory may have ceased to hold office.

(8) Certificates shall be in required denominations and shall only be issued against payment or transfer to the trustee or custodian of the scheme of the cash or other property receivable by the trustee or custodian in respect of the issue of the interests concerned.

(9) Certificates shall be issued to investors not more than twenty-one business days after the allotment of interests or the registration of transfer of interests.

(10) In the case of interests held jointly by several persons, the issue of one certificate and delivery of that certificate to the person named first in the certificate constitutes sufficient issue and delivery to all joint holders.

(11) Subject to the Law or Regulations made under the Law, the scheme particulars, the constitution of the scheme, and any directives or guidelines issued by the Commission, an investor is to exchange any or all of that investor's certificates for one or more certificates of denominations that that investor may require representing the same aggregate number of Interests.

(12) Before an exchange of certificates as under subregulation (11) is carried out, the investor shall surrender the certificate or certificates to be exchanged and shall pay all monies, if any, payable as a result of the exchange.

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(13) In case a certificate becomes mutilated, defaced, stolen or destroyed there shall be issued to the person entitled to the certificate, upon surrender of the mutilated or defaced certificate, a new certificate representing the same aggregate number of interests.

(14) No new certificate shall be issued unless the applicant has previously

- (a) furnished satisfactory evidence of the mutilation, defacement, loss, theft or destruction of the original certificate;
- (b) paid all expenses incurred in connection with the investigation of the facts including but not limited to public advertisement;
- (c) in the case of defacement or mutilation, produced and surrendered to the manager for cancellation the defaced or mutilated certificate; and
- (d) furnished any indemnity that may be required in such form as may be specified.

(15) Prior to the issue of a certificate under this regulation, the applicant for the certificate may be required to make a reasonable payment for each certificate together with a sum sufficient to cover any fees, levies and charges payable in connection with the issue of the certificate.

(16) A new certificate issued to replace a previous certificate shall be in the name of the investor represented by the certificate surrendered or lost, stolen or destroyed or that investor's legal successor.

**Inclusion of performance data**

**93.** (1) If performance data or estimated yield is quoted in any scheme particulars, advertisement or any other invitation to the public to invest, the Commission may require justification for the contents of the calculation.

(2) If estimated yield is stated in any of the documents referred to in subregulation (1), the yield shall be regularly updated to avoid any misleading representation.

(3) No forecast of the scheme's performance shall be made in any of the documents referred to in subregulation (1) except that the publication of a prospective yield does not constitute a forecast performance.

**Preservation of documents and records**

**94.** (1) Accounts, books and other documents that form the basis for financial statements and reports filed or disseminated to investors of a scheme, investment decisions taken and investment orders and instructions



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issued shall be preserved by the persons charged with the obligation to maintain the accounts, books and document for a period of five years from the date of the statement or report.

(2) The trustee of a unit trust and the board of directors of a mutual fund shall maintain or cause to be maintained a register that sets out all particulars of the documents and all other materials referred to in subregulation (1) together with the authority for destruction; except that the register shall not be destroyed for a period of twenty years from the date of the last entry in the register.

**Annual reports of managers, trustees and custodians**

**95.** (1) The manager and trustee of a unit trust and the manager and custodian of a mutual fund shall file with the Commission a copy of their respective annual reports and audited accounts within three months of the end of their respective financial years.

(2) The accounts of the manager shall cover the same period as the accounts of the scheme.

(3) The auditor of the manager shall in the case of a manager managing more than one scheme, state in the audit report accompanying the annual accounts of the manager, whether in the auditor's opinion the costs incurred with regard to the scheme have been apportioned in an equitable manner and in the way disclosed to investors by the manager.

(4) If a person associated with the manager of a scheme or a mutual fund company becomes entitled to profits derived from transactions in interests of the scheme or from the management of the scheme, the person must be named and the profit to which the person is entitled disclosed in the annual report of the manager or the mutual fund company.

**Use of registration number**

**96.** (1) A person shall not sign, issue or publish a public document or a negotiable instrument in connection with a scheme unless the document or instrument sets out in legible characters,

- (a) the name of the scheme; and
- (b) the scheme's licence number.

(2) The manager of a unit trust or the directors of a mutual fund company shall paint or affix and keep painted or affixed in a conspicuous position and in legible letters, on the outside of the registered office of the manager of a unit trust or a mutual fund company a notification that contains

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either of the following expressions—

- (a) “Registered Office: Unit Trust Scheme —Licence Number; or
- (b) “Registered Office: Mutual Fund Scheme —Licence Number.

**Notices**

**97.** (1) A notice or other document required to be served upon an investor shall be duly served if sent by post or delivered to the investor’s address as it appears on the register of interests and in the case of joint investors, to the address of whichever of the investors is named first in the register.

(2) Service of a notice or document on any one of several joint holders of an interest is effective service on the other joint holders.

(3) A notice of a general nature required to be served upon an investor may alternatively be made by two publications in two days in each two national daily newspapers in the country.

**Secrecy**

**98.** The trustee, manager, custodian of a scheme and a director, officer or employee of the trustee, manager, custodian or mutual fund company who or that is in any way engaged in the business of the scheme and all persons employed or engaged by a trustee, manager, custodian or mutual fund company in connection with the business of the scheme shall before entering upon their duties sign a declaration pledging to observe strict secrecy in respect of matters that relate to or concern the scheme and transactions of the scheme and its investors and shall by the declaration pledge not to reveal any matter which may come to their knowledge in the discharge of their duties except when required to do so

- (a) by the board of directors of the trustee, manager, custodian or mutual fund company;
- (b) by a court of law;
- (c) by the person to whom the matters relate;
- (d) in the performance of duties; or
- (e) in order to comply with the provisions of any law.

**Trustee and custodians to act for multiple schemes**

**99.** Neither the trustee nor the custodian of a scheme shall be prohibited from acting as trustee or custodian for other separate and distinct schemes.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001***Offences and penalties**

**100.** (1) Any person who contravenes a mandatory provision of these Regulations commits an offence and is on summary conviction liable to a fine not exceeding 250 penalty units or to imprisonment for a term not exceeding 12 months or to both and where the offence is a continuing offence to a fine of 5 penalty units for each day the offence continues after conviction.

(2) Where an offence is committed by a body corporate every director or officer concerned in the management of the body shall also be guilty of the offence and shall upon conviction be liable to a fine not exceeding 250 penalty units or imprisonment for a term not exceeding 12 months or to both unless the person proves to the satisfaction of the court that he or she exercised due diligence to secure compliance with the provision and that the offence was committed without his or her knowledge, consent or connivance.

**Interpretation**

**101.** In these Regulations unless the context otherwise requires, expressions defined in the Law and the Companies Code 1963 (Act 179) have the same meaning;

“accounting date” means the 31st day of December;

“accounting period” means a period ending on and including an accounting date and commencing, in the case of the first period, on the date on which the assets of the scheme are first paid or transferred to the trustee or the custodian or in any other case from the end of the preceding accounting period;

“accumulation unit” means a unit in a unit trust scheme being a unit in which the income is credited periodically to capital, in accordance with the scheme particulars and the relevant provisions, if any, in the trust deed;

“advertising” has the same meaning as in section 142 of the Law;

“annual income allocation date” means the date in the calendar year specified in the scheme constitution as the date on which allocations of income in respect of each annual accounting period are to be made;

“assets of the scheme” means the capital and income of the scheme;

“associated person” has the same meaning as in section 142 of the Law;

“auditors” means the auditors of the scheme;

“book” has the same meaning as in section 142 of the Law;

“business day” means any day, except Saturdays, Sundays and Statutory public holidays;

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- “certificate” means a certificate for interests in a scheme.
- “Commission” means the Securities and Exchange Commission established under the Law;
- “constitution of a scheme” has the same meaning as in section 142 of the Law;
- “closed-end mutual fund” means a scheme that issues a fixed number of shares and, following the closing of the issue, trading in those shares may only be effected on a secondary market at prices to be determined by supply and demand;
- “creation price” means the sum the trustee of a unit trust or the board of directors of a mutual fund would require to be paid over to it for inclusion in the assets of the scheme in return for the issue of a single interest;
- “dealer” has the same meaning as in section 142 of the Law;
- “dealing day” means a day on which subscription and redemption of interests can be effected;
- “fees, levies and charges” means in relation to any particular transaction or dealing, all stamp duties, taxes, Government charges, brokerage fees, bank charges, transfer fees, registration fees and any other duties and charges, whether in connection with the constitution of the assets of the scheme or the increase or decrease of the assets of the scheme or the creation, issue, sale, exchange or purchase of interests or the sale or purchase of investments or in respect of certificates or otherwise which may have become or may be payable in respect of or prior to or upon the occasion of the transaction or dealing in respect of which the fees, levies and charges are payable, but does not mean commission, if any payable to agents on sales or repurchases of interest;
- “financial organisation” means commercial, merchant or investment bank, a dealer in securities, a finance company, a development finance institution or any other financial institution, which deals with the placement or investment of money for commercial purposes.
- “flotation cost” means the total expenses incurred during an offer period of initial issue of interests including legal, accounting, marketing, advertising and distribution expenses;
- “income unit” means a unit in a unit trust scheme which is not an accumulation unit;

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- “interim income allocation date” in relation to an interim accounting period, means the date in the calendar year on which allocations of income in respect of that interim accounting period are required or to be made;
- “issue” in relation to interests, means the sale of interests by the manager as a principal and issue price is to be construed accordingly;
- “income” means sums considered by the manager of a scheme, after consultation with the auditor, to be in the nature of income received or receivable by the trustee of a unit trust or the board of directors of a mutual fund, in respect of the property of the scheme after deduction of expenses properly chargeable against the property, but excluding any amount for the time being standing to the credit of the distribution account;
- “investor” has the same meaning as in section 142 of the Law;
- “interest” has the same meaning as in section 142 of the Law;
- “Investment” means any investment in which the funds of the scheme may be legally invested but does not include any investments prohibited by the Law, the constitution of the scheme, the scheme particulars or by the Commission;
- “issue price” means the creation price and any other charges and levies payable by the investor for the issue of a single interest;
- “Law” means the Securities Industry Law 1993 (P.N.D.C.L. 333) as amended;
- “liquidation price” means the sum the trustee or a unit trust or the board of directors of a mutual fund would be required to pay from the assets of the scheme for the cancellation of a single interest;
- “manager” has the same meaning as in section 142 of the Law;
- “margin” with reference to purchase of securities means purchasing securities on credit;
- “Minister” means the Minister responsible for Finance;
- “month” means a calendar month;
- “mutual fund” has the same meaning as in section 142 of the Law;
- “open-end mutual fund” means a scheme that continually issues new shares on demand and stands ready to redeem them at any time at a price based on the Net Asset Value of the scheme;

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“preliminary charges” means the difference between the issue price and the proceeds from the sale of interests excluding any fees, levies and charges that is ultimately handed over to the trustee of a unit trust or custodian of a mutual fund for inclusion in the assets of the scheme;

“redemption” has the same meaning as in section 142 of the Law;

“redemption price” means the liquidation price less any charges and levies required to be paid for the purchase of a single interest from an investor;

“report” means annual and interim reports and accounts;

“scheme” has the same meaning as in section 142 of the Law;

“scheme particulars” has the same meaning as in section 142 of the Law;

“securities” has the same meaning as in section 142 of the Law;

“stock exchange” means any stock exchange approved by the Commission in terms of the Law or any other similarly regulated stock exchange of repute in any other part of the world;

“trustee” has the same meaning as in section 142 of the Law;

“value” with reference to

(a) an investment in

(i) a listed security means the value of the security calculated by reference to the lowest market selling price or the highest market buying price, according to the context, on any recognized stock exchange or an alternative trading system on which the security is listed with the value calculated by reference to the price on the actual day or, if no such price is available for the actual day, the price last obtained and where no last obtained price is available, the price that may be certified by a dealer;

(ii) unquoted shares means the net asset value per share based on the last available financial statements subject to an adjustment upwards or downwards of up to 10 per cent to take into account post-balance sheet market conditions, except that any adjustment in the price by more than 10 per cent in view of market conditions may be done only in consultation with the trustee of a unit trust or the board of directors of a mutual fund;

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- (iii) fixed interest bearing securities or deposits means the principal sum invested plus all accrued interest arising on the investment;
  - (b) calculating the value of the assets of the scheme or any portion of the assets of the scheme, shall include not only cash and property in the hands of the trustee or custodian but also the amount of any cash or other property to be received in respect of interests issued after deducting the preliminary charge and any fees, levies and charges payable out of the assets of the scheme; except that,
    - (i) there shall be deducted the manager's remuneration, trustees and custodian fees and any other professional fees which have accrued but remain unpaid;
    - (ii) there shall be taken into account sums that are payable or recoverable in respect of taxation up to the relevant date;
    - (iii) any value whether of an investment or cash, otherwise than in cedis and any foreign currency borrowing effected on account of the scheme, shall be converted into cedis at the inter-bank exchange rate current at the time of valuation; having regard among other things to any premium or discount which may be relevant and to costs of exchange;
    - (iv) if and whenever the quoted price of an investment is a single price, any dealing commission payable shall be taken into account to arrive at the lowest market selling price or the highest market buying price, as the case may be; and
    - (v) there shall be deducted the principal amount of any borrowings, together with any interest and other charges that have accrued but remain unpaid effected by the scheme and for the time being outstanding;
- “valuation point” means the time by reference to which a valuation is carried out to determine the prices at which interests in a scheme may be created, cancelled, issued or redeemed.
- “year” means a calendar year.

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*SCHEDULE 1*

**FORM OF TRUST DEED**

*(Regulation 8(1))*

THIS DEED is made the .....day of .....BETWEEN ..... whose registered office is at .....as manager (the “manager”) of the one part and .....whose registered office is at ..... (the “trustee”) of the other part,.

**WHEREAS:**

The manager has determined to establish a unit trust scheme with a view to it being licensed by the Securities and Exchange Commission under section 32 of the Securities Industry Law 1993 (PNDCL 333) as amended.

The trustee has agreed to act as trustee of the unit trust scheme hereby constituted.

**THE PARTIES HEREBY AGREE** as follows:

*Definitions*

1. (1) In the Deed unless the context otherwise requires,
  - “accounting date” means the 31st day of December and every 31st day of December after that;
  - “the Law” means the Securities Industry Law 1993 (PNDCL 333) as amended;
  - “accounting period” means a period ending on an accounting day and starting from the commencement date of the scheme;
  - “Deed” means this Deed as from time to time altered, modified or added to by any deeds expressed to be supplemental to and entered into in pursuance of these provisions or as construed or modified in accordance with the Law.
  - “scheme particulars” means the scheme particulars for the time being published in respect of the scheme pursuant to the Regulations;
  - “the scheme” means the trust constituted by this Deed to be called by the name stated in clause 2 or such other name as the trustee



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and the manager with the approval of the Securities Exchange Commission may determine;

“Regulations” means the Unit Trust and Mutual Fund Regulations, 2001 (L.I. 1695)

2. Unless the context otherwise requires and except as provided in subclause (1) words and expressions defined in or for the purposes of the Law and the Regulations shall bear the same meanings as appropriate to the particular context in this Deed.
3. References to statutory provisions or to Regulations made shall be deemed to extend to any modification or re-enactment or replacement for the time being in force.
4. References to clause numbers shall be reference to the numbers of the clauses in this Deed.
5. The headings in this Deed are for convenience only and shall not affect the construction of the clauses of the Deed.
6. References to persons include bodies corporate and vice versa.

*Name of scheme*

2. The name of the scheme is .....

*Investment objectives*

3. The investment objective of the scheme is to provide a high and increasing level of income with some prospect of capital appreciation.

*Base currency*

4. The base currency of the scheme is Ghanaian cedis.

*Declaration of trust*

5. Subject to the provisions of this Deed, the Law and the Regulations made under the Law, as from the date of this Deed—

- (a) the property of the scheme other than sums standing to the credit of the distribution account is held by the trustee in trust for the unit holders on the same status according to the number of units held by each holder or, where both income and accumulation units are in issue, according to the number of undivided shares in the property of the scheme represented by the units held by each unit holder; and

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- (b) the sums standing to the credit of the distribution account are held by the trustee on trust to distribute or apply them in accordance with the Law and the Regulations made under the Law.

*Trust deed binding on holders*

6. The terms and conditions of this Deed is binding on each holder as if the holder had been a party and as if the Deed contains covenants on the part of each unit holder to observe and be bound by all the provisions; and the trustee and manager are authorised and required to do the things required or permitted to be done by them under this Deed.

*Application of regulations*

7. (1) The scheme is subject to the provisions of the Law and Regulations made under the Law which shall be binding on the manager, the trustee and the unit holders; accordingly in the event of any conflict between this Deed and any provisions of the Law and Regulations, the Law and the Regulations shall prevail.

(2) The Law shall be construed in conjunction with the following provisions

- (a) the property of the scheme may not include any investment to which a liability, whether actual or contingent is attached unless the liability is for a fixed amount which is ascertainable at the time when the investment is acquired for the account of the scheme and which liability can be discharged from cash or near cash resources of the trust;
- (b) subject to any restrictions in the Law and Regulations made under the Law, the scheme may invest in any securities in the Ghanaian market or in other securities market approved by the Commission as an eligible market; and
- (c) there are no specific restrictions on the investment of the scheme, including economic sectors or geographical areas except as may arise under the Law and Regulations made under the Law.

*Remuneration of trustee*

8. (1) The trustee is entitled to receive remuneration for its services which, together with any indirect taxation, shall be paid out of the property of the scheme. The remuneration shall consist of a periodic charge calculated in accordance with this clause.

(2) The periodic charge payable to the trustee shall be calculated in respect of successive calendar monthly periods (“payment period”) but no charge shall be payable in respect of the initial offer period.

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(3) The first payment period shall begin on the day following the end of the initial offer period and end on the last day of the month in which the offer period expires and in respect of the first payment period the relevant valuation point shall be the first valuation point of the scheme following the end of the initial offer period.

(4) The amount of the periodic charge for each payment period shall be set out in the scheme particulars of the scheme as amended from time to time and shall be calculated at such percentage as the manager and the trustee may agree of the value of the property of the scheme, divided by 365 or, in a leap year, by 366 and multiplied by the number of days, including fractions of a day, in the relevant payment period.

(5) The percentage mentioned in subclause (4) shall not in any event exceed what is determined by the Commission.

(6) For the purposes of calculating the trustee's periodic charge in respect of any payment period, the value of the property of the scheme shall be determined by striking an arithmetic average of the bid basis and the offer basis of the valuation carried out in accordance with the Law and Regulations made under the Law at the recent valuation point. The relevant valuation point shall be the most relevant point to have occurred before the beginning of the payment period;

(7) In the event of a winding up of the scheme, the final payment period for the purpose of calculating the trustee's periodic charge, shall end on the day on which the final distribution in the winding up is made or, in the case of a winding up following the passing of a special resolution at a meeting of unit holders pursuant to the Law, such other day as may be specified by the resolution or the terms of the scheme or proposal approved .

(8) The calculation of the remuneration to which the trustee is entitled under this clause shall be made without taking into account any indirect taxation in respect of the remuneration, and the trustee shall, in addition to the remuneration, be entitled to a sum equal to the indirect tax payable on it which is also to be paid out of the property of the scheme.

(9) Any amount of remuneration payable to the trustee calculated under subclause (4) in respect of any payment period shall accrue on a daily basis and shall be paid to the trustee on or as soon as possible after the date on which the relevant payment period begins.

(10) The trustee is entitled to receive out of the property of the scheme payment as reimbursement of expenses properly incurred by the trustee in performing duties imposed on it or exercising powers conferred on it by the Law.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Remuneration of manager*

9. (1) The manager is entitled to receive for its own account out of the property of the scheme, a periodic charge at a rate which shall not exceed a maximum of 2.5 per cent per annum, excluding any indirect taxation of the periodic charge of the value of the property of the scheme.

(2) The manager may by notice to the trustee in writing elect to receive a periodic charge at a rate lower than the maximum referred to in subclause (1) and may by a similar notice at any time to alter the rate of periodic charge, but not so as to exceed the maximum and provided that notice to the trustee of any increase in the rate of periodic charge shall not take effect until:

- (a) notice in writing of the intention of the manager to make the increase has been given to each unit holder;
- (b) the manager has revised the scheme particulars to reflect the proposed increase; and
- (c) 90 days have elapsed since the revised scheme particulars became available.

(3) Subject as stated, the periodic charge payable to the manager shall be calculated in respect of successive payment periods on the same basis, as stated for the trustee's remuneration in clause 8 (2), (3), (4) (5) (6) and (7), but no charge is payable in respect of the initial offer period and the first payment period shall begin on the day after the end of the initial offer period and end on the last day of the month in which the offer period expires and in respect of the first payment period the relevant valuation point shall be the first valuation point of the scheme following the end of the initial offer period.

(4) Any amount of remuneration payable to the manager calculated under subclause (3) in respect of any payment period shall accrue on a daily basis and shall be paid to the manager on or as soon as possible after the date on which the relevant payment period begins.

(5) Any indirect tax chargeable in respect of services rendered by the manager in consideration of the periodic charge shall also be paid out of the property of the scheme.

(6) The manager is authorised to receive for its own account on the issue of a unit, a preliminary charge the amount of which shall not exceed 5 per cent of the creation price of that unit and the preliminary charge shall not at any time exceed the current preliminary charge stated in the scheme particulars.

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*Other remuneration and expenses chargeable to the property of the scheme*

10. (1) The manager is entitled to make payments out of the property of the scheme, to registrars, trustees and auditors as remuneration for their services and to make payments in the form of contributions to the expenses of regulatory bodies.

(2) The manager is entitled to meet the costs incurred in connection with production of certificates of title, distribution stationery and mailing expenses out of the property of the scheme.

*Unit holder's liability to pay*

11. A unit holder is not liable to make further payment after the unit holder has paid the purchase price of units and no further liability should be imposed on the unit holder in respect of the units held by the unit holder.

*Issue of units*

12. (1) The manager has the exclusive right to issue new units for the account of the trust. The manager may make arrangements for the issue of units to provide the initial investments for the scheme.

(2) The manager shall determine the price at which the initial offer to the public shall be made and the price shall remain fixed at that level until the expiry of the initial offer period which shall last for 21 days.

(3) The price at which additional units may be issued for cash shall be the price ruling at the valuation point immediately preceding the date of issue of the additional units.

(4) The manager shall give to the trustee on each dealing day details of units required to be created or liquidated as a result of its dealing in the units.

(5) The details shall include the number of units to be created or liquidated, the date of the valuation point to be applicable and the split between capital and income property.

(6) The manager shall request the creation or liquidation of units to be based upon that day's established dealing prices and the trustee shall, subject to the other provisions of this Deed and the Law, comply with the request.

(7) The manager shall, after each dealing day, furnish the trustee with a statement of all issues of units, the terms on which the units are issued, any investments which it has purchased for the account of the trust, a statement of investments it has sold for the account of the trust and any other information which may be necessary for the trustee to ascertain the value of the scheme property at any time.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Realisation of units*

13. (1) On each dealing day the manager has the exclusive right by notice in writing delivered to the trustee to effect reductions of the property of the trust by requiring the trustee to cancel units.

(2) The notice shall state the number of units to be cancelled and the amount payable to the manager in respect of the units which shall be calculated at the ruling price on the relevant dealing day.

(3) Before giving notice to exercise the right, the manager shall ensure that the property of the scheme includes, or will upon completion of the sale of the investments to be sold, include sufficient cash to pay the amount payable to the manager upon the reduction.

(4) The amount shall be payable to the manager on or as soon as reasonably possible after the relevant dealing day against the surrender to the trustee of the relevant certificates, if any, to be cancelled and delivery to the trustee of particulars of the units to be cancelled.

(5) Upon the payment and surrender, the units in question shall be deemed to have been cancelled and withdrawn from issue.

*Surrender of units for value*

14. (1) A unit holder is entitled at any time during the life of the trust, by a request in writing to the manager, accompanied with the unit holder's certificate, if any, with the endorsement on it duly completed, to surrender for cash consideration, all or any part of the units in the certificate, at the price ruling on the dealing day immediately following receipt by the manager of the request.

(2) In the event that certificates are not issued, the manager shall require due signature by the unit holder of a form of renunciation before settlement is made.

(3) The ruling price shall be payable to the unit holder within 7 days of the applicable dealing day.

(4) The manager shall ensure that the moneys required for payment of the surrender value of any units surrendered as mentioned are made available either out of the proceeds of re-sale of the units or otherwise out of the property of the scheme.

*Investment of the property of the scheme*

15. (1) All cash and other property which ought, in accordance with the provisions of this Deed, to form part of the property of the scheme shall be paid or transferred to the trustee and all cash shall, except in so far as such

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cash may in the opinion of the manager be required for transfer to the Distribution Account be applied at the discretion of the manager, but subject to the provisions of this Deed, the Law and Regulations made under the Law in the acquisition of investments.

(2) Any investments comprised in the property of the scheme may at any time be realised at the discretion of the manager either in order to invest the proceeds of the sale in other investments permitted under the Law or to provide cash required for the purpose of any provision of this Deed or in order to retain the proceeds of sale in cash or on deposit as mentioned or partly one and partly another.

(3) The trustee may borrow or raise money on an unsecured basis or on the security of the trust's movable or immovable property but that power shall only be exercised if the manager requests the trustee to exercise the power and the trustee is satisfied that the borrowing requested will not prejudice the unit holders and that the borrowing is of a short term nature only to ensure liquidity in the scheme property and does not exceed 15 per cent of the value of the scheme property.

(4) Cash that forms part of the property of the scheme or standing to the credit of the Distribution Account may be placed in any current, deposit or loan account with the trustee, if a banker or with any of its associates which is a banker so long as that banker pays interest at no lower rate than is the commercial rate for deposit of the size in question negotiated at arm's length in accordance with normal banking practice.

(5) The manager may appoint an investment adviser to advise it on the acquisition and disposal of investments and other incidental matters.

*Distributions*

16. (1) All income earned by the scheme property shall accrue to the unit holders in accordance with this clause and the Law.

(2) On the 31<sup>st</sup> day of January and after the 31<sup>st</sup> day of January in each succeeding year, the trustee shall distribute among the unit holders in accordance with the number of units registered in their respective names on the last preceding account day, the amount available for distribution to unit holders in respect of the accounting period ending on the accounting adjusted to the nearest amount not involving the distribution of a fraction of a cedi per ten units.

(3) As at each accounting day, the amount of cash required to effect such distribution shall be transferred to a special account to be known as the "Distribution Account" and the amount at credit of the Distribution Account shall be held by the trustee upon trust to distribute the amount as provided in this clause.

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(4) The amount available for distribution in respect of the accounting period shall be assessed by deducting the expenses permissible under regulation 41 from the total net amount received by the trustee in the accounting period, of all interest, dividends and other receipts considered by the manager after consultation with the trustee to be in the nature of income and by making such adjustment as the manager, with approval of the trustee may determine.

(5) At the end of each annual accounting period the manager shall cause to be made up and audited a statement signed by at least 2 directors of the manager, showing the amount to be distributed for the period under this clause.

(6) The statement relating to each period with the auditor's report annexed shall be filed with the Commission and the trustee and copies of the statement and the report shall be open for inspection during business hours by any unit holder at the offices of the trustee and the manager.

(7) The trustee and the manager shall be absolutely protected in relying on the statement and shall act upon the audited statement.

(8) Nothing contained in this clause shall prevent the manager from distributing income on an interim basis, half-yearly or more frequently.

*Certificates*

17. (1) The manager and the trustee may issue certificates representing units to unit holders whose names are entered on the register maintained under regulation 53 of these Regulations.

(2) The trustee may register a grant of probate, confirmation, letters of administration or any other document relating to or affecting the title to any unit upon the payment to the manager of such fee (and any applicable indirect tax) as the manager and the trustee may determine.

*Investment in schemes managed by the manager*

18. (1) The property of the scheme may include units in another collective investment scheme which is managed or operated by the manager or an associate of the manager.

(2) Whenever the property of the scheme is invested in the manner provided under subclause (1), the manager shall ensure that regulation 38 (1) of these Regulations is complied with.

*Dealings by manager, trustee and associates*

19. The manager, the trustee, any associate of either of them, any investment adviser of the manager or a person of any other specified description may



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- (a) deal in property of any description on that person's individual account notwithstanding the fact that property of that description is included in the property of the scheme; or
- (b) act as agent for the trustee and the manager in the sale or purchase of property to or from the trustee for the account of the trust without that person having to account to any other person, or to the investors for any profits or benefits made by or derived from or in connection with a transaction.

*Governing law*

20. This Deed is made under and governed by the laws of Ghana.

*Amendment of trust Deed*

21. The trustee and the manager may modify, alter or add to the provisions of this Deed but no modification, alteration, or addition may be made except on the authority of a special resolution at a meeting of investors called for that purpose in accordance with the Regulations and no resolution shall be required in relation to any modification the purpose of which is

- (a) to implement any change that arises due to an amendment of the Law; or
- (b) to change the name of the scheme;
- (c) to change the dates on which the annual accounting period begins and ends or to change the annual income allocation date;
- (d) to make an amendment which the manager reasonably believes is for the benefit of investors and potential investors or does not involve any of them in any material disadvantage
- (e) to remove from the trust Deed obsolete provisions;
- (f) to replace the manager or the trustee when the manager or the trustee has been removed or wishes to retire or has retired.

IN WITNESS OF THIS DEED the parties to this Deed have executed it as a Deed on or before the date first above written.

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*SCHEDULE 2*

**PARTICULARS OF A TRUST DEED**

*(Regulation 8(1) )*

*Name of scheme*

1. A statement of the name of the scheme being a name that is consistent with the objectives of the scheme stated in accordance with paragraph 2 below.

*Investment objectives*

2. If an objective of the scheme is investment in a geographic area, a statement of that fact specifying the area and, if an objective for the scheme is investment in any economic sector or in all economic sectors, a statement of that fact specifying the sectors .

*Governing law*

3. A statement that the governing law of the scheme is the law of Ghana.

*Trust deed to be binding and authoritative*

4. A statement that the trust deed or constitution is binding on each investor as if the investor had been a party to it and so to be bound by its provisions and authorises and requires the manager and the trustee to do the things required of them by the terms of the constitution or trust Deed.

*Base currency*

5. A statement of what constitutes the base currency of the scheme.

*Declaration of trust*

6. A declaration that, subject to the provisions of the trust Deed and to any law for the time being in force:

- (a) the property of the scheme other than sums standing to the credit of the distribution account is held by the trustee in trust for the investors *pari passu* according to the number of units held by each investor;
- (b) in a case where income units and accumulation units are both in issue, according to the number of undivided shares in the property of the scheme represented by the units held by each investor; and

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- (c) the sums standing to the credit of the distribution account are held by the trustee in trust to distribute or apply them in accordance with the Regulations.

*Guarantee on minimum subscription*

7. A statement on the contents as provided in Schedule 9 of the guarantee agreement to be entered into between the manager of a unit trust and the trustee.

*Annual and interim accounting periods*

8. The dates in the calendar year on which the annual and interim accounting periods begin and end.

*Annual and interim income allocation dates*

9. The dates in the calendar year, not being later than two months after the date on which the immediately preceding annual or interim accounting period ends, which is to be the annual income allocation dates.

*Payment for redemptions*

10. A statement on the arrangement made between the manager and trustee on how payment will be effected whenever the investor redeems an interest in the scheme.

*Certificates*

11. Unless provision is contained in the constitution dispensing with them, provision as to the form and content of and the manner of authenticating certificates evidencing title to a holding of interests.

*Investor's liability to pay*

12. A provision that an investor is not liable to make any further payment after the investor has paid the purchase price of the investor's interests and that no further liability can be imposed on the investor in respect of the interests which the investor holds.

*Supplemental instruments*

13. (1) A provision that no modification may be made to the constitution or trust Deed except by a special resolution at a meeting of investors called for the purpose; except that the constitution may contain a provision that there shall not be approval of any modification which is solely

- (a) to implement any change that arises due to an amendment of the Regulations;
- (b) to change the name of the scheme;
- (c) to change the dates on which the annual accounting period begins and ends or to change the annual income allocation date;

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- (d) to change the dates on which any interim accounting period begins or ends or to change the interim allocation date which relates to the period;
- (e) to make an amendment which the manager reasonably believes is for the benefit of investors and potential investors or does not involve any of them in any material disadvantage;
- (f) to remove from the trust Deed or constitution obsolete provisions; or
- (g) to replace the manager or the trustee when the manager or trustee has been removed or wishes to retire or has retired.

*Duration of the scheme*

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

*Operator's periodic charge*

15. A statement authorising the manager to make a periodic charge payable out of the property 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 property of the scheme.

*Trustees' remuneration*

16. A statement authorising the manager to make payments to the trustee as remuneration for services of the trustee, relieving the trustee from any obligation to account for those payments to the investors or any of them and specifying the basis on which that remuneration is to be calculated and how it should accrue and be paid.

*Other remuneration*

17. A statement authorising the manager to make payments to registrars, custodians and auditors as remuneration for their services.

*Remuneration chargeable to the property of the scheme*

18. A statement authorising any payments of remuneration under paragraph 15, 16 and 17 to be paid in whole or in part out of the property of the scheme.

*Other fees and expenses chargeable to the property of the scheme*

19. A statement authorising the manager to pay in whole or in part out of the property of the scheme the cost of any contributions to the expenses of regulatory bodies and the costs incurred in connection with the production of certificates of title, distribution of stationery and mailing expenses.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Operator's preliminary charge*

20. A statement of the maximum percentage of the creation price of an interest in the scheme which may be included in the issue price of that interest calculated by reference to that creation price as a preliminary charge receivable by the manager.

*Initial price and offer period*

21. A statement of the initial price of interests and the length of the period of the initial offer.

*Investment in other schemes managed by the manager or its associate*

22. A statement that the property of the scheme may include interests in another collective investment scheme which is managed or operated by the manager or by another company in the same group as the manager or which is managed or operated by any person who is a controller of the manager or of whom the manager is the controller.

*Constituents of property, hedging transactions and borrowing powers*

23. A description of the assets of which the capital property of the scheme may consist, a description of hedging transactions if allowed which may be effected on behalf of the scheme and the borrowing powers exercisable in relation to the scheme.

*Accumulation units*

24. A statement as to whether under the scheme interests are accumulation interests only or accumulation interests as well as income interests.

*Interim income allocation date*

25. A provision authorising or requiring interim allocations of income and specifying whether the interim accounting period is to be at the discretion of the manager.

*Cash deposits*

26. A provision that cash that forms part of the property of the scheme or that stands to the credit of the Distribution Account may be placed in any current, deposit or loan account with the trustee if a bank, or with any associate of the trustee or manager which is a bank so long as the bank pays interest at no lower rate than the commercial rate for deposits of the size in question negotiated at arm's length in accordance with normal banking practice.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Borrowing*

27. (1) A provision that money which may be borrowed for the account of the scheme may be borrowed from the trustee if a bank, or from any associate of the trustee which is a bank provided the bank charges interest at no greater rate, and any fee for arranging or terminating the loan is of no greater amount than is the commercial rate of a loan of the size in question negotiated at arm's length in accordance with normal banking practice.

(2) A provision that no more than 15 per cent of the scheme property may be borrowed and that the borrowing is to ensure liquidity in the scheme property.

*Dealings by manager trustee and associates*

28. A provision authorising the manager, the trustee, any associate of either of them, any investment adviser of the manager to appoint a person of any other specified description

- (a) to deal in property of any description on that person's individual account notwithstanding the fact that property of that description is included in the property of the scheme; or
- (b) to act as agent for the trustee and the manager in the sale or purchase of property to or from the trustee for the account of the trust without that person having to account to any other person, or to the investors for any profits or benefits made by or derived from or in connection with the transaction.

*Certificates*

29. A provision relieving the manager from a duty to issue certificates.

*Investment adviser*

30. A provision authorising the manager to appoint an investment adviser.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**SCHEDULE 3***REGULATIONS OF AN OPEN-END MUTUAL FUND COMPANY**  
*(Regulation 9)*

1. The name of the company is .....
2. The company is to be a public company.
3. The nature of the business which the company is authorised to carry on is to invest the monies of its members for their mutual benefit and to hold and arrange for the management of securities and other property acquired with the monies.
4. Pursuant to section 24 of the Companies Code, 1963 (Act 179), the company has, for the furtherance of its authorised businesses, the powers of a natural person of full capacity except in so far as the powers are expressly excluded by these regulations.
5. (1) The first directors of the company are  
Kofi Mensah  
John Henry Smith  
Herbert Harold Brown  
Kwame Budu  
George Kojo  
Thomas Kobina and  
William Kwaku  
(2) The powers of the board of directors are limited in accordance with section 202 of the Code.
6. The liability of the members of the company is limited.
7. The company is to be registered with shares of no par value.
8. The regulations contained in the Code shall not apply except to the extent to which they are repeated or contained in these regulations.
9. (1) The manager shall determine the price at which the initial offer to the public shall be made and the price shall remain fixed at that level until the expiry of the initial offer period.  
(2) The period during which this initial price shall be on offer shall be 21 days from a date to be specified in the scheme particulars.  
(3) Subject to subparagraph (1) of this paragraph, the company shall ensure that the price at which its shares are offered to the public is based on the net value of its assets at the time of the offer with no addition except for a reasonable service charge and that no partly paid shares are issued by it.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

10. Subject to the Law and Regulations made under the Law, the company shall, at the request of any holder of its shares, at any time repurchase any shares offered by the holder for repurchase at a price based on the net value of its assets at the time of the repurchase without any deduction except for a reasonable service charge.

*Name of the mutual fund scheme*

11. The name of the scheme is .....

*Investment objectives*

12. The investment objective of the scheme is to provide a high and increasing level of income with some prospect of capital appreciation.

*Base currency*

13. The base currency of the scheme is Ghanaian cedis.

*Application of statutory regulations*

14. (1) The scheme is subject to the provisions of the Law and Regulations made under the Law and the Law and Regulations made under the Law shall be binding on the manager, the custodian and the shareholders.
- (2) In the event of any conflict between the provisions of these regulations and any provisions of the Law, or Regulations made under the Law the provisions of the Law or the Regulations shall prevail.
- (3) The Law shall be construed in conjunction with the following provisions;
- (a) the property of the scheme may not include any investment to which a liability, whether actual or contingent, is attached unless the liability
    - (i) is for a fixed amount which is ascertainable at the time when the investment is acquired for the account of the scheme; and
    - (ii) the liability can be discharged from the cash or near cash resources of the company;
  - (b) subject to any restrictions in the Law and the Regulations, the scheme has the power to invest in any securities in the Ghanaian market or in any other securities market approved by the Commission as an eligible market; and
  - (c) there are no specific restrictions on the investment of the scheme including economic sectors or geographical areas, except as may arise under the Law and the Regulations made under the Law.



*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Remuneration of the custodian*

15. (1) The custodian is entitled to receive remuneration for its service which, together with any indirect taxation, shall be paid out of the property of the scheme.
- (2) The remuneration shall consist of a periodic charge calculated in accordance with this paragraph.
- (3) The periodic charge payable to the custodian shall be calculated in respect of successive calendar month periods (“payment periods”) except that no charge shall be payable in respect of the initial offer period.
- (4) The first payment period shall begin on the day after the end of the initial offer period and end on the last day of the month in which the offer period expires.
- (5) In respect of the first payment period, the relevant valuation point shall be the first valuation point of the scheme following the end of the initial offer period.
- (6) The amount of the periodic charge for each payment period shall be set out in the scheme particulars of the scheme as amended from time to time and shall be calculated as such a percentage of the value of the property of the scheme as the manager and the custodian may agree; divided by 365 or, in a leap year, 366 and multiplied by the number of days, including fractions of a day comprised in the relevant payment period.
- (7) The percentage shall not in any event exceed what shall be determined by the Commission.
- (8) For the purposes of calculating the custodian’s periodic charge in respect of any payment period, the value of the property of the scheme shall be determined by striking an arithmetic average of the bid basis and the offer basis of the valuation carried out in accordance with prescribed regulations at the relevant valuation point. The relevant valuation point shall be the most recent point to have occurred before the beginning of that payment period;
- (9) In the event of a winding up of the scheme, the final payment period for the purpose of calculating the custodian’s periodic charge shall end on
- (a) the day on which the final distribution in the winding up is made;
  - or
  - (b) in the case of a winding up following the passing of a special resolution at a meeting of shareholders pursuant to the regulations, such other day as may be specified by the resolution or the terms of the scheme or a proposal approved by the board.

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(10) The calculation of the remuneration to which the custodian is entitled under this regulation shall be made without taking into account any indirect taxation in respect of it and the custodian shall, in addition to the remuneration, be entitled to a sum equal to the indirect tax payable on it which is also to be paid out of the property of the scheme.

(11) Any amount of remuneration payable to the custodian calculated under subparagraphs (2) to (8) in respect of any payment period shall accrue on a daily basis and shall be paid to the custodian on or as soon as possible after the date on which the relevant payment period begins.

(12) The custodian is entitled to receive out of the property of the scheme payment of reimbursement or expenses properly incurred by the custodian in performing duties imposed upon it or exercising powers conferred upon it by the Law.

*Remuneration of manager*

16. (1) The manager is entitled to receive for the manager's own account out of the property of the scheme a periodic charge at a rate which shall not exceed 2.5 per cent per annum, excluding any indirect taxation of the charge, of the value of the property of the scheme.

(2) The manager may by notice to the custodian in writing elect to receive a periodic charge at a rate lower than the maximum referred to in subparagraph (1) and may by similar notice alter the rate of periodic charge but not so as to exceed the maximum, provided that notice to the custodian of any increase in the rate of periodic charge shall not take effect until,

- (a) notice in writing of the intention of the manager to make such increase has been given to each shareholder;
- (b) the manager has revised the scheme particulars to reflect the proposed increase; and
- (c) 90 days have elapsed since the revised scheme particulars became available.

(3) Except as stated in this paragraph the periodic charge payable to the manager shall be calculated in respect of successive payment periods on the same basis, as stated for the custodian's remuneration in paragraph 15 (2) to (8) but no charge is payable in respect of the initial offer period.

(4) The first payment period shall begin on the day following the end of the initial offer period and end on the last day of the month in which the offer period expires.

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(5) In respect of the first payment period the relevant valuation point shall be the first valuation point of the scheme following the end of the initial offer period.

(6) Any amount of remuneration payable to the manager calculated under subparagraphs (3) to (5) in respect of any payment period shall accrue on a daily basis and shall be paid to the manager on or as soon as possible after the date on which the relevant payment period begins.

(7) Any indirect tax chargeable in respect of services provided by the manager in consideration of the periodic charge shall be paid out of the property of the scheme.

(8) The manager is authorised to receive for the manager's own account on the issue of a share a preliminary charge, the amount of which shall not exceed 5 per cent of the creation price of that share, but the preliminary charge shall not at any time exceed the current preliminary charge stated in the scheme particulars.

*Other remuneration and expenses chargeable to the property of the scheme*

17. (1) The manager is entitled to make payments out of the property of the scheme, to registrars, custodians and auditors as remuneration for their services and to make payments of contributions to the expenses of any other regulatory bodies.

(2) The manager is entitled to meet the costs incurred in connection with the production of certificates of titles, distribution of stationery and the mailing of these items out of the property of the scheme.

*Commissions*

18. The company may pay commission or brokerage to any receiving institution in consideration of it subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for shares in the company but the payment shall not exceed 1 per cent of the price at which the shares are issued.

*Share certificates*

19. Share certificates shall be issued in accordance with section 53 of the Companies Code.

*Transfer and transmission of shares*

20. (1) The board of directors may decline to register

- (a) the transfer of any share on which there is an unpaid liability to a person of whom they may not approve;

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(b) the transfer of any share to any person who is a child or to any one found by a court in Ghana to be a mental patient or of unsound mind.

(2) Subject to subparagraph (1) there shall be no restriction on the right to transfer any shares in the company.

21. Shares shall be transferable and transfers shall be registered in the manner provided by sections 95 and 98 of the Code.
22. In the event of the death of any shareholder or ownership of any share devolving on any person because that person is the legal personal representative, receiver or trustee in bankruptcy of the holder, or by operation of any law, the provisions of section 99 of the Code shall apply.

*Dividends*

23. (1) The company may by ordinary resolution declare dividends in respect of any year or other period but no dividend shall exceed the amount recommended by the board of directors, on the advice of the manager.  
(2) Dividends, if any, shall be declared on the annual income allocation date, which shall be 31st December.
24. The board of directors may exercise the powers conferred by section 293 of the Code to pay interim dividends.
25. No dividend is to be paid unless
  - (a) the company is, after the payment, able to pay its debts as they fall due; and
  - (b) the amount of the payment does not exceed the company's income surplus immediately before the making of the payment.
26. The board of directors may, before recommending any dividend, set aside out of the profits or income surplus of the company such sums as they think proper in order to provide for a known liability, including a disputed or contingent liability, or as a depreciation or replacement provision and may carry forward any profits or income surplus which they may think prudent not to distribute.
27. All dividends shall be declared and paid as a fixed sum per share and not as a proportion of the amount paid in respect of a share.
28. The board of directors may deduct from any dividend payable to any shareholder sums of money payable by the shareholder to the company in respect of shares of the shareholder.

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29. (1) Any dividend payable in cash may be paid by cheque or warrant sent by post directed to the registered address of the shareholder or, in the case of joint holders, to the registered address of the one who is first named in the register of members, or to such person and to such address as the holder or joint holders may in writing direct.
- (2) Each cheque or warrant shall be made payable to the order of the person to whom the cheque is sent.
- (3) Any one or two or more joint holders may give effectual receipts for any dividends.
- (4) Each dividend payment shall be accompanied with a statement showing the gross amount of the dividend and any tax deducted or deemed to be deducted from the dividend.
30. No dividend shall bear interest against the company.

*Capitalisation issues and non-cash dividends*

31. The company may exercise the powers conferred by section 74 of the Code upon the recommendation of the directors
- (a) to make capitalisation issues of shares in accordance with subsection (1) of section 74 of the Code;
  - (b) to resolve, in accordance with subsection (3) of section 74 of the Code, that any sum standing to the credit of the company's income surplus and which could have been distributed by way of dividend shall be applied in paying up amounts for the time being unpaid on shares;
  - (c) to direct, in accordance with subsection (4) of section 74 of the Code, that payment of dividend shall be wholly or partly by distribution of securities for money or fully paid shares or debentures of another body corporate or of fully paid debentures of the company.

*Investment of the property of the scheme*

32. (1) All cash and other property, which ought in accordance with the provisions of any enactment and these regulations, to form part of the property of the scheme shall be paid or transferred to the custodian and the cash shall, except where the cash may in the opinion of the manager be required for transfer for the payment of dividends, be applied at the discretion of the manager but subject to the provisions of any enactment and these regulations in the acquisition of investments.

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(2) Any investments comprised in the property of the scheme may at any time be realised by the manager either in order to invest the proceeds of the sale in other investments permitted by or under the Law or to provide cash required for the purpose of any provision of these regulations or in order to retain the proceeds of sale in cash or on deposit as mentioned or partly one and partly another.

(3) The Manager is entitled to require the board of directors to borrow or raise money on an unsecured basis or on the security of the movable or immovable property of the company but the right shall only be exercised if the board of directors, on the advice of the custodian, is satisfied that the borrowing requested will not prejudice the shareholders and that the borrowing is of a short term nature and is to ensure liquidity in the scheme property and does not exceed 10 per cent of the value of the scheme property.

(4) Cash that forms part of the property of the scheme may be placed in any current, deposit or loan account with the custodian, if a bank or with any of its associates which is a bank so long as the bank pays interest at no lower rate than the commercial rate for deposits of the size of deposit in question negotiated at arm's length, in accordance with normal banking practice.

(5) The manager may appoint an investment adviser to advise on the acquisition and disposal of investments and other incidental matters.

*Investment in schemes managed by the manager*

33. (1). The property of the scheme may include interests in another collective investment scheme which is managed or operated by the manager or an associate of the manager.

(2) Whenever the property of the scheme is invested in the manner provided under in subparagraph (1) the manager shall pay into the property of the scheme as soon as possible, the amount to ensure that paragraph 32(3) of these regulations is complied with.

*Branch registers*

34. The company may exercise the powers conferred by sections 103 and 104 of the Code with respect to the keeping of branch registers and the board of directors may subject to the provisions of those sections make such regulations as they think fit in respect of the keeping of the register and may vary the regulations.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Accounts and audit*

35. (1) The board of directors shall cause proper books of account to be kept and a profit and loss account and balance sheet to be prepared, audited and circulated in accordance with sections 123 to 133 of the Code.  
(2) The annual accounting period shall commence on 1st January and end on 31st December.
36. Auditors, qualified in accordance with section 296 of the Code, shall be appointed and their duties regulated in accordance with sections 134 to 136 of the Code.

*General meetings and resolutions*

37. The powers of the members in general meeting shall be as stated in section 137 of the Code and Part XI of these Regulations.
38. Annual general meetings shall be held in accordance with section 149 of the Code and Part XI of these Regulations.
39. Extraordinary general meetings may be convened by the directors whenever they think fit in accordance with section 150 of the Code and these Regulations and shall be convened by the directors on a requisition of members in accordance with section 297 of the Code.
40. Notice of general meetings shall be given in accordance with sections 152 to 159 of the Code and accompanied with any statements required to be circulated in accordance with sections 157 to 159 of the Code as well as Part XI of these Regulations.
41. Meetings may be attended by the persons referred to in section 160 of the Code but a member is not entitled to attend unless calls or other sums payable by the member in respect of shares in the company have been paid.
42. The quorum required for any general meeting shall be as stated in Regulations 83 of these Regulations.
43. (1) In accordance with section 163 of the Code any member entitled to attend and vote at a meeting of the company is entitled to appoint another person, whether a member of the company or not, as the member's proxy to attend and vote instead of the member and the proxy shall have the same rights as the member to speak at the meeting.

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(2) An instrument appointing a proxy shall be in the following form or a form as near to it as circumstances admit:

“..... Company Limited

\*I/We ..... of ..... being a\* member/members of

the above-named company appoint .....of .....or failing

\*him/her ..... of .....as\* my/our proxy to vote

for \*me/us on \*my/our behalf at the \*annual/extraordinary general meeting of

company to be held on the..... day of ..... and at any

adjournment of the meeting.

Signed this..... day of .....

This form is to be used

\*in favour of

..... resolution numbered 1  
against

\*in favour of

..... resolution numbered 2.  
\*against

1. [Delete if only one resolution is to be proposed; add further instructions if more than two resolutions are to be proposed.]

Unless otherwise instructed, the proxy may vote as the proxy thinks fit.

\*Strike out whichever is not desired.



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44. A body corporate which is a member of the company may attend and vote either by proxy or by a representative appointed in accordance with section 165 of the Code.
45. (1) Meetings shall be conducted in accordance with sections 166 to 173 of the Code and Part XI of these Regulations.  
(2) On a poll being demanded, the chairperson of the meeting shall not be required to direct a postal ballot in accordance with subsections (6), (7) and (8) of section 170 of the Code unless the chairperson thinks fit or an ordinary resolution to that effect is moved at the meeting and passed on a show of hands.
46. In accordance with section 174 of the Code, a resolution in writing signed by all the members for the time being entitled to attend and vote at general meetings or being bodies corporate by their duly authorised representatives and if the company has only one member by that member, shall be as valid and effective for all purposes, except as provided under section 174, as if the resolution had been passed at a general meeting of the company duly convened and held and if described as a special resolution shall be deemed to be a special resolution within the meaning of the Code.
47. Minutes of general meetings shall be kept in accordance with section 177 of the Code.
48. If at any time the shares of the company are divided into different classes these regulations shall apply to meetings of any class of members in the same way as they apply to general meetings but the quorum shall be as set out in regulation 83 of these Regulations.

*Votes of members*

49. (1) On a show of hands each member and each proxy lawfully present at the meeting shall have one vote, and on a poll each member present in person or by proxy shall have one vote for each share held by the person.  
(2) In the event of a postal ballot being directed pursuant to subsections (6), (7) and (8) of section 170 of the Code, each member entitled to attend and vote at the meeting shall have one vote for each share held by the member.

*Directors*

50. The number of directors shall not be less than five or more than twelve, and shall be determined by ordinary resolution of the members in general meeting and until determined shall be seven.

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51. The continuing directors may act notwithstanding any vacancy in their number but if their number is reduced below two or below the number fixed by the directors as the quorum, they may act for four weeks after the number is so reduced, but after that the continuing directors may act only to increase their number to that number or to summon a general meeting of the company and for no other purpose.
52. The appointment of directors shall be regulated by sections 181, 298 and 299 of the Code.
53. The persons referred to in section 182 of the Code shall not be competent to be appointed directors of the company.
54. A director need not be a member of the company nor hold any shares in the company.
55. The office of director shall be vacated in accordance with section 184 of the Code and any director may be removed from office in accordance with section 185 of the Code.
56. (1) The company may appoint substitute directors in accordance with section 187 of the Code and any director may appoint an alternate director in accordance with section 188 of the Code.  
(2) An alternate director is not entitled to be remunerated otherwise than out of the remuneration of the director appointing the alternate director.
57. At least one director of the company shall at all times be present in Ghana.
58. The remuneration payable to any director in whatsoever capacity shall be determined or approved by the members by ordinary resolution in general meeting in accordance with section 194 of the Code.
59. The proceedings of the directors shall be regulated by section 200 of the Code and the board of directors may delegate any of their powers to committees of the directors in accordance with that section.
60. Minutes of meetings of the board of directors and of any committee of directors shall be kept in accordance with section 201 of the Code.

*Powers and duties of directors*

61. (1) The business of the company shall be managed by the directors who shall pay the expenses incurred in promoting and registering the company.  
(2) Subject to section 202 of the Code, the board of directors may exercise the powers of the company, including power to borrow money and to mortgage or charge the company's property and undertaking or any part of its undertaking and to issue debentures which are not by the Code or these Regulations required to be exercised by the members at a general meeting.

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62. In any transaction with the company or on its behalf and in the exercise of their powers the directors shall observe the duties and obligations imposed on them by sections 203 to 205 of the Code.
63. Subject to section 207 of the Code, a director may enter into any contract with the company and the contract or any other contract of the company in which any director is in any way interested shall not be liable to be avoided nor is any director liable to account for any profit made due to the director holding the office of director or of the fiduciary relationship established.
64. Any director may act personally or by the director's firm in a professional capacity for the company, but not as its auditor, and the director or that firm is entitled to remuneration for the professional services as if the person were not a director.

*Executive and managing directors*

65. The board of directors may exercise the powers conferred by section 192 of the Code to appoint one or more of their number to any other office or place of profit under the company, other than the office of auditor for such period and on such terms as they may determine and may subject to the terms of any agreement entered into in any particular case, revoke the appointment.
66. The directors may entrust to and confer upon a managing director any of the powers exercisable by them upon such terms and with such restrictions as they think fit and either collaterally with or to the exclusion of their own powers and subject to such terms of any agreement entered into in any particular case, may from time to time revoke or vary all or any of the powers.
67. Remuneration shall not be paid to a director in respect of any office or place of profit to which the director is appointed under these regulations unless and until the terms of appointment have been approved by ordinary resolution of the company in general meeting in accordance with section 194 of the Code.

*Secretary, officers and agents*

68. The secretary shall be appointed by the board of directors for such period, at such remuneration, and upon such other conditions as the board thinks fit and any secretary appointed may be removed by the board, subject to the right of the secretary to claim damages if removed in breach of contract.
69. A provision in the Code or these regulations that requires or authorises a thing to be done by or to a director and the secretary shall not be satisfied

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if it is done by or to the same person acting both as director and as or in place of the secretary.

70. (1) The board of directors may appoint officers and agents of the company and may appoint any body corporate, firm, or body of persons, whether nominated directly or indirectly by the board of directors, to be the attorney of the company for such purposes and with such powers, authorities and discretions, not exceeding those vested in or exercisable by the directors under these regulations and for such period and subject to such conditions as the board of directors thinks fit.
- (2) Any power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

*The seal*

71. The directors shall provide for the safe custody of the seal of the company which shall only be used by the authority of the board of directors or of a committee of the directors authorised by the board of directors in that behalf and each instrument to which the seal is affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for the purpose.
72. The company may exercise the powers conferred by section 148 of the Code with regard to having an official seal for use abroad, and the power shall be vested in the board of directors.

*Service of documents*

73. Any document may be served by the company on any member, debenture holder or director of the company in the manner provided by section 262 of the Code.

*Winding-up*

74. (1) If the company is wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Code or by the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180), divide amongst the members in specie or kind the whole or part of the assets of the company, whether they consist of property of the same kind or not and may for that purpose set the value as the liquidator considers

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fair upon any property to be divided and may determine how the division is to be carried out as between the members or different classes of members.

- (2) The liquidator may, vest the whole or any part of the assets in trustees upon trust for the benefit of the members on such conditions as the liquidator thinks fit.
- (3) Notwithstanding the foregoing, no member shall be compelled to accept any securities on which there is any liability.

*Interpretation*

75. In these regulations unless the context otherwise requires,

(1) “Code” means the Companies Code, 1963 (Act 179), or any statutory modification or re-enactment of the Code;

“custodian” means a person appointed by the board of directors to discharge the obligations laid on a custodian by the Law and Regulations made under the Law;

“manager” means the person appointed by the board of directors of the company to manage the mutual fund to be established under these regulations;

“scheme” means the mutual fund to be established by the company pursuant to these regulations and to be called the name stated in regulation 11 or such other name as the board of directors may with the approval of the Commission determine;

“Regulations” means the Unit Trusts and Mutual Funds Regulations, 2001 (L.I. 1695);

“regulations” means the regulations of the open end mutual fund company as set out in this Schedule; and

“the Law” means the Securities Industry Law 1993 (P.N.D.C.L. 333) as amended.

(2) Words or expressions in these regulations have the same meaning as in the Code, the Law and the Regulations made under it.

(3) References to sections of the Code means the sections as modified or re-enacted from time to time.

We the undersigned are desirous of forming an incorporated company in pursuance of these regulations and we respectively agree to take the number of shares in the company set opposite our respective names and to pay in cash the consideration respectively stated.

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Name, Address and Description or Occupation of Subscriber	Number of Shares	Consideration	Payable in Cash
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Kofi Mensah of 301 Ring Road, Obuasi, Mining Engineer .....	1,000		
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John Henry Smith of 421 Ghana House, Kumasi, Chartered Accountant .....	1,000		
--	-------	--	--

Dated the.....

Witness to the above

*Signature:*.....

Name — Charles Robinson  
Address — Nkrumah Circle, Accra  
Description or Occupation — Legal Practitioner

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**SCHEDULE 4***REGULATIONS OF A CLOSED-END MUTUAL FUND COMPANY**  
*(Regulation 9)*

1. The name of the company is .....
2. The company is to be a public company listed on an Exchange approved by the Securities and Exchange Commission.
3. The nature of the business which the company is authorised to carry on is to invest the monies of its members for their mutual benefit and to hold and arrange for the management of securities and other property acquired with those monies.
4. Pursuant to section 24 of the Companies Code, 1963 (Act 179), the company has, for the purpose of its authorised businesses, all the powers of a natural person of full capacity except those powers that are expressly excluded by these regulations.
5. (1) The names of the first directors of the company are  
Kofi Mensah  
John Henry Smith  
Herbert Harold Brown  
Kwame Budu  
George Kojo  
Thomas Kobina and  
William Kwaku  
(2) The powers of the board of directors are limited in accordance with section 202 of the Code.
6. The liability of the members of the company is limited.
7. The company is to be registered with shares of no par value.
8. The regulations contained in the Code shall not apply except to the extent to which they are repeated or contained in these regulations.
9. (1) The manager shall determine the price at which the initial offer of shares to the public shall be made and the offer price shall remain fixed at that price until the expiry of the initial offer period.

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(2) The period during which this initial price shall be on offer shall be 21 days from a date to be specified in the scheme particulars.

*Name of the mutual fund scheme*

10. The name of the scheme is .....

*Investment objectives*

11. The investment objective of the scheme is to provide a high and increasing level of income with some prospect of capital appreciation.

*Base currency*

12. The base currency of the scheme is Ghanaian cedis.

*Application of statutory regulations*

13. (1) The scheme is subject to the provisions of the Law and Regulations made under the Law and the Law and Regulations made under the Law are binding on the manager, the custodian and the shareholders.

(2) In the event of any conflict between the provisions of these regulations and any provision of the Law or Regulations made under the Law, the provisions of the Law or the Regulations shall prevail.

(3) The Law shall be construed in conjunction with the following provisions:

(a) the property of the scheme may not include any investment to which a liability, whether actual or contingent is attached unless the liability

(i) is for a fixed amount which is ascertainable at the time when the investment is acquired for the account of the scheme; and

(ii) the liability can be discharged from cash or near cash resources of the company;

(b) subject to any restrictions in the Law and the Regulations, the scheme has the power to invest in any securities in the Ghanaian market or in any other securities market approved by the Commission as an eligible market; and

(c) there are no specific restrictions on the investment of the scheme, including economic sectors or geographical areas, except as may arise under the Law and the Regulations made under the Law.

*Remuneration of the custodian*

14. (1) The custodian is entitled to receive remuneration for its service together with any indirect taxation, which shall be paid out of the property of the Scheme.



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- (2) The remuneration shall consist of a periodic charge calculated in accordance with this paragraph.
- (3) The periodic charge payable to the custodian shall be calculated in respect of successive calendar month periods (“payment periods”) except that no charge shall be payable in respect of the initial offer period.
- (4) The first payment period shall begin on the day following the end of the initial offer period and end on the last day of the month in which the offer period expires.
- (5) In respect of the first payment period, the relevant valuation point shall be the first valuation point of the scheme following the end of the initial offer period.
- (6) The amount of the periodic charge for each of the payment periods shall be, set out in the scheme particulars of the scheme as amended from time to time and shall be calculated as a percentage of the value of the property of the scheme as the manager and the custodian may agree; divided by 365 or, in a leap year, 366 and multiplied by the number of days including fractions of a day comprised in the relevant payment period.
- (7) The percentage shall not in any event exceed what shall be determined from time to time by the Commission.
- (8) For the purposes of calculating the custodian’s periodic charge in respect of any payment period, the value of the property of the scheme shall be determined by striking an arithmetic average of the bid basis and the offer basis of the valuation carried out in accordance with the prescribed regulations at the relevant valuation point. The relevant point shall be the most recent point to have occurred before the beginning of that payment period.
- (9) In the event of a winding up of the scheme, the final payment period for the purpose of calculating the custodian’s periodic charge shall end on
- (a) the day on which the final distribution in the winding up is made;
  - or
  - (b) in the case of a winding up following the passing of a special resolution at a meeting of shareholders pursuant to the regulations, any other day specified by the resolution or the terms of the scheme or a proposal approved by the board.

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(10) The calculation of the remuneration of the custodian under this regulation shall be made without taking into account any indirect taxation in respect of the remuneration and the custodian shall, in addition to the remuneration, be entitled to a sum equal to the indirect tax payable on the remuneration which is also to be paid out of the property of the scheme.

(11) Any amount of remuneration payable to the custodian calculated under subparagraphs (2) to (8) in respect of any payment period shall accrue on a daily basis and shall be paid to the custodian on or as soon as possible after the date on which the relevant payment period begins.

(12) The custodian is entitled to receive out of the property of the scheme payment as reimbursement of expenses properly incurred by the custodian in performing duties imposed upon the custodian or exercising powers conferred upon the custodian by the Law.

*Remuneration of the manager*

15. (1) The manager is entitled to receive for the manager's own account out of the property of the scheme a periodic charge at a rate which shall not exceed 2.5 per cent per annum, excluding any indirect taxation of the charge of the value of the property of the scheme.

(2) The manager may by notice to the custodian in writing elect to receive a periodic charge at a rate lower than the maximum referred to in subparagraph (1) and may by similar notice alter the rate of periodic charge, but not so as to exceed the maximum, provided that notice to the custodian of any increase in the rate of periodic charge shall not take effect until

- (a) notice in writing of the intention of the manager to make such increase has been given to each shareholder;
- (b) the manager has revised the scheme particulars to reflect the proposed increase; and
- (c) 90 days have elapsed since the revised scheme particulars became available.

(3) Except as stated in this paragraph the periodic charge payable to the manager shall be calculated in respect of successive payment periods on the same basis, as stated for the custodian's remuneration in paragraph 14 (2) to (8) but no charge is payable in respect of the initial offer period.

(4) The first payment period shall begin on the day following the end of the initial offer period and end on the last day of the month in which the offer period expires.

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(5) In respect of the first payment period the relevant valuation point shall be the first valuation point of the scheme following the end of the initial offer period.

(6) Any amount of remuneration payable to the manager calculated under subparagraphs (3) to (5) in respect of any payment period shall accrue on a daily basis and shall be paid to the manager on or as soon as possible after the date on which the relevant payment period begins.

(7) Any indirect tax chargeable in respect of services supplied by the manager in consideration of the periodic charge shall be paid out of the property of the scheme.

*Other remuneration and expenses chargeable to the property of the scheme*

16. (1) The manager is entitled to make payments out of the property of the scheme, to registrars, custodians and auditors as remuneration for their services and to make payments for contributions to the expenses of any other regulatory bodies.

(2) The manager is entitled to meet the costs incurred in connection with the production of certificates of titles, distribution of stationery and mailing of these items out of the property of the scheme.

*Commissions*

17. The company may pay commission or brokerage to any receiving institution in consideration of its subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares in the company but the payment shall not exceed 1 per cent of the price at which the shares are issued.

*Share certificates*

18. Share certificates shall be issued in accordance with section 53 of the Code.

*Transfer and transmission of shares*

19. (1) The board of directors may decline to register

- (a) the transfer of any share on which there is an unpaid liability to a person of whom they do not approve;
- (b) the transfer of any share to any person who is a child or to any one found by a court in Ghana to be a mental patient or of unsound mind.

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(2) Subject to subparagraph (1) there shall be no restriction on the right to transfer any shares in the company.

20. Shares shall be transferable and transfers shall be registered as provided by sections 95 and 98 of the Code.
21. In the event of the death of any shareholder or ownership of any share devolving upon any person because that person is the legal personal representative, receiver or trustee in bankruptcy of the holder, or by operation of any law, the provisions of section 99 of the Code shall apply.

*Dividends*

22. (1) The company may by ordinary resolution declare dividends in respect of any year or other period but no dividend shall exceed the amount recommended by the board of directors, on the advice of the manager.  
  
(2) Dividends, if any, shall be declared on the annual income allocation date, which shall be 31st December.
23. The board of directors may exercise the powers conferred by section 293 of the Code to pay interim dividends.
24. No dividend shall be paid unless
  - (a) the company is, after the payment, able to pay its debts as they fall due; and
  - (b) the amount of the payment does not exceed the company's income surplus immediately before the making of the payment.
25. The board of directors may, before recommending any dividend, set aside out of the profits or income surplus of the company such sums as they think proper in order to provide for a known liability, including a disputed or contingent liability, or as a depreciation or replacement provision and may carry forward any profits or income surplus which they think prudent not to distribute.
26. All dividends shall be declared and paid as a fixed sum per share and not as a proportion of the amount paid in respect of a share.
27. The board of directors may deduct from any dividend payable to any shareholder sums of money presently payable by the shareholder to the company in respect of the shares of the shareholder.
28. (1) Any dividend payable in cash may be paid by cheque or warrant sent by post directed to the registered address of the shareholder or, in the case of joint holders, to the registered address of the one who is first named in

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the register of members, or to such person and to such address as the holder or joint holders may in writing direct.

(2) Each cheque or warrant shall be made payable to the order of the person to whom the cheque is sent.

(3) Any one or two or more joint holders may give any effectual receipts for dividends.

(4) Each dividend payment shall be accompanied by a statement showing the gross amount of the dividend and any tax deducted or deemed to be deducted from the dividend.

29. No dividend shall bear interest against the company.

*Capitalisation issues and non-cash dividends*

30. The company may exercise the powers conferred by section 74 of the Code, upon the recommendation of the directors—

(a) to make capitalisation issues of shares in accordance with subsection (1) of section 74 of the Code;

(b) to resolve, in accordance with subsection (3) of section 74 of the Code, that any sum standing to the credit of the company's income surplus and which could have been distributed by way of dividend shall be applied in paying up amounts for the time being unpaid on shares;

(c) to direct, in accordance with subsection (4) of section 74 of the Code, that payment of dividend shall be wholly or partly by distribution of securities for money or fully paid shares or debentures of another body corporate or of fully paid debentures of the company.

*Investment of the property of the scheme*

31. (1) All cash and other property, which ought in accordance with the provisions of any enactment and these regulations, to form part of the property of the scheme shall be paid or transferred to the custodian and the cash shall, except where the cash may in the opinion of the manager be required for transfer for the payment of dividends, be applied at the discretion of the manager subject to the provisions of any enactment and these regulations, in the acquisition of investments.

(2) Any investments comprised in the property of the scheme may at any time be realised by the manager either in order to invest the proceeds of the sale in other investments permitted by or under the Law or to provide

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cash required for the purpose of any provision of these regulations or in order to retain the proceeds of sale in cash or on deposit as mentioned or partly one and partly another.

(3) The manager is entitled to require the board of directors to borrow or raise money on an unsecured basis or on the security of the movable or immovable property of the company but the right shall only be exercised if the board of directors, on the advice of the custodian, is satisfied that the borrowing requested will not prejudice the shareholders and that the borrowing is of a short term nature only and to ensure liquidity in the scheme property and does not exceed 10 per cent of the value of the scheme property.

(4) Cash that forms part of the property of the scheme may be placed in any current, deposit or loan account with the custodian, if a bank or with any of its associates which is a bank so long as that bank, pays interest at a rate not lower than the commercial rate for deposits of the size of deposit in question negotiated at arm's length in accordance with normal banking practice.

(5) The manager may appoint an investment adviser to advise the manager on the acquisition and disposal of investments and other incidental matters.

*Investment in schemes managed by the manager*

32. (1). The property of the scheme may include interests in another collective investment scheme which is managed or operated by the manager or an associate of the manager.

(2) Whenever the property of the scheme is invested in the manner mentioned in subparagraph (1) the manager shall pay into the property of the scheme as soon as possible the amount to ensure that paragraph 31 (3) of these regulations is complied with.

*Branch registers*

33. The company may exercise the powers conferred by sections 103 and 104 of the Code with respect to the keeping of branch registers and the board of directors may subject to the provisions of those sections, make any regulation as they think fit in respect of the keeping of the register and may vary the regulations.

*Accounts and audit*

34. (1) The board of directors shall cause proper books of account to be kept and a profit and loss account and balance sheet to be prepared, audited and circulated in accordance with sections 123 to 133 of the Code.

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(2) The annual accounting period shall commence on 1st January and end on 31st December.

35. Auditors, qualified in accordance with section 296 of the Code, shall be appointed and their duties regulated in accordance with sections 134 to 136 of the Code.

*General meetings and resolutions*

36. The powers of the members in general meeting shall be as stated in section 137 of the Code and Part XI of these Regulations.
37. Annual general meetings shall be held in accordance with section 149 of the Code and Part XI of these Regulations.
38. Extraordinary general meetings may be convened by the directors whenever the directors think fit in accordance with section 150 of the Code and these Regulations; and shall be convened by the directors on a requisition of members in accordance with section 297 of the Code.
39. Notice of general meetings shall be given in accordance with sections 152 to 159 of the Code and accompanied with any statements required to be circulated in accordance with sections 157 to 159 of the Code as well as Part XI of these Regulations.
40. Meetings may be attended by the persons referred to in section 160 of the Code but a member is not entitled to attend unless all calls or other sums presently payable by the person in respect of shares in the company have been paid.
41. The quorum required for any general meeting shall be as stated in regulations 83 of these Regulations.
42. (1) In accordance with section 163 of the Code any member entitled to attend and vote at a meeting of the company may appoint another person, whether a member of the company or not, as that member's proxy to attend and vote instead of that member and the proxy shall have the same rights as the member to speak at the meeting.
- (2) An instrument appointing a proxy shall be in the following form or a form as near to it as circumstances admit:

“..... Company Limited

\*I/We ..... of ..... being a \*member/members

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of the above-named company appoint .....of .....or failing  
 \*him/her ..... of .....as \*My/our proxy to vote  
 for \*me/us on\* my/our behalf at the \*annual/extraordinary general meeting of  
 the company to be held on the ..... day of  
 ..... and at any adjournment of the meeting.

Signed this..... day of .....

This form is to be used—

- \*in favour of  
 ..... resolution numbered 1
- \*against  
 \*in favour of  
 ..... resolution numbered 2.
- \*against

[Delete if only one resolution is to be proposed; add further instructions if more than two resolutions are to be proposed.]

Unless otherwise instructed, the proxy may vote as the proxy thinks fit.

\*Strike out whichever is not desired.

- 43. A body corporate which is a member of the company may attend and vote either by proxy or by a representative appointed in accordance with section 165 of the Code.
- 44. (1) Meetings shall be conducted in accordance with sections 166 to 173 of the Code and Part XI of these Regulations.  
 (2) On a poll being demanded, the chairman of the meeting shall not be required to direct a postal ballot in accordance with subsections (6), (7) and (8) of section 170 of the Code unless he thinks fit or an ordinary resolution to that effect is moved at the meeting and passed on a show of hands.



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45. In accordance with section 174 of the Code a resolution in writing signed by all the members entitled to attend and vote at general meetings, or being bodies corporate by their duly authorised representatives, and if the company has only one such member by that member shall be valid and effective for all purposes, except as provided by section 174, as if the same had been passed at a general meeting of the company duly convened and held, and if described as a special resolution shall be deemed to be a special resolution within the meaning of the Code.
46. Minutes of general meetings shall be kept in accordance with section 177 of the Code.
47. If at any time the shares of the company are divided into different classes these regulations shall apply to meetings of any class of members in the same manner as they apply to general meetings subject to the necessary quorum set out in regulation 85 of these Regulations.

*Votes of members*

48. (1) On a show of hands each member and each proxy lawfully present at the meeting shall have one vote, and on a poll each member present in person or by proxy shall have one vote for each share held by him.  
(2) In the event of a postal ballot being directed pursuant to subsections (6), (7) and (8) of section 170 of the Code, each member entitled to attend and vote at the meeting shall have one vote for each share held by that member.

*Directors*

49. The number of directors shall not be less than five or more than twelve, and shall be determined by ordinary resolution of the members in general meeting and until so determined shall be seven.
50. The continuing directors may act notwithstanding any vacancy in their number but if their number is reduced below two or below the number fixed by the directors as the quorum, they may act for four weeks after the number is so reduced, but after that the continuing directors may act only to increase their number to that number or to summon a general meeting of the company and for no other purpose.
51. The appointment of directors shall be regulated by sections 181, 298 and 299 of the Code.

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52. The persons referred to in section 182 of the Code shall not be competent to be appointed directors of the company.
53. A director need not be a member of the company nor hold any shares in the company.
54. The office of a director shall be vacated in accordance with section 184 of the Code and any director may be removed from office in accordance with section 185 of the Code.
55. (1) The company may appoint substitute directors in accordance with section 187 of the Code and any director may appoint an alternate director in accordance with section 188 of the Code.  
(2) An alternate director is not entitled to be remunerated otherwise than out of the remuneration of the director appointing the alternate director.
56. At least one director of the company shall at all times be present in Ghana.
57. The remuneration payable to any director in whatsoever capacity shall be determined or approved by the members by ordinary resolution in general meeting in accordance with section 194 of the Code.
58. The proceedings of the directors shall be regulated by section 200 of the Code and the board of directors may delegate any of their powers to committees of the directors in accordance with that section.
59. Minutes of meetings of the board of directors and of any committee of directors shall be kept in accordance with section 201 of the Code.

*Powers and duties of directors*

60. (1) The business of the company shall be managed by the directors who shall pay all expenses incurred in promoting and registering the company.  
(2) Subject to section 202 of the Code, the board of directors may exercise the powers of the company which are not by the Code or these regulations required to be exercised by members at a general meeting, including power to borrow money and to mortgage or charge the company's property and undertaking or any part of the undertaking and to issue debentures.
61. In any transaction with the company or on its behalf and in the exercise of their powers the directors shall observe the duties and obligations imposed on them by sections 203 to 205 of the Code.
62. Subject to section 207 of the Code, a director may enter into any contract with the company and the contract or any other contract of the company in which any director is in any way interested shall not be liable to be avoided

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nor is any director liable to account for any profit made by reason of the director holding the office of director or of the fiduciary relationship established.

63. A director may act personally or by the director's firm in a professional capacity for the company, but not as its auditor, and that director or that firm is entitled to remuneration for the professional services if the person were not a director.

*Executive and managing directors*

64. The board of directors may exercise the powers conferred by section 192 of the Code to appoint one or more of the directors to any other office or place of profit under the company, other than the office of auditor for a period and on terms that may be determined and may, subject to the terms of any agreement entered into in any particular case, revoke the appointment.
65. (1) The board of directors may exercise the powers conferred by section 193 of the Code,
- (a) to appoint one or more of the directors to the office of managing director for a period and on terms that the board may determine; and,
  - (b) subject to the terms of any agreement entered into in any particular case, to revoke the appointment.
- (2) An appointment made under paragraph 1 (a) shall automatically terminate if the holder of the office ceases for any cause to be a director, provided that after the board of directors have appointed a manager of the company's mutual fund in accordance with the Law, the powers of the managing director to the extent specified in the contract with the manager shall be exercised by the manager.
- (3) The directors may entrust to and confer upon a managing director any of the powers exercisable by the directors upon terms and conditions that the directors think fit, and either collaterally with or to the exclusion of, the directors' own powers, and subject to the terms of any agreement entered into in any particular case, revoke or vary all or any of the powers.
66. Remuneration shall not be paid to any director in respect of any office or place of profit to which the director is appointed under the foregoing regulations unless and until the terms of the directors appointment have been approved by ordinary resolution of the company in general meeting in accordance with section 194 of the Code.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Secretary, officers and agents*

67. The secretary shall be appointed by the board of directors for such period, at such remuneration, and upon such other conditions that the board thinks fit and any secretary appointed may be removed by the board subject to the right of the secretary to claim damages if the removal is in breach of contract.
68. A provision in the Code or these regulations which requires or authorises a thing to be done by or to a director and the secretary shall not be satisfied if the same person acts both as director and as the secretary or in place of the secretary.
69. (1) The board of directors may appoint officers and agents of the company and may appoint any body corporate, firm, or body of persons, whether nominated directly or indirectly, by the board of directors, to be the attorney of the company for such purposes and with such powers, authorities and discretions, not exceeding those vested in or exercisable by the directors under these regulations, and for such period and subject to such conditions as the board of directors thinks fit.
- (2) A power of attorney may contain provisions for the protection and convenience of a persons dealing with the attorney that the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

*The seal*

70. The directors shall provide for the safe custody of the seal of the company, which shall only be used by the authority of the board of directors or of a committee of the directors authorised by the board of directors in that behalf, and each instrument to which the seal is affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for the purpose.
71. The company may exercise the powers conferred by section 148 of the Code with regard to having an official seal for use abroad, and those powers shall be vested in the board of directors.

*Service of documents*

72. Any document may be served by the company on any member, debenture holder or director of the company in the manner provided by section 262 of the Code.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Winding-up*

73. (1) If the company is wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Code or by the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180), divide amongst the members in specie or kind the whole or part of the assets of the company, whether the assets consist of property of the same kind or not, and may for this purpose set a value that the liquidator considers is fair upon any property to be divided as mentioned and may determine how the division is to be carried out as between the members or different classes of members.
- (2) The liquidator may, vest the whole or any part of the assets in trustees upon trust for the benefit of the members on such conditions as the liquidator thinks fit.
- (3) Notwithstanding the foregoing, no member shall be compelled to accept any securities on which there is any liability.

*Interpretation*

74. In these regulations unless the context otherwise requires,
- “Code” means the Companies Code, 1963 (Act 179), or any statutory modification or re-enactment of the Code;
  - “custodian” means a person appointed by the board of directors to discharge the obligations laid on a custodian by the Law and Regulations made under the Law;
  - “manager” means the person appointed by the board of directors of the company to manage a mutual fund established under these Regulations;
  - “scheme” means the mutual fund to be established by the company pursuant to these regulations and be called the name stated in regulation 10 or such other name as the board of directors may with the approval of the Commission determine.
  - “Regulations” means the Unit Trusts and Mutual Funds Regulations, 2001 (LI..... ) as amended;
  - “regulations” means the regulations of a close end mutual fund company as set out in this Schedule;
  - “the Law” means Securities Industry Law 1993 (P.N.D.C.L. 333) as amended;
- words or expressions have the same meaning as in the Code, the Law and the Regulations made under the Law.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

references to sections of the Code mean such sections as modified or re-enacted from time to time.

We the undersigned are desirous of forming an incorporated company in pursuance of these regulations and we respectively agree to take the number of shares in the company set opposite our respective names and to pay in cash the consideration respectively stated.

Name, Address and Description or Occupation of Subscriber	Number of Shares	Consideration Payable in Cash
Kofi Mensah of 301 Ring Road, Obuasi, Mining Engineer ....	1,000	
John Henry Smith of 421 Ghana House, Kumasi, Chartered Accountant .....	1,000	

Dated the.....

*Witness to the above*

Signature:

Name — Charles Robinson  
Address — Nkrumah Circle, Accra  
Description or Occupation — Legal Practitioner

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**SCHEDULE 5***PARTICULARS TO BE PROVIDED IN THE REGULATIONS  
OF AN OPEN END MUTUAL FUND COMPANY***(Regulation 9)**Name of Scheme*

1. A statement of the name of the scheme being a name consistent with the objectives of the scheme stated in accordance with paragraph 2 of this schedule.

*Investment objectives*

2. If an objective of the scheme is investment in a geographical area, a statement of that fact specifying the area and, if an objective of the scheme is investment in any economic sector or in all economic sectors, a statement of that fact specifying the sectors.

*Base currency*

3. A statement of what currency is the base currency of the scheme.

*Annual accounting period*

4. The dates in the calendar year on which the annual accounting period begins and ends.

*Annual income allocation date*

5. The date in the calendar year not being later than two months after the date on which the immediately preceding annual accounting period ends which is to be the annual income allocation date.

*Prohibition of issue of partly paid shares*

6. A provision that no partly paid shares may be issued.

*Duration of the scheme*

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

*Manager's periodic charge*

8. (1) A statement authorising the manager to make a periodic charge, not exceeding 2.5 per cent per annum of the value of the property of the scheme payable out of the property of the scheme and specifying how it shall accrue and be paid.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

(2) In the case of a special collective investment scheme, a statement may be made authorising the manager to make a charge based on the results of the manager's actual performance in managing the scheme, payable out of the property of the scheme.

*Custodian's remuneration*

9. A statement authorising the manager to make payments to the custodian if any, of remuneration for the custodian's services.

*Remuneration chargeable to the property of the scheme*

10. A statement authorising any payments of remuneration under paragraphs 8 and 9 in whole or in part out of the property of the scheme.

*Manager's preliminary charge*

11. A statement of the maximum percentage of the creation price of an interest in the scheme which may be included in the issue price of that interest calculated by reference to that creation price as a preliminary charge receivable by the manager.

*Other remuneration, remuneration chargeable to the property of the scheme*

12. A statement authorising the manager to make payments to registrars, custodians and auditors of remuneration for their services.

*Other expenses chargeable to the property of the scheme*

13. A statement authorising the manager to pay in whole or in part, out of the property of the scheme the cost of any contributions to the expenses of regulatory bodies and the costs incurred in connection with the production of certificates of title, distribution stationery and mailing expenses.

*Initial price and offer period*

14. A statement of the initial price of interests and the length of the period of the initial offer.

*Investment in schemes managed by the manager or its associate*

15. A statement that the property of the scheme may include interests in another collective investment scheme which is managed or operated by the manager or by another company in the same group as the manager or which is managed or operated by any person who is a controller of the manager or of whom the manager is the controller.



*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Constituents of property, hedging transactions and borrowing powers*

16. A description of the assets of which the capital property of the scheme may consist, a description of hedging transactions if allowed which may be effected on behalf of the scheme and the borrowing powers exercisable in relation to the scheme.

*Interim income allocation date*

17. A provision authorising or requiring interim allocations of income and either specify what the interim accounting period is or indicating that it is to be at the discretion of the manager.

*Cash Deposits*

18. A provision that cash that forms part of the property of the scheme or standing to the credit of the Distribution Account may be placed in any current, deposit or loan account with the custodian itself if a bank or with any of its associates which is a bank or of the manager, so long as the bank pays interest at a rate which is not lower than the commercial rate for a loan of the size of deposit in question negotiated at arm's length in accordance with normal banking practice.

*Borrowing*

19. (1) A provision that money which may be borrowed for the account of the scheme may be borrowed from the trustee, if a bank or from any associate of the trustee which is a bank so long as that bank charges interest at no greater rate, and any fee for arranging or terminating the loan is of no greater amount than is, the commercial rate for a loan of the size in question negotiated at arm's length in accordance with normal banking practice.
- (2) A provision that no more than 15 per cent of the scheme property may be borrowed and that the borrowing shall be for the purpose of ensuring liquidity in the scheme property.

*Dealings by manager, custodian and associates*

20. A provision authorising the manager, the custodian, any associate of either of them, any investment adviser of the manager or a person of any other specified description
- (a) to deal in property of any description on that person's account notwithstanding the fact that property of that description is included in the property of the scheme; or

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(b) to act as agent for the custodian and the manager in the sale or purchase of property to or from the custodian for the account of the trust without that person having to account to any other person or to the investors for any profits or benefits made by or derived from or in connection with the transaction.

*Payment for redemptions*

21. A statement on the arrangement made between the manager and custodian on how payment would be effected whenever an investor redeems an interest in the scheme.

*Investment Adviser*

22. A provision that allows the manager to appoint an investment adviser.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**SCHEDULE 6***PARTICULARS TO BE PROVIDED IN THE REGULATIONS  
OF A CLOSED END MUTUAL FUND COMPANY***(Regulation 9)**Name of scheme*

1. A statement of the name of the scheme which must be a name consistent with the objectives of the scheme stated in accordance with paragraph 2 of this Schedule.

*Investment objectives*

2. If an objective of the scheme is investment in a geographical area, a statement of that fact, specifying the area and, if an objective of the scheme is investment in any economic sector or in all economic sectors, be a statement of that fact, specifying the sectors.

*Base currency*

3. A statement of what currency is the base currency of the scheme;

*Annual accounting period*

4. The dates in the calendar year on which the annual accounting period begins and ends.

*Annual income allocation date*

5. The date in the calendar year not being later than two months after the date on which the immediately preceding annual accounting period ends which is to be the annual income allocation date.

*A provision prohibiting partly paid shares*

6. A provision that no partly paid shares may be issued.

*Duration of the scheme*

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

*Manager's periodic charge*

8. (1) A statement authorising the manager to make a periodic charge payable out of the property 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 property of the scheme.  
(2) In the case of a special collective investment scheme, a statement authorising the manager to make a charge based on the results of the manager's actual performance in managing the scheme, payable out of the property of the scheme.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Custodian's remuneration*

9. A statement authorising the manager to make payments to the custodian if any, as remuneration for the services of the custodian.

*Remuneration chargeable to the property of the scheme*

10. A statement authorising any payments of remuneration under paragraphs 8 and 9 in whole or in part, out of the property of the scheme.

*Other remuneration, remuneration chargeable to the property of the scheme*

11. A statement authorising the manager to make payments to registrars, custodians and auditors as remuneration for their services.

*Other expenses chargeable to the property of the scheme*

12. A statement authorising the manager to pay, in whole or in part, out of the property of the scheme the cost of any contributions to the expenses of regulatory bodies and the costs incurred in connection with the production of certificates of title, distribution of stationery and mailing expenses.

*Initial price and offer period*

13. A statement of the initial price of interests and the length of the period of the initial offer.

*Investment in schemes managed by the manager or its associate*

14. A statement that the property of the scheme may include interests in another collective investment scheme which is managed or operated by the manager or by another company in the same group as the manager or which is managed or operated by any person who is a controller of the manager or of whom the manager is the controller.

*Constituents of property, hedging transactions and borrowing powers*

15. A description of the assets of which the capital property of the scheme may consist, a description of hedging transactions, if allowed, which may be effected on behalf of the scheme and the borrowing powers exercisable in relation to the scheme.

*Interim income allocation date*

16. A provision authorising or requiring interim allocations of income and either specifying what the interim accounting period is or indicating that it is to be at the discretion of the manager.

*Cash deposits*

17. A provision that cash that forms part of the property of the scheme or standing to the credit of the Distribution Account may be placed in any current, deposit or loan account with the custodian itself if a bank or with

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any of its associates which is a bank or the manager so long as the bank pays interest at a rate not lower than the commercial rate for deposits of the size of deposit in question negotiated at arm's length in accordance with normal banking practice.

*Borrowing*

18. (1) A provision that money which may be borrowed for the account of the scheme may be borrowed from the trustee or from any associate of the trustee which is a bank so long as that bank charges interest for the loan or any fee for arranging or terminating the loan at a rate which is not greater than the commercial rate for a loan of the size in question negotiated at arm's length in accordance with normal banking practice.

(2) A provision that not more than 15 per cent of the scheme property may be borrowed and that borrowing shall be for the purpose of ensuring liquidity in the scheme property.

*Dealings by manager, custodian and associates*

19. A provision authorising the manager, the custodian, any associate of either of them, any investment adviser of the manager or a person of any other specified description

(a) to deal in property of any description on that person's account notwithstanding the fact that property of that description is included in the property of the scheme; or

(b) to act as agent for the custodian and the manager in the sale or purchase of property to or from the custodian for the account of the trust without that person having to account to any other person including the investors for any profits or benefits made by or derived from or in connection with the transaction.

*Investment adviser*

20. A provision that allows the manager to appoint an investment adviser.

## UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001

## SCHEDULE 7

**INFORMATION TO BE CONTAINED IN SCHEME PARTICULARS**

*(Regulation (10) (2))*

*The manager*

1. (1) The following particulars of the manager shall be stated:
  - (a) its name, country of incorporation and registration number;
  - (b) the nature of its corporate form;
  - (c) if it is a subsidiary, the name of its ultimate holding company and the country or territory in which that holding company is incorporated;
  - (d) the address of the registered office, the address of the manager's head office if that is different from the address of its registered office; if neither the registered office nor the head office of the manager is in this country, the address of the manager's principal place of business in this country;
  - (e) the date of its incorporation;
  - (f) if the duration of its corporate status is limited, when that status will or may cease;
  - (g) the amount of its issued share capital and how much of it is paid up;
  - (h) the names of the directors and, in each case, any significant activities of the director not connected with the business of the manager;
  - (i) if the manager is the manager of another collective investment scheme, the name of that other scheme, whether it is an authorised unit trust scheme or mutual fund scheme.
- (2) If any director of the manager is a representative of a body corporate there shall also be stated in relation to that director the matters referred to in (a) to (c) and (e) to (h) of subparagraph (1).

*Particulars of the trustee and custodian*

2. The following particulars of the trustee and custodian must be stated -
  - (a) its name;
  - (b) the nature of its corporate form;
  - (c) the country or territory of its incorporation;

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- (d) if it is a subsidiary, the name of its ultimate holding company and the country or territory in which that holding company is incorporated;
- (e) the address of its registered office;
- (f) the address of its head office if that is different from the address of its registered office;
- (g) if neither its registered office nor its head office is in this country and it has a place of business in this country, the address of its principal place of business in this country;
- (h) the date of its incorporation;
- (i) the amount of its issued share capital and how much of it is paid up; and
- (j) a description of its principal business activity.

*Particulars of an investment adviser*

3. If the manager employs, under the terms of a commercial arrangement, the services of an investment adviser, who regularly exercises for the manager the discretionary powers of the manager or advises the manager on merits of investment opportunities, the following shall be stated:
- (a) the name of the investment adviser;
  - (b) whether or not the investment adviser is authorised under the Law;
  - (c) if the investment adviser is a body corporate, the address of its registered office, or, if otherwise, the address of the investment adviser's principal place of business;
  - (d) if, the investment adviser is a body corporate in a group of which the manager is a member, that fact;
  - (e) if the principal activity of the investment adviser is other than providing services as an investment adviser, what that principal activity is;
  - (f) the main terms of the agreement or arrangement between the manager and the investment adviser, other than those relating to the investment adviser's remuneration and, if the investment adviser has the authority of the manager to make decisions on behalf of the manager, that fact and a description of the matters in relation to which the investment adviser has that authority and whether the adviser also provides advice in relation to other schemes of the manager.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Particulars of the auditor and lawyers*

4. The name and address of the auditor and lawyers to the scheme must be stated.

*The registers*

5. The address in this country where the register of interests can be inspected, and the name of the registrar.

*The constitution and objectives of the scheme*

6. The following shall be stated:
- (a) the name of the scheme;
  - (b) the date on which the scheme was established and, if the duration of the scheme is not unlimited, when it shall or may terminate;
  - (c) whether the scheme is an authorised unit trust scheme or a mutual fund;
  - (d) in relation to the investment policy to be adopted by the manager:
    - (i) whether the objective of that policy is to be capital growth, income growth or some other stated policy;
    - (ii) any economic sectors or geographical areas to which investment shall be confined or which are likely to be preferred in the making of decisions as to how the funds of the scheme are to be invested;
    - (iii) any other limitations on the descriptions of investment which may be included in the property of the scheme;
    - (iv) if investment in other collective investment schemes is provided for in the instrument that constitutes the scheme, that fact;
    - (v) the maximum extent to which the property of the scheme may be invested in
      - (aa) government and other public securities issued by the same issuer;
      - (bb) securities not officially listed on a stock exchange;
      - (cc) other securities;
      - (dd) real property;
  - (e) whether the manager may enter into hedging transactions if allowed and, if so, what types of transaction are likely to be



*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

entered into for the purposes of hedging, the circumstances in which the transactions may be entered into and what are the limits of amounts payable as premium or margin in connection with the transactions;

- (f) a statement of the borrowing powers that are exercisable in relation to the scheme;
- (g) a statement that in the interest of prudence and efficient management of the scheme, the manager or the manager's investment adviser will maintain prudent levels of liquidity;
- (h) the extent to which the property of the scheme may be invested in property which is managed by the manager or by an associate of the manager;
- (i) the circumstances in which the winding-up of the scheme can be decided on, a description of the procedure to be followed in a winding-up and what the rights of investors will be in a winding-up; and
- (j) the accounting dates.

*The characteristics of interests in the scheme*

7. The following shall be stated:

- (a) in relation to each available type of interest in the scheme,
  - (i) the entitlement of an investor of that interest to participate in the property of the scheme and the income;
  - (ii) a statement of the nominal value, if any, of each type of interest; and
  - (iii) where there is more than one type of interest, the names given to each type and the characteristics of each type which distinguishes it from the others;
- (b) whether or not certificates that evidence title to interests will be issued;
- (c) in the case of an authorised unit trust scheme, the fact that the nature of the right represented by an interest is that of a beneficial interest under a trust and in the case of a mutual fund, the nature of the right as a share in the company; and
- (d) the voting rights that are exercisable at meetings of investors by the investors.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Valuation of property, charges, distribution and fees*

8. The following shall be stated:

- (a) how frequently and at what time of day the property of the scheme will be valued for the purpose of determining prices at which interests in the scheme may be purchased from or redeemed by the manager and a description of any circumstances in which the scheme may be specially valued;
- (b) in relation to each purpose for which the property of the scheme will be required to be valued, whether it will be valued on an offer basis, a bid basis, a mid-market basis or on any other specified basis;
- (c) if the price at which units may be purchased from or redeemed by the manager may include a charge, a statement of the amount of that charge expressed as a percentage of the price of those units which is the maximum permitted;
- (d) how the following remuneration and expenses will be determined and whether they are payable out of the property of the scheme:
  - (i) the remuneration of the manager;
  - (ii) the remuneration of the trustee or custodian; and
  - (iii) the remuneration and expenses of the directors or other members of the manager's governing body;
- (e) the nature of any other expenses payable out of the property of the scheme and how their amounts will be determined;
- (f) the dates in each calendar year on which allocations of income are to be made to investors; and
- (g) any other fees and charges payable by an investor.

*The issue and redemption of interests in the scheme*

9. The following shall be stated:

- (a) the days and times on which the manager will be available to receive requests for the issue and redemption of interests,
- (b) the procedures for effecting the issue and redemption of interests; settlement of transactions and how an investor to whom no certificate has been issued may produce evidence of title;
- (c) where applicable the following minimum, numbers and values for each type of interest in the scheme:
  - (i) the minimum number of interests which any one person may hold;

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

- (ii) the minimum value of interests which any one person may hold;
- (iii) the minimum number of interests which may be the subject of one transaction of purchase;
- (iv) the minimum value of interests which may be the subject of any one transaction of purchase;
- (v) the minimum number of interests which may be the subject of one act of redemption;
- (vi) the minimum value of interests which may be the subject of one act of redemption;
- (d) the circumstances in which the redemption of interests may be suspended;
- (e) the days and times on which the re-calculation of maximum offer and minimum redemption prices will commence;
- (f) where and when the most recent issue and redemption prices will be published; and
- (g) whether interests in the scheme are listed or dealt in on a stock exchange.

*General information*

10. The following shall be stated:

- (a) when annual and half-yearly reports will be published;
- (b) the address at which copies of the constitution of the scheme, any amending instrument and the most recent annual half-yearly reports may be inspected and obtained;
- (c) that complaints about the operation of the scheme may be made through the internal complaints procedure and also to the Commission.

*Additional information in all cases*

11. Any other material information which

- (a) investors and their professional advisers would reasonably require, and reasonably expect to find in the scheme particulars, for the purpose of making an informed judgment about the merits of participating in the scheme and the extent of the risks accepted by so participating; and
- (b) is within the knowledge of the manager or which the manager would have obtained by the making of reasonable enquiries.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**SCHEDULE 8***INVESTORS' REPORTS (INCLUDING ACCOUNTS)**

## PART 1—MANAGER'S STATEMENT

*(Regulations 49-51)*

The particulars provided in this Schedule shall be set out in every annual and half-yearly report of the manager.

1. The names and addresses of
  - (a) the manager;
  - (b) the trustee or custodian;
  - (c) any investment adviser;
  - (d) the auditor; and
  - (e) the lawyers to the scheme.
2. The objectives of the scheme.
3. The manager's policy for achieving the objectives of the scheme.
4. A statement whether the scheme is an authorised unit trust or mutual fund scheme within the meaning of the Law.
5. A review of the manager's investment activities during the period to which the report relates.
6. Particulars of any significant change in the scheme particulars made since the making of the last report by the manager and of any change in directors of the manager.
7. A statement of any amount to be distributed to investors or accumulated in respect of the period in question.
8. A statement of the total number of the interests of each type in existence or deemed to be in existence at the beginning and at the end of the period to which the report relates.
9. A statement of the mid-market value per interest of the scheme at the beginning and at the end of the period to which the report relates.
10. Any other significant information which would enable investors to make an informed judgment on the development of the activities of the scheme during the period and the results of those activities as at the end of that period.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

## PART 2—STATEMENT OF ASSETS AND LIABILITIES

The statement of assets and liabilities of the scheme shall be as at the end of the period to which the report relates and including a portfolio statement that represents the different descriptions of asset in which the property of the scheme is invested, grouped according to classifications appropriate to the stated investment objectives and showing

- (a) the quantity, description and value of each asset, separately in respect of each asset or group of assets in relation to which a hedging transaction has been effected and any right or obligation under that hedging transaction not matched by a corresponding obligation or right;
- (b) the percentage of the value of the property of the scheme that each holding represents;
- (c) instruments creating or acknowledging indebtedness;
- (d) bank balances;
- (e) other assets of the scheme;
- (f) the total value of all assets of the scheme;
- (g) a description and the amount of
  - (i) the actual and future contingent liabilities; and
  - (ii) contingent liabilities not provided for; and
- (h) the total net value of all assets of the scheme less the net value of the liabilities of the scheme.

## PART 3—INCOME AND DISTRIBUTION ACCOUNT

The following matters shall be set out in the income and distribution account:

- (a) the total income from assets of the scheme, specifying the descriptions;
- (b) the total of other income, specifying the descriptions;
- (c) any periodic charge payable to the manager and authorised to be paid out of the property of the scheme;
- (d) the total amount deducted for taxation before distribution to the investors;
- (e) the balance brought forward from the last account and the balance carried forward to the next account;

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

- (f) the amount of income available for allocation to the investors in respect of the period;
- (g) the trustee's or custodian's fees and disbursement payable out of the property of the scheme distinguishing fees for custody of documents or assets from other fees;
- (h) the auditor's fees payable out of the property of the scheme;
- (i) any other payments out of the property of the scheme;
- (j) the amount of the final allocation of income, showing by way of a note to the account how the amount is made up;
- (k) if there is a deficit on income account charged to capital account, the amount of that deficit; and
- (l) if there is a deficit on capital account charged to income account, the amount of that deficit.

## PART 4—PORTFOLIO STATEMENT

The matters stated in this Part shall be set out in the portfolio statement included in the report of the manager.

1. The changes in the investments in the property of the scheme since the end of the preceding accounting period showing whether they are new holdings or changes in existing holdings and giving a description of each holding and showing the net change in the number of units in or the nominal value of that holding.
2. The total cost of purchases of investments since the last portfolio statement.
3. The total proceeds of sales of investments since the last portfolio statement.

## PART 5—STATEMENT OF MOVEMENTS IN NET ASSETS

The matters stated in this Part shall be set out in the statement of movements in net assets.

1. Movements due to sales and repurchases of interests to be shown as cash received on the creation of interests and cash paid on the liquidation of interests.

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

2. Cash movements due to purchase and sale of investments to be shown as proceeds of investment sold and cost of investment purchased.
3. Net realised gains (losses) for the year to be shown as gains realised on sales of investments and net appreciations (depreciations) on the gains brought forward.
4. Net unrealised gains for the period.

## PART 6—COMPARATIVE TABLE

The matters stated in this Part shall be set out in the comparative table included in the report of the manager.

1. A performance record over the last 5 calendar years, or if the scheme has not been in existence during the whole of that period, over the whole period in which it has been in existence, showing
  - (a) the highest issue price and the lowest redemption price of the interests during each of those years;
  - (b) the net income per interest distributed or in the case of accumulation interests allocated during each of those years taking account of any sub-division or consolidation of interests that occurred during that period; and
  - (c) the net income which would have been distributed or allocated to accumulation units over each of those years for every 10,000 invested at the beginning of the 5 year period.
2. The annual accounting periods over the last 3 years or if the scheme has not been in existence during the whole of that period, for the period in which it has been in existence, in respect of the total net asset value of the property of the scheme at the end of each of those years, the net asset value per interest and the number of interests in existence or deemed to be in existence at the end of each of those years.

## PART 7—CAPITAL ACCOUNT

The following matters shall be set out in the capital account included in the accounts:

- (a) the value of the property of the scheme at the beginning of the accounting period;
- (b) the amount of cash or the value of assets received on the creation of new interests;

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

- (c) the amount of cash or the value of assets paid out on the cancellation of interests;
- (d) the net increase or decrease in the aggregate value of the property of the scheme over the period;
- (e) any charges and expenses charged to capital;
- (f) the value of the property of the scheme at the end of the period;
- (g) information about dealing in commissions, including mark-up or mark-down, incurred in dealing in the property of the scheme, in addition to the average rate of commission paid for those transactions where any commission is paid;
- (h) the proportion of the aggregate value of the transactions in the property of the scheme carried out with or through each of the associates, if any, of the manager or the trustee or custodian with which transactions have been carried out in the property of the scheme excluding foreign exchange transactions and the total amount of commissions;
- (i) the names of all persons, other than the trustee or custodian acting as such, dealing in more than 10 per cent of the aggregate value of the transactions in the property of the scheme; and
- (j) a statement of the net realised profits or losses during the period.

## PART 8—NOTES TO THE ACCOUNTS

The matters stated in this Part shall be in the notes to the accounts.

*Accounting policies*

1. The accounting policies shall be stated indicating:
  - (a) the policy on dividends and other income received and receivable;
  - (b) the basis of valuation of the property of the scheme;
  - (c) the exclusion from the statement of assets and liabilities of any assets or liabilities relating to the income of the scheme or the amount of the current distribution;
  - (d) where applicable, a statement of the basis for converting amounts into currencies other than cedis.
  - (e) a statement of the rate of tax with an explanation of any other tax charge or refund appearing in the income and distribution account;
  - (f) where applicable, an explanation of the basis for valuing unlisted or suspended securities.



*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**Other income*

2. An analysis of the income shown in the income and distribution account and, where material, showing separately the following items—
  - (a) interest on loan and debenture stocks;
  - (b) interest on deposits and loans;
  - (c) interest on bank and short term deposits;
  - (d) dividends on local stocks; and
  - (e) dividends on overseas stocks.

*Interests in issue*

3. The number of interests in existence or deemed to be in existence at the end of the period to which the account relates.

*Net liquid issue*

4. An analysis of net liquid assets as at the end of the period to which the account relates (unless shown in the statement of assets and liabilities) including the following items where applicable:
  - (a) amounts receivable from brokers for sales of securities;
  - (b) amounts payable to brokers for purchases of securities.

*Forward exchange transactions*

5. A statement of open forward exchange positions.

## PART 9—REPORT OF THE AUDITOR

6. The report of the auditor to the investors for any annual accounting period shall state
  - (a) whether in the auditor's opinion the accounts prepared for that period have been properly prepared in accordance with generally accepted accounting principles and in accordance with this Law;
  - (b) without prejudice to the foregoing, whether in the auditor's opinion a true and fair view is given of the financial position of the scheme as at the end of that period;
  - (c) if the auditor is of opinion that proper accounting records have not been kept by the manager or that the accounts are not in agreement with the manager's accounting records, that fact;

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- (d) if the auditor has not been given all the information and explanations which is to the best of the auditor's knowledge and belief, necessary for the purposes of the audit, that fact;
- (e) if the auditor is of opinion that the information given in the report of the manager for that period is inconsistent with the accounts, that fact.

PART 10—REPORT OF THE TRUSTEE OR CUSTODIAN

The report of the trustee or custodian to the investors for any annual accounting period must state whether in the auditor's opinion the manager has managed the scheme in that period in accordance with;

- (a) the limitations imposed on the investment and borrowing powers of the manager; and
- (b) provisions pursuant to these regulations, and if he the manager has not done so, the areas why the manager has not done so and the steps which the trustee or custodian has taken.

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SCHEDULE 9

FORM OF GUARANTEE FOR MINIMUM SUBSCRIPTION

(Regulation 7 (3))

(1) For a Unit Trust

THIS GUARANTEE AGREEMENT is made this .....day of .....  
BETWEEN

.....  
*(name of the manager of the Unit Trust)*

of .....  
*(address)*

(hereinafter referred to as “subscriber”) on the one hand **AND**

.....  
*(name of trustee of the Unit Trust)*

of .....on the other hand  
*(address)*

both being parties responsible for the operations of.....  
*(name of the scheme)*

(2) For a Mutual Fund

THIS GUARANTEE AGREEMENT is made this ..... day of .....  
BETWEEN .....

.....  
*(name(s) of the promoter(s) of the Mutual Fund)*  
of .....  
*(address)*

(hereinafter referred to as “subscriber(s)”) and is/are (jointly and severally)  
liable for the execution of this agreement, on the one hand, **AND**

.....  
*(name of custodian of the Mutual Fund)*

of .....  
*(address)*

on the other hand both being parties responsible for the operations of  
.....  
*(name of the scheme)*

UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001

WHEREAS:

- (1) The subscriber(s) being the manager/promoter(s) of the scheme is required to provide a minimum amount of ¢..... as minimum subscription for the scheme.
- (2) It is a condition for the issue of a licence by the Securities and Exchange Commission that the manager/promoter(s) must guarantee the above stated minimum subscription required to be raised by the scheme.

THE PARTIES HEREBY AGREE AS FOLLOWS:

- (1) That in the event that the minimum subscription is not raised upon the closure of the initial public offering the subscriber(s) agrees to purchase from the scheme and the trustee of the Unit Trust and manager of the Mutual Fund undertakes to ensure that the shares/units are sold to the subscriber(s) at a price of ¢..... per share/unit.
- (2) That the subscriber(s) agrees to make up any short fall between the amount raised and the determined minimum subscription upon first written demand by the trustee of the Unit Trust/manager of the Mutual Fund to the subscriber(s).
- (3) That the subscriber(s) agrees that the shares/units subscribed to be purchased shall only be redeemed with the prior approval of the Commission.

IN WITNESS OF THIS AGREEMENT THE PARTIES HAVE ON THE DAY ABOVE WRITTEN APPENDED THEIR RESPECTIVE SIGNATURES.

By .....  
*Name of manager of the Unit Trust or Promoter of Mutual Fund*

.....  
*Name*

.....  
*Signature*

.....  
*Date*

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

In the presence of .....

*Name*

.....

*Signature*

.....

*Date*

By .....

*Name of Trustee or Custodian*

.....

*Signature*

.....

*Date*

In the presence of .....

*Name*

.....

*Signature*

.....

*Date*

UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001

SCHEDULE 10

APPLICATION FOR A LICENCE TO OPERATE  
A UNIT TRUST/MUTUAL FUND UNDER THE SECURITIES  
INDUSTRY LAW 1993, PNDCL 333

(Regulation 2)

PART A—PARTICULARS OF SCHEME

1. Full Name of Scheme: .....
2. \*Incorporated Name: .....
3. \*Address: .....
4. \*Location of Registered Office: .....  
    \*Region: .....                      \*City/Town: .....  
    \*Street: .....                      \*House No.:.....  
    Telephone Nos.:.....  
    Fax Nos.: .....
5. \*Principal Place of Business: .....
6. \*Location of Branches and Address: .....
7. \*Certificate of Incorporation —No. & Date (Attach a Copy).....
8. Full name & Address of Bankers: .....  
    .....  
    .....
9. Authorised Shares (in the case of closed-end mutual funds): .....  
    \*Paid-Up Capital.....
10. \*(a) Total Assets: .....  
    \*(b) Total Liabilities: .....  
    (Attach a signed copy of the Audited Accounts)

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

- 11. Name and Address of Auditors: .....
- 12. \*Number of Directors: .....
- 13. \*Names of Directors: .....  
.....  
.....
- 14. \*Please provide the following particulars of all other Directors/Secretary as an attachment to this Form:
  - i. Postal Address: .....
  - ii. Residential Address: .....
  - iii. Date of Birth/Age: .....
  - iv. Nationality: .....
  - v. Occupation/Line of Business: .....
  - vi. Educational Background: .....
  - vii. Work Experience: .....
  - viii. Interest in any other Company(s): .....
- 15. \*Has the applicant/any Director ever been convicted of
  - i. a felony or misdemeanour involving investment or an investment-related business, fraud, false statement or omissions, wrongful taking of property or bribery, forgery, counterfeiting or extortion?  
YES or NO
  - ii. any other felony YES or NO  
(if YES, then give details as an attachment).
- 16. \*Has the Applicant/any Director ever been adjudged bankrupt? YES or NO  
(if YES give the details as attachment).

\* Applicable only to Mutual Funds

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

**PART B—PARTICULARS OF MANAGER**

1. Full Name of Manager: .....
2. Address: .....
3. Location of Registered Office: .....  
Region: ..... City/Town: .....  
Street: ..... House No.:.....  
Telephone Nos.:.....  
Fax Nos.: .....
4. Principal Place of Business: .....
5. Location of Branches and Address: .....
6. Certificate of Incorporation – No. & Date (Attach a Copy).....
7. Full name & Address of Bankers: .....  
.....
8. Authorised Shares: .....  
Paid-Up Capital.....
9. (a) Total Assets .....  
(b) Total Liabilities .....  
(Attach a signed copy of the Audited Accounts).
10. Name and Address of Auditors: .....  
.....
11. Number of Directors: .....  
.....
12. Names of Directors: .....  
.....



*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

13. Please provide the following particulars of all Directors/Secretary as an attachment to this Form:
- i. Postal Address: .....
  - ii. Residential Address: .....
  - iii. Date of Birth/Age: .....
  - iv. Nationality: .....
  - v. Occupation/Line of Business: .....
  - vi. Educational Background: .....
  - vii. Work Experience: .....
  - viii. Interest in any other Company(s) .....
14. Has the Manager/any Director ever been convicted of
- i. a felony or misdemeanour involving investment or an investment-related business, fraud, false statement or omissions wrongful taking of property or bribery, forgery, counterfeiting or extortion? YES or NO
  - ii. any other felony YES or NO  
(if YES, then give details as an attachment).
15. Has the Manager/any Director ever been adjudged bankrupt? YES or NO  
(if YES, then give details as an attachment).

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

PART C—PARTICULARS OF TRUSTEE/CUSTODIAN

1. Full Name of Trustee/Custodian: .....
2. Address: .....
3. Location of Registered Office: .....  
Region: ..... City/Town: .....  
Street: ..... House No.:.....  
Telephone Nos.:.....  
Fax Nos.: .....  
Email Address: .....
4. Principal Place of Business: .....
5. Location of Branches and Address: .....
6. Certificate of Incorporation—No. & Date (Attach a Copy).....
7. Full name & Address of Bankers: .....  
.....
8. Authorised Shares: .....  
Paid-Up Capital.....
9. (a) Total Assets .....  
(b) Total Liabilities .....  
(Attach a signed copy of the Audited Accounts).
10. Names and Address of Auditors: .....  
.....
11. Number of Directors: .....  
.....
12. Names of Directors: .....  
.....

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

13. Please provide the following particulars of all other Directors/Secretary as an attachment to this Form:
- i. Postal Address: .....
  - ii. Residential Address: .....
  - iii. Date of Birth/Age: .....
  - iv. Nationality: .....
  - v. Occupation/Line of Business: .....
  - vii. Educational Background: .....
  - viii. Work Experience: .....
  - viii. Interest in any other Company(s) .....
14. Has the Trustee/Custodian /any Director ever been convicted of
- i. a felony or misdemeanour involving investment or an investment-related business, fraud, false statement or omissions wrongful taking of property or bribery, forgery, counterfeiting or extortion?  
YES or NO
  - ii. any other felony YES or NO  
(if YES, then give details as an attachment).
15. Has the Trustee/Custodian/any Director ever been adjudged bankrupt?  
YES or NO  
(if YES, then give details as an attachment).

UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001

PART D

- 1. A Declaration of Investment Objectives of the Scheme.

.....  
 .....  
 .....

- 2. We the undersigned declare:

- (a) that the ownership and effective control of the Manager of the proposed Scheme are independent of the ownership and effective control of the Trustee/Custodian.

- (b) that the above statement and the attached details are true and also agree to operate the business of ..... in accordance with the Securities Industry Law, 1993 (PNDCL 333) and rules and regulations made thereunder.

SIGNATURE: ..... SIGNATURE:.....

FULL NAME:..... FULL NAME:.....

DESIGNATION:..... DESIGNATION:.....

DATE:..... DATE:.....

ACTING FOR AND ON BEHALF OF  
THE MANAGER

ACTING FOR AND ON BEHALF OF  
THE TRUSTEE/CUSTODIAN

SIGNATURE:.....

FULL NAME:.....

DESIGNATION:.....

DATE:.....

ACTING FOR AND ON BEHALF OF  
THE MUTUAL FUND COMPANY

(Where scheme is a mutual fund)

*UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001*

*SCHEDULE 11*

**FEES**

*(Regulation 3)*

1. Operation of a Unit Trust Scheme:

	¢
(i) Licence fee .. .. .	10,000,000
(ii) Renewal of Licence (annually) ..	5,000,000

2. Operation of a Mutual Fund Scheme:

(i) Licence fee .. .. .	10,000,000
(ii) Renewal of Licence (annually) ..	5,000,000

YAW OSAFO-MAAFO  
*Minister Responsible for Finance*

Date of *Gazette* notification: 9th November, 2001.

Entry into force: 21st December, 2001.

**L.I. 1695**

**UNIT TRUSTS AND MUTUAL FUNDS REGULATIONS, 2001**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

**PART I—SCOPE OF REGULATIONS AND APPLICATION TO OPERATE A  
UNIT TRUST OR MUTUAL FUND SCHEME**

1. Scope of application of Regulations
2. Application to operate a unit trust or mutual fund
3. Application fee and annual fees
4. Rejection of and consequences of a failure to take steps on an application
5. Capital requirements
6. Power to require removal of a manager, trustee or custodian
7. Minimum subscription requirement for issue of licence

**PART II—CONSTITUTION OF UNIT TRUST AND MUTUAL FUND SCHEMES**

8. Trust deed of a unit trust
9. Regulations of a mutual fund

**PART III—SCHEME PARTICULARS**

10. Sale of interests in a scheme and scheme particulars
11. Liability for scheme particulars
12. Advertisements
13. Warning statement
14. Investment plans
15. Publication of prices

**PART IV—PRICING, VALUATION AND DEALING**

16. Creation and issue of interests
17. Preliminary charges and exit fees
18. Initial issue of interests
19. Issues at fixed prices
20. Closure of an offer
21. Valuation and pricing
22. Valuation of unquoted securities
23. The pricing of subsequent issues
24. Adjustment to issue price

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25. Suspension in dealings
26. Redemption as applicable to open end schemes
27. Redemption in excess
28. Purchase of own shares as applicable to closed end mutual funds
29. Dealing
30. Interests as consideration for the acquisition and investment
31. Exchange of interests
32. Sub-division and consolidation of interests
33. Transfer of interests
34. Transmission of interests

## PART V—INVESTMENTS OF A SCHEME

35. Investment objectives
36. Exceeding of investment limits
37. Application of cash
38. Investment in other schemes
39. Restriction on investments

## PART VI—DISTRIBUTIONS

40. Income accounts
41. Deductions from and additions to income account
42. Distribution from income
43. Distribution from capital
44. Distribution account
45. Auditors statement on distribution
46. Declaration of a distribution

## PART VII—ACCOUNTS AND AUDIT

47. Accounts
48. Audit

## PART VIII—REPORTS TO INVESTORS

49. Annual and half-yearly investors' reports
50. Availability of investors' reports
51. Trustee's or custodian's report

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- 52. Statement regarding re-investment of distributions
- 53. Register of investors
- 54. Where register is to be kept
- 55. Right to inspect
- 56. Availability to the public
- 57. Closure of the register

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