

Guidelines applicable for Custodians who provide services to a Market Institution, Market Intermediary, Listed Public Company or a Collective Investment Scheme

General interpretation

1. The words and terms defined in the Securities and Exchange Commission of Sri Lanka Act No. 19 of 2021 shall unless the context requires otherwise have the same meaning assigned to them in the said Act:

“Commission” means the Securities and Exchange Commission of Sri Lanka established in terms of the Securities and Exchange Commission of Sri Lanka Act No. 19 of 2021;

“Custodian of a Scheme” means a Commercial Bank licensed by the Central Bank to whom the property of the Scheme is entrusted for safekeeping in accordance with the provisions of the Collective Investment Scheme Code of 2022 and falls within the definition of a Supplementary Service Provider under the SEC Act;

“Custodian of a Country/Regional/Global Fund” means a custodian bank of a Country, Regional or Global Fund and falls within the definition of a Supplementary Service Provider under the SEC Act;

“Custodian of a Securities Account” means a bank licensed under the Banking Act, No. 30 of 1988 (as amended) providing custodial services and admitted as a Depository Participant and falls within the definition of a Supplementary Service Provider under the SEC Act;

“Fund” means a country, regional and global fund seeking approval from the Commission to invest in listed securities in Sri Lanka;

“SEC Act” means the Securities and Exchange Commission of Sri Lanka Act No. 19 of 2021.

Applicability

2. These guidelines shall apply to a Custodian of a Scheme, a Custodian of a Country/Regional/Global Fund and a Custodian of a Securities Account.
3. A Custodian of a Scheme shall in addition to the guidelines contained herein comply with the provisions morefully set out in the Collective Investment Scheme Code of 2022 published in

Government Gazette (Extraordinary) No. 2278/27 on 7th May 2022.

4. A Custodian of a Securities Account shall in addition to the guidelines contained herein comply with the Rules of the relevant Exchange, Central Depository and Clearing House licensed by the Commission.
5. Every Custodian shall comply with:
 - (a) the guidelines set out herein and any amendments thereto;
 - (b) provisions of the SEC Act which may be relevant and/or applicable to a Custodian; and
 - (c) directives issued from time to time by the Commission.
6. The Commission may waive compliance with any of the guidelines set out herein in circumstances deemed appropriate.

Submission of information to the Commission

7. Every Custodian shall submit to the Commission any information, clarification or explanation in relation to services rendered by it to a market institution, market intermediary, listed public company or a collective investment scheme upon a request made by the Commission as provided for in Section 169 (1) of the SEC Act.
8. The Commission may issue a directive to any Custodian to take any corrective action as determined by the Commission where the Commission is of the view that the services rendered by any Custodian to a market institution, market intermediary, listed public company or a collective investment scheme is likely to cause harm to the interests of any investor as provided for in Section 169 (2) of the SEC Act.

Duties of a Custodian of a Country/Regional/Global Fund

9. A Custodian who is desirous of investing in listed securities in Sri Lanka on behalf of a country, regional or global fund shall obtain the approval of the Commission for the establishment of such Fund as required by the Ministry of Finance.
10. In submitting an application for approval to the Commission for the establishment of a country, regional or global fund to invest in listed securities in Sri Lanka, the Custodian shall submit all information to the Commission in compliance with the Rules issued by the Financial Intelligence Unit of Sri Lanka by

Extraordinary Gazette Notification No. 1951/13 dated 27th January 2016.

11. In obtaining the approval of the Commission, the Custodian shall:
 - (a) obtain the prior recommendation of the relevant Central Depository;
 - (b) exercise due care and diligence to ensure that the information submitted to the Commission are complete, accurate and up to date;
 - (c) ensure that the requirements stipulated in the Financial Transactions Reporting Act No. 06 of 2006 (as amended), Prevention of Money Laundering Act, No. 5 of 2006 (as amended) and the Rules and Regulations issued by the Financial Intelligence Unit of Sri Lanka have been complied with, at the time of submitting the documents to the Commission for approval;
 - (d) disclose the beneficial owners of the Fund as far as possible;
and
 - (e) furnish any additional information that the Commission may require in connection with the application made by the Custodian in respect of a Fund.