

# Securities Dealer

## Guidelines



*FINANCIAL SERVICES AUTHORITY*

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## 1. Introduction

These guidelines have been prepared to provide assistance in matters pertaining to the application and licensing and exemption of Securities Dealers under the Securities Act, 2007 (the Act) and the Securities Regulations, 2008. These guidelines also provide a summary of the Act, thus it is not intended to be comprehensive nor replace or override any legislative provisions. Applicants and licensees are therefore advised to read these guidelines in conjunction with the Act and Regulations. Any question or queries may be directed to:

The Managing Director  
Financial Services Authority  
P.O Box 991  
Roche Caiman, Mahé  
Republic of Seychelles

Attn: Funds and Investment Services Manager

All application forms and other documents are available from the Authority's website ([www.fsaseychelles.sc](http://www.fsaseychelles.sc)).

## 2. Scope of the Act

### 2.1 Definition of Securities Dealer

Per the Securities Act, 2007 a Securities Dealer means a person:

- a) who carries on business of dealing in securities, or
- b) who holds himself out as conducting such business described below:
  - i. makes or offers to make an agreement with another person to enter into or offer to enter into an agreement, for or with a view to acquiring, disposing of, subscribing for or underwriting securities or in anyway effects or causes to effect a securities transaction
  - ii. causes any sale or disposition of or other dealing or any solicitation in respect of securities for valuable consideration, whether the terms of payment be on margin, instalment or otherwise or any attempt to do any of the foregoing
  - iii. participates as a securities dealer in any transaction in a security occurring upon a securities exchange
  - iv. receives as a securities dealer an order to buy or sell a security which is executed
  - v. manages a portfolio of securities for another person on terms under which the first mentioned person may hold property of the other person

This definition also includes a person who holds a restricted securities dealer licence

If the person's dealings fall within the points outlined in section 45(6) of the Act that person is not regarded as carrying on business dealing in securities

**NOTE:** The persons specified in Schedule 4 of the Act do not require a Securities Dealer's Licence to deal in securities

### 2.2 Types of Securities Dealers

Applicants may apply for Securities Dealer Licence, upon processing the application the Authority may also decide to grant a Restricted Securities Dealer Licence to the applicant setting conditions as per Section 46(3) of the Act. The Act also makes provision for an exemption from the licensing requirement in cases where the applicant is a recognised overseas securities dealer and holds current membership to deal on a Seychelles Securities Exchange (referred to as "Exempt Overseas Securities Dealer").

### **3. Application, Licensing and Exemption of Securities Dealers**

To be able to engage in Securities Dealer business in Seychelles, a regulatory licence from the Authority is obligatory.

#### **3.1 Application for a Securities Dealer Licence**

An application submitted to the Authority for a Securities Dealers Licence must comprise of the following documents:

- A completed Application Form
- The relevant application fee (i.e. US\$1000)
- Certified true copies of the constitutional documents of the applicant (Memorandum and Articles of Association, Certificate of Incorporation, Certificate of good standing);
- The audited financial statements of the applicant for the last 2 years, if the applicant was not incorporated within the last 12 months
- Personal Questionnaire Form completed by each director, senior officer, individual shareholder and beneficial owner of the applicant (if the relevant party is listed on a stock exchange in a recognised jurisdiction, Personal Questionnaire Forms are not required).
- The last audited financial statements of the controlling owners of the applicant if the controlling owner is a non-individual
- The Representative Licence Application Form
- Notice of place at which the Register of Securities is to be kept as per Section 80(2)(a) of the Securities Act, 2007 and Schedule 1, Form 6 of the Securities (Forms and Fees) Regulations, 2008
- A written notification from the representative in accordance with section 53 of the Securities Act, 2007
- A copy of the policy of insurance (appropriate to the proposed nature and size of the business) of the applicant

The applicant also has to include the details of the following upon making the application:

- Auditors or proposed Auditors
- Lawyers or proposed Lawyers
- Bankers or proposed Bankers

### **4. Representative**

The Securities Authority shall not grant a Securities Dealer's Licence unless the applicant employs at least one individual who is licenced as a representative under section 52 of the Act. A Securities Dealer's Representative means an individual in the employment of (including a Director of), or acting on behalf of or by arrangement with a securities dealer, who deals in securities on behalf of that securities dealer, whether he is paid salary, wages, commission or otherwise.

### **5. Granting of licence**

When dealing with an application The Authority will not grant a licence unless it is satisfied that the applicant:

- Is a Company incorporated under the Companies Act or under the laws of a recognized jurisdiction
- Employs at least 2 (two) natural person Directors
- Employs at least one individual who is licensed as a representative under the Act
- Complies with any prescribed minimum paid-up capital requirement,
  - the current prescribed minimum issued and paid up capital required is US\$ 50,000

- Complies with the insurance requirement under section 73
- Satisfies the Securities Authority that it is a fit and proper person to be licensed as a dealer
- Will be able, if licensed, to comply with any financial resources regulations that may apply to it
- Has specified premises under section 47(c) that are suitable for keeping records or other documents

It should however be noted that the Authority has discretion in granting or refusing a licence. The Authority may in dealing with an application take into consideration matters other than those mentioned above.

## **6. Auditor**

A Securities Dealer is required to have its accounts audited annually by an auditor. The Auditor has to be a member and in good standing of an accountancy body in compliance with section 2(1)(a) of the Act or a member of any other accountancy body as approved by the Authority.

The licensee must appoint an Auditor within 30 days of becoming licensed under the Act, who is acceptable to the Securities Authority. A Director, Officer, Employee, Shareholder or Partner of the licensee or a partner or employee of such a person shall not be eligible for appointment as an auditor.

Upon application the applicant must notify the Authority of their proposed Auditor.

## **7. Restricted Securities Dealer Licence**

Upon assessment of the application the Authority may grant a Restricted Securities Dealer Licence by:

- Limiting the number of clients to whom the licensee may provide services or
- Limiting the licensee to providing services only to the clients named in the licence or a schedule thereto or
- Setting the minimum value of an individual client's investment

Should the application be successful, the Authority will issue the licence (with any conditions stated at the back of the licence) upon payment of the relevant annual licence fee. The licence fee payable for Securities Dealer is US\$2500.

## **8. Conditions to a Securities Dealer Licence**

Activities permitted under the Securities Dealer Licence are only those that are contained within the license and are limited to only such business as stated. The Securities Dealer must comply with the conditions contained in its licence.

The Authority may impose conditions on a licensee which includes:

- Limiting the nature and scope of the business carried on by the licensee, including the type of securities that may be dealt with by the Securities Dealer.
- Specifying whether or not the Securities Dealer may hold client's assets
- Requiring the Securities Dealer or senior officer or manager of the licensee to acquire and maintain membership of a recognized overseas securities exchange.

## **9. Application for exemption**

An application for exemption from the requirement to obtain a securities dealer licence may be submitted by a securities dealer, licensed under the laws of a Recognised Jurisdiction that meets the requirements of section 45(1)(b)

An application for exemption submitted to the Authority for an "Exempt Overseas Securities Dealer" must comprise of the following documents:

- A completed Application Form
- Certified true copies of the constitutional documents of the applicant (Memorandum and Articles of Association, Certificate of Incorporation, Certificate of good standing);
- Certified copy of the current valid license or other authorisation to operate as a Securities Dealer under the laws of a Recognised Jurisdiction
- Proof of membership of a recognised overseas Securities Exchange or a Seychelles Securities Exchange
- The last audited financial statements of the controlling owners of the applicant

### 9.1 Granting of Exemption

To qualify for an Exemption the applicant must

- be a member of a recognised overseas securities exchange and a Seychelles Securities Exchange
- be in good standing and hold a current licence or other authorisation to deal in securities under the laws of a recognised jurisdiction

During processing of the application, the Authority may request for additional information or supporting documents for the purpose of determining the application.

### 10. Renewal of licence and exemption

The Securities Dealer licence or exemption granted under the Act is valid for a period of one year and must be renewed annually.

The Authority will only renew a licence or exemption upon:

- the payment of the annual licence fee
- in the case of an exempt securities dealer; proof that it holds a current licence or other authorisation from a recognised jurisdiction
- submission to the Authority of a declaration of compliance in accordance with Form 10, Schedule 1 of the Securities (Forms and Fees) Regulations, 2008
  - omitting the statement "To: The Central Bank of Seychelles"  
and replacing with "To: The Financial Services Authority"

A licensed securities dealer or an exempt overseas securities dealer must ensure that formalities for the renewal are undertaken well ahead of the expiry date of the licence or exemption. It is an offence to operate as a securities dealer without a valid licence or exemption.

Failure to renew the licence or approval for exemption on time will attract an additional fee equivalent to one twelfth of that annual fee for each month or part thereof during which the annual fee remains unpaid. Further action may be taken under section 56(2) of the Act for failure to renew the licence or exemption.

### 11. Audited Accounts

A licensed securities dealer must have its accounts audited annually according to the International Financial Reporting Standards.

Both a licensed securities dealer and an exempt securities dealer must submit to the Authority its audited accounts within 4 months of the end of each financial year or within such extension period allowed by the Authority.

Under section 75(3), the authority has the power, at any time, to direct a securities dealer or exempt overseas securities dealer to have its accounts audited and submitted to the Authority.

## **12. Change of ownership of a licensed securities dealer**

Section 60 (1) of the Act provides that no shares in a licensee which is a company shall be issued, and no issued shares shall be voluntary transferred or disposed of (including the transfer or disposal of the legal; or the beneficial interest in the shares or interests) without the Authority's approval.

## **13. Notifications to the Authority**

Licensees are advised to read carefully the conditions described on the reverse of their licence as they may impose on the licensee's obligations in addition to those specifically mentioned in the Act.

### **The Authority must be notified, in writing, within 7 days of**

- a) Any change of:
  - i. name and address of the licensee
  - ii. name and address of any accredited representative
  - iii. name and address of every Director, company secretary and shareholder
  - iv. location of the premises at which records or other documents of the licensed business are kept
- b) Any disciplinary action taken against the licensee including an order of suspension or revocation
- c) Appointment, Removal or Resignation of an Auditor
- d) Any change in the business of the licensee which causes it to cease its business as a securities dealer or exempt overseas securities dealer

Any person who carries on the business of a securities dealer or an exempt overseas securities dealer without a licence or exemption issued by the Authority or, other than in accordance with a licence or exemption granted by the Authority commits an offence and is liable on summary conviction

- a) In the case of an individual to a fine of US\$100,000 or the equivalent in Seychelles Rupees or to imprisonment for two years or both
- b) In the case of a company, to a fine of US\$200,000 or the equivalent in Seychelles Rupees

## **14. Appointment, resignation or removal of Director or officer**

A licensed securities dealer must notify the Authority of the resignation or removal of any director or officer and such notification should include a description of the circumstances of the departure.

## **15. Registers**

### **15.1 Securities Dealer's Registers**

Per section 79 of the Act a licensed securities dealer shall maintain a register of the securities for which that person has an interest as prescribed in Schedule 1, Form 5 of the Securities (Forms and Fees) Regulations, 2008.

### **15.2 The Authority's Registers**

The Authority maintains separate registers for each type of securities dealer licensed under the Act. The registers are open to public inspection during ordinary office hours upon payment of the relevant fees set out in Schedule 2 of the Securities (Forms and Fees) Regulations, 2008.

## **16. Role of the FSA (The Authority)**

The FSA is conferred powers of supervision over the Securities Dealers and Exempt Overseas Securities Dealers by the Act and may in carrying out its supervisory functions:

- a) issue directions to licensees
- b) request information or documents from licensees
- c) revoke a Securities Dealer's licence
- d) impose further conditions on a Securities Dealer's licence
- e) appoint a person to advise a licensed Securities Dealer on the proper conduct of its business
- f) revoke the exemption given to an Exempt Overseas Securities Dealer
- g) appoint a person to assume the control of the affairs of the licensee relating to the licensed business
- h) suspend a licence granted under the Act for a period of time, or until the happening of an event, as the Authority considers appropriate

The Act also imposes duties on the FSA, most notably, the duty not to disclose any information to a third party except where authorised under a written law.



## **17. Exemptions and concessions**

Schedule 3 of the Act grants exemptions and concessions from the applicability of certain legislative enactments

### **17.1 Business Tax Act**

A tax rate of 1.5% will be applicable on the assessable (gross) income of the licensee.

No withholding tax is payable on dividends and/or interest payable.

### **17.2 Immovable Property Transfer Restriction Act**

The restriction in Section 4 of the Immovable Property Transfer Restriction Act, the effect of which it requires a non Seychellois to seek sanction from the Ministry of National Development prior to leasing an immovable property in Seychelles, does not apply to securities dealers.

### **17.3 Social Security Act**

The Social Security Act was replaced in 2010 by the Income and Non-Monetary Benefits Tax Act, 2010.

Under the Income and Non-Monetary Benefits Tax Act, 2010:

- The rate of Income Tax Payable by an employed person (citizen and non-citizen of Seychelles) in respect of emoluments is 15% of the gross amount of emoluments.
- The rate of tax payable by employers is 20% of the value of a non-monetary benefit provided to an employed person. Non-monetary benefits are described under the Fourth Schedule of the Income and Non-Monetary Benefits Tax Act, 2010.

### **17.4 Stamp duty Act**

A securities dealer is exempt from the payment of stamp duty on

- i. all instruments evidencing transactions in respect of shares or debt obligations
- ii. all transfers of other property to or by the licensee
- iii. all instruments constituting, evidencing or related to securities or transfer of or other dealings in listed companies or other listed securities
- iv. all instruments constituting, evidencing or relating to loan or loan security in respect of a licensee or a listed company

provided that the exemptions granted above shall not include exemption from stamp duty in respect of transfers or other dealings in immovable property

### **17.5 Trades Tax Act**

The Act grants exemption from the payment of trades tax (customs duty) on all furniture, stationery and equipment imported, for the exclusive use in an office of the licensee, in connection with the business of securities dealer

Appendix 1 is a list of furniture and equipment to be exempt under the Act. It should be noted that some of the goods on the list may already attract 0% tax rate.

### **17.6 Goods and Services Tax Act**

The Act grants exemption from the payment of Goods and Services Tax on

- i. all furniture, stationery and equipment imported, for the exclusive use in an office of the licensee, in connection with the business of securities dealer
- ii. all fees charged by the licensee

**17.7 Immigration Decree**

The Act allows a securities dealer to employ expatriate employees up to 50% of its total number of employees.

**17.8 Exchange Control Act**

The provisions of the Exchange Control Act do not apply to securities dealers

**17.9 The Companies Act**

The Act grants exemption from all fees in respect of an increase in the licensee's authorized share capital

**17.10 Foreign Earnings Act**

The Foreign Earnings Act is not applicable to a licensed or exempt securities dealer in its entirety.

**18. Administrative procedures with regards to Schedule 3**

This section provides administrative procedures in relation to the concessions and exemptions provided for in Schedule 3 of the Act.

**18.1 Conditions for Duty Concession**

- A securities dealer must submit to the Authority, a list of office equipment, furniture and stationery requirements of its office.
- The Authority shall approve a quota limit for each securities dealer based on the expected volume of activities and type of service offered following consultation with the securities dealer.
- Orders in excess of the quota limit will only be considered for approval if justifiable reasons are provided to the Authority.
- An updated list of the office requirements must be lodged with the Authority on an annual basis before consideration for exemptions can be given.
  - Office equipment and furniture are replaceable when they have reached their economic useful life, are beyond reasonable repair or not meeting the quality standard desired by the securities dealer:

Economic Useful Life means that the asset has fully depreciated and the depreciation method used is in line with the Business Tax Act.  
Beyond Reasonable Repair means that the asset has had frequent breakdown and/or servicing during a month and actual costs of repair are substantial.

- A securities dealer has to provide justification to the Authority for replacement of office equipment, stationary and furniture, which have reached their economic useful lives, are beyond reasonable repair, their quality of output is not to the required standard and/or out of stock.
  - Disposal of office equipment, furniture have to be lodged with the Authority and once approved, all tax liabilities must be paid before the asset is disposed (refer to procedures in relation to disposal).
- A securities dealer has to maintain an asset register for all assets purchased.
  - The Authority shall approve duly concession only if the goods are consigned to the Licensee and/or separate invoices and BOE are presented in the case of group orders.

**NOTE:** A securities dealer shall not comply with the provisions of the Trades Tax Act in relation to obtaining an Import Permit and other requirements set out by the Ministry of Finance in relation to importation of goods. It is important to consult on tax/duty concessions prior to confirming an order, if in doubt. All tax-exempt items must be located in offices and/or premises and are subject to inspection by the Authority or the Tax Division.

### **18.2 Processing of Goods for Duty Concession**

- 1) A set of 5 documents each containing the Bills of Entry (BOE), invoices, shipping documents must be submitted to the Authority for "Endorsement" for Duty Exemption prior to presentation of document to the Trades Tax Division. A full set of the BOE is kept by the Authority. The remaining 4 copies are given to the securities dealer for processing at Trades Tax Custom Office at the Airport or New Port.
- 2) During clearance of goods, a designated officer of the licensee must be physically present and must ensure that the Custom Officer declares any short landing and/or damage of goods.
- 3) When the goods enter the licensee's premises after being cleared by the Trades Tax Custom office, a designated officer must inspect the goods again and any items that have gone missing during transit should be reported to the Authority, immediately. Trades Tax shall apply on any missing items thereafter and the securities dealer will be liable.
- 4) After the Goods have been cleared and delivered to the securities dealers' office, a copy of the Processed Trades Tax Bill of Entry and any variation order made by Trades Tax Division should be forwarded to the Authority by the next working day.

**NOTE:** A securities dealer is required to keep well documented and updated records of the items exempted from Taxes. These records should include inventory of fixed assets, stationery imported and goods disposed of, and must be available at all times for inspection. Tax will apply for any item unaccounted for.

### **18.3 Processing Disposal of Duty Concession Goods**

Disposal of office equipment and furniture have to be lodged with the Authority and once approved, all tax liabilities must be paid before the asset is disposed of.

Securities Dealers must observe the following guidelines:

Submit their request for disposal to the Authority in typed format indicating the item, the quantity, the cost value, present market value, reasons for disposal, and manner in which they are going to dispose the item.

The Authority will consider the application and may inspect the items to be disposed of in the process.

If the approval is being considered positively, the licensee must prior to disposal settle the Duty payable with Tax Office and forward a copy of duty payment to the Authority. The Authority will then give the final approval.

**NOTE:** A licensee must not destroy or dispose any office equipment, furniture, or stationery exempted from customs duty unless written approval is given by the Authority.

#### **18.4 Payment of Business Tax**

The tax payable by a licence holder in respect of its income shall be collected at source by the Authority and remitted to the Seychelles Revenue Commission.

#### **18.5 Guide to Recruitment**

- 1) A foreign worker should be recruited outside Seychelles.
- 2) The person making an application for a Gainful Occupation Permit (GOP) must undergo a compulsory Medical Examination. This should be done prior to entering into Seychelles. However, if the person is already in Seychelles, an appointment with the Occupational Health Unit of the Health Authority can be obtained for the person to undergo all relevant tests.

The medical fitness test is required to be submitted in the form contained in Appendix A. Other information required to be submitted are tests for the following:

- HB%
- HIV Test
- Hepatitis B Test
- VDRL Test
- Urine-Routine and Microscopic Exam
- X-ray chest PA view

All of the original copies of laboratory and x-ray results must be submitted to the Occupational Health Unit to certify that the person has passed the medical fitness test.

A fee of SR 350 is payable to the Occupational Health Unit for processing and medical endorsement.

If the medical test is conducted at the Occupational Health Unit a fee of SR 1175 is payable to the Occupational Health Unit.

- 3) The Authority must be informed of the employment of foreign workers 28 days prior to entry of the employee into Seychelles.
- 4) Request for foreign employment must be lodged to the Authority and upon approval. The following documents and information would be required:
  - Medical fitness certificate presented in the format prescribed by the Ministry of Health, plus original test result of the following:
    - HIV, PPR, Hepatitis B, HB WBC DC, urine, stool & chest X-ray
  - Contract & condition of employment unless defers from the standard conditions/contract
  - Passport number, date of birth, nationality, marital status and date of arrival into Seychelles.
  - Statistical information on employees (local and foreign)
  - Signed GOP Application Form
- 5) In addition to the above, the securities dealer should liaise with the Occupational Health Unit of the Health Authority in respect of the prospective employee to enter into Seychelles on the basis of the Medical fitness certificate presented. Based on Unit's

recommendation, the Authority will extend approval for entry of the employee into Seychelles to the Immigration Division.

- 6) Notwithstanding the above, the licensee has to ensure that employees present themselves to the Occupational Health Unit of the Ministry of Health for a medical fitness test within one month of arrival into the country.
- 7) Please note that the issuance of a visa upon arrival of the employee does not automatically constitute residency in Seychelles. An application for a GOP should be made. Approval to reside in Seychelles during the period of employment is the prerogative of Immigration Division.

#### **18.6 Application of Gainful Occupation Permit (GOP or Work Permit)**

- 1) After the Health Authority has endorsed health clearance of the prospective employee, the licensee must submit the following document to the Authority for GOP concession as per Schedule 3 of the Securities Act, 2007.
  - Health Clearance letter
  - 2 copies of employee's passport, (one copy to be retained by the Authority)
  - 4 passport size photographs, (one to be retained by the Authority)
  - A Copy of the securities dealer's licence and other relevant document
  - Completed GOP Application Form
- 2) The Authority will then issue a formal letter to Immigration Division through the licensee whereby same letter should be forwarded to Immigration Division along with a set of documents as specified in par 9.6.1 above. The securities dealer must submit to Immigration along with the documents above, a processing fee of SCR1000.
- 3) Please note that employee can enter into Seychelles unless he/she is in possession of a copy of the GOP for presentation on his arrival to immigration officers.
- 4) A copy of the GOP should be forwarded to the Authority once approved by Immigration Division.
- 5) Same process is applied for Renewal of a GOP. Please note that the expired GOP certificate should be forwarded with the renewal application.

#### **18.7 Surrender of Work Permit- Termination of Employment or End of Contract**

The Authority must be notified in writing of the termination of employment or end of contract of foreign employees and the Work Permit of these employees must be surrendered to the Authority.

#### **19. Seychelles Pension Fund Contribution**

A licensee shall pay Seychelles Pension Fund Contribution in respect of an employee who is a citizen of Seychelles.

As from 1 January 2012, the 1% pension contribution payable by employer and 1% contribution by employee have been revised to 1.5% by employee and 1.5% by employer or SR50 whichever is the greater to add up to 3% of the total contribution.

The mandatory contribution should be deducted from the employee's monthly salary and remitted to the Fund through the Seychelles Revenue Commission.

For more information contact the Seychelles Pension Fund on:

Chief Executive Officer  
Seychelles Pension Fund  
Caravelle House  
PO Box 576 ,  
Victoria ,  
Mahe ,  
Seychelles

Tel (248) 294699  
Fax (248)224740

E-mail addresses: [spsdir@seychelles.net](mailto:spsdir@seychelles.net)

## Appendix 1

### List of Equipment and Furniture

#### Office Equipment

- Photocopier
- Fax Machine
- Table or Electric Emboss Seal
- Binding Machine
- Franking Machine
- Laminating Machine
- Shredders
- Guillotine/Trimmers
- Air-condition (1 per office) unless Office has Centralised air-condition
- Air Humidifier
- Telephone Set (Fixed)
- Heavy Duty Punch
- Heavy Duty Staplers

#### Security Equipment

- Security Camera
- Security lock and other office Security Devices

#### IT Equipment

- Personal Computers
- Laptop (limited to one per managerial staff)
- Printers
- Scanners
- Computer Servers
- Network Cables
- Wireless Network Devices
- Network Switches
- Network Routers
- Computer Peripheral such as diskette, CD, backup tapes, Keyboard, Screen
- CD/DVD Writers
- Modems

#### Conferencing Equipment

- TV, DVD
- Projector LCD/Overhead,
- Projector Screen,
- Video Camera/Recorder
- Video conferencing Equipment
- Small HI Set
- Carry Case for Above

#### Office Furniture

- Office Desk
- Office Chares
- Side Table
- Conference Table & Chairs

- Rubber Chair Mat
- Reception chair/table
- Filing Cabinet/Cupboards
- Office Storage Cupboard
- Desk end Pedestals
- Book shelves
- Rotary Filing units
- Calculators
- Desk Trays
- Date stamps and other office stamps
- Blinds/Curtain
- Carpets
- White Board
- Year Planner
- Flip Chart
- Advertising Panel stand and display units
- Literature/Brochure stand