

CENTRAL BANK OF SAMOA

PRUDENTIAL GUIDELINES FOR UNIT TRUST

GUIDELINES STATEMENTS

Effective: 1 January 2015

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Chapter 1

EXPLANATORY FOREWORD

- 1.0 The Government recognizes the need to develop Capital Market Facility/Investment Schemes in order to provide other investment opportunities for Samoan individuals and businesses both locally and abroad to diversify their investments. As such, prudential supervision is extended to strengthen market discipline by applying standards to maintain risk-taking at prudent levels and enhance institution's capacity to absorb any adverse developments that may occur
- 1.1 These Guidelines were developed in pursuant with Section 3 of the Financial Institution Act 1996, Section 16G of the Financial Institution Amendment Act 2012 and in accordance with the Unit Trust Act 2008.
- 1.2 These Guidelines outlines the Central Bank of Samoa's requirements to be complied with by any capital market participant/investment schemes such as any person or group of persons intending to establish as a Broker, Dealer, Security Exchange, Unit Trust or as an Investment Advisor in Samoa.
- 1.3 Extending prudential oversight to Capital Market Participants/Investment Schemes provides another layer of supervision to institutions which has significant investment opportunities and also provides credit facilities to help stimulate and provide economic growth and development. Hence, these investment schemes which includes the Unit Trust of Samoa play a significant role in ensuring that stability of the financial sector as a whole is maintained.
- 1.4 The ultimate responsibility for the affairs of the market participants rests solely with Management Company, Directors and senior management.

The Central Bank focus is towards satisfying itself that Unit Trust (UT) follows sound management practices and internal controls consistent with a developmental financial institution and that prudent standards are kept under review to take account of changing circumstances.

1.5 Particular attention is given to the management company, the trustee, investment strategy as well as capital adequacy, liquidity, operational and risk management policies. The Bank will collect and evaluate statistical returns mainly on a monthly and quarterly basis and discuss with senior management of UT operations and policies from a prudential point of view.

1.6 The Bank prefers to develop, in consultation with UT, prudential standards that serve as triggers for discussion with senior management on critical aspects of its operations. In the main, the objective is to develop a consensus on reporting requirements but the Bank will, if necessary, assume the role of final arbiter.

1.7 The Central Bank envisages the involvement of external auditors as appropriate. Annual external audits are used to ascertain the reliability of information provided and additional assurance to the Bank that prudential standards and other requirements are being observed to ensure competence of management and accounting and internal controls are satisfactory.

1.8 The Bank's approach to supervision has the advantage of flexibility in administration which can be adapted quickly, if necessary, to meet changing conditions. The Bank is also provided with discretion under the Financial Institutions Act for handling special situations.

Chapter 2

Market Participants.

2.0 Licensing Requirement

The Central Banks approach to the licensing of Market Participants/Investment Schemes is aimed at promoting public confidence in them and maintaining financial stability in general. In this regard, licence is issued not only on the basis that it will be to the economic advantage of Samoa but also on the basis that it is viable and the applicant is “Fit and Proper” to participate in the market.

2.1 “Fit and Proper” Assessment Criteria

The following criteria are important in the assessment of Fit and Proper Person: -

- *Reputation, Character, Reliability and Financial Integrity;*
- *Education/Other Qualifications and Experience;*
- *Financial Status or Soundness;*

(a) Reputation, Character, Reliability and Financial Integrity

For the purposes of this Guideline, good character qualities include honesty, integrity, reliability and reputation that are demonstrated over time.

In determining good character, the Central Bank is not likely to be satisfied that a person is fit and proper if that person:

- (i) has been convicted or found guilty in a criminal or disciplinary offence; or
- (ii) has been disciplined, dismissed or disqualified by any professional or regulatory body in relation to any trade, business or profession; or regarding their integrity and honesty
- (iii) has been a director or substantial shareholder involved in the management of a corporation or business that was wound up, insolvent or had a receiver or administrator appointment.

(b) Education, Other Qualifications and Experience

A responsible person must possess the relevant qualification and exhibit the competency and ability to understand the technical requirements and inherent risks associated with the business and the management processes required to conduct its operations effectively, with due regard to the interests of all stakeholders.

In evaluating the competency and capability of a person, the Central Bank is not likely to be satisfied that a person is fit and proper if: -

- (i) the person has a medical condition and is unable to carry out the inherent requirements of the regulated activity; or
- (ii) the person has been disciplined by a professional, trade or regulatory body or dismissed or requested to resign from any position or office for negligence, incompetence or mismanagement.

(c) Financial Status or Soundness

When assessing the financial soundness of responsible persons, the Central Bank is not likely to be satisfied that a person is fit and proper if that person: -

- (i) is an undischarged bankrupt;
- (ii) is currently subject to bankruptcy proceedings; or
- (iii) has been a bankrupt and has been discharged within 3 years preceding the proposed appointment
- (iv) whether the applicant is subject to receivership or other similar proceedings

2.2 In-House Fit and Proper Policy

- (i) Each market participant must establish and implement an in-house "Fit and Proper Policy" approved by its Board;
- (ii) Subsidiaries and branch operations can adopt the Group's Fit and Proper Policy which must, at a minimum, include the requirements of this Policy.
- (iii) The Fit and Proper Policy must be reviewed when required.

- (iv) The market participant must submit a copy of the Fit and Proper Policy to the Central Bank within 3 months after it has been approved by its Board.

2.3 Role of the Board of Directors

The Board is responsible for ensuring ongoing compliance with the Policy and must: -

- (i) ensure that all staff are aware of the requirements of the Policy;
- (ii) document the process used to assess whether a person is fit and proper and clear reasons for any decision made;
- (iii) make the documentation available to the Central Bank, as required;
- (iv) ensure that candidates who are being considered for appointment to key positions meet the fit and proper test before appointments are made; and
- (v) ensure that processes are implemented to keep under constant review the capacity of and conduct of responsible persons, including any controlling shareholders and other persons with significant influence on the operations of the market participant, to continue to meet the fit and proper test.

A board member who does not qualify to remain as a responsible person during the term of his appointment must tender his resignation to the board chairperson as soon as he is aware of the non compliance. If such person is the board chairperson, then the resignation must be tendered to the deputy chair person.

2.4 Role of the Senior Management

Senior management is responsible for ensuring on-going compliance of the Policy and reporting any non compliance to the Board with recommendations for further action.

A responsible person of a market participant/investment scheme who does not qualify as a responsible person during the term of his appointment with the minimum requirements of this Policy must inform the chairperson of the Board immediately of such non compliance.

