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**GN No. 178 of 2010**

**SECURITIES (AUTHORIZATION OF FOREIGN INVESTMENT DEALERS)**

**RULES 2010**

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**SECURITIES (AUTHORIZATION OF FOREIGN INVESTMENT DEALERS)  
RULES 2010**

**FSC Rules made by the Financial Services Commission under Section 93 of the Financial Services Act 2007 and Sections 29(3) and 155 of the Securities Act 2005.**

**PART I  
PRELIMINARY**

**1. Citation**

These Rules may be cited as the Securities (Authorization of Foreign Investment Dealers) Rules 2010.

**2. Interpretation**

In these Rules –

"Act" means the Securities Act 2005;

“applicant” means a foreign investment dealer applying for authorization to act as an investment dealer in Mauritius;

“Chartered Secretary” means a member of the Institute of Chartered Secretaries and Administrators of the United Kingdom;

“clearing member” means a person who is authorized to clear and settle trades executed on a relevant securities exchange;

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

“Companies Act” means the Companies Act 2001;

“Financial Services Act” means the Financial Services Act 2007;

“foreign investment dealer” means a financial institution which is licensed, regulated, approved, recognized or otherwise authorized to perform in a foreign jurisdiction the functions of an investment dealer as set out in Section 29 of the Act;

“foreign investment dealer agent” means an agent appointed by a foreign investment dealer in accordance with Rule 6;

“investment dealer” has the same meaning as in the Act;

“law practitioner” has the same meaning as in the Law Practitioners Act 1984;

“management company” has the same meaning as in the Financial Services Act;

“qualified auditor” has the same meaning as in the Companies Act;

“relevant Acts” has the same meaning as in the Financial Services Act;

“securities exchange” has the same meaning as in the Act.

### **3. Scope of the Rules**

These Rules shall apply to the authorization of foreign investment dealers whose activities shall be restricted to trading on a securities exchange.

## **PART II**

### **AUTHORIZATION OF FOREIGN INVESTMENT DEALERS**

#### **4. Application for authorization**

- (1) No foreign investment dealer shall deal on a securities exchange unless authorized by the Commission.
- (2) A foreign investment dealer may carry out the functions and activities of an investment dealer if authorized by the Commission in accordance with these Rules.
- (3) The Commission may authorize the applicant to act as an investment dealer if the Commission is satisfied that the applicant is exercising the functions of an investment dealer in a jurisdiction where there is a regulatory or supervisory framework consistent with international best practice.
- (4) An application for authorization shall be accompanied by:
  - (a) a statement from the relevant securities exchange that the foreign investment dealer will be admitted to deal on the securities exchange if authorized by the Commission;
  - (b) a certified true copy of the agreement entered between the foreign investment dealer and the foreign investment dealer agent;
  - (c) a certified true copy of the business licence of the applicant;
  - (d) either a certificate of good standing from the relevant foreign regulatory body, if the applicant is licensed or a statement from a lawyer authorized to practise law in the foreign jurisdiction certifying that the applicant is legally entitled to carry out the functions of an investment dealer in that jurisdiction, if the applicant is not licensed;
  - (e) a certified true copy of the certificate of incorporation of the applicant;

- (f) a list of the documents submitted by the applicant to the relevant securities exchange; and
- (g) any other information that the Commission may deem necessary.

**PART III**  
**DUTIES OF SECURITIES EXCHANGE**

**5. Duties of the securities exchange**

The relevant securities exchange shall:

- (a) conduct all due diligence checks in relation to the applicant and provide the Commission with an undertaking to this effect;
- (b) monitor the conduct of the business of the applicant and report to the Commission, where appropriate;
- (c) ensure that the settlement of all trades executed by the applicant shall be made through clearing members; and
- (d) exercise such other duties in relation to the foreign investment dealer, as the Commission may determine from time to time.

**PART IV**  
**FOREIGN INVESTMENT DEALER AGENT**

**6. Foreign investment dealer agent**

- (1) A foreign investment dealer authorized to act as an investment dealer shall at all times maintain a foreign investment dealer agent in Mauritius who

shall be a law practitioner, a qualified auditor, a Chartered Secretary or a management company.

- (2) An applicant shall enter into an agreement with a foreign investment dealer agent prior to the application for authorization with the Commission.

## **7. Functions of the foreign investment dealer agent**

The foreign investment dealer agent shall provide such services as an applicant may require in Mauritius and these shall include:

- (a) the filing of all documents with the Commission as may be required under the relevant Acts;
- (b) the receiving and forwarding of any communication, notice or summons from, and to, the Commission or the relevant securities exchange or any other party; and
- (c) the notification of any change in the beneficial ownership of the applicant, any alteration to any document submitted to the Commission or the relevant securities exchange by the foreign investment dealer, and any other material change within 21 days.

## **PART V MISCELLANEOUS**

### **8. Fees**

The applicant shall pay the corresponding fees as specified in the Financial Services (Consolidated Licensing and Fees) Rules 2008.

### **9. Duration and variation of the authorization**

(1) The authorization granted by the Commission shall cease to be valid if the foreign investment dealer is no longer permitted to act as an investment dealer in the jurisdiction where it was operating as such at the time of the application.

(2) The Commission may vary the terms of the authorization as it deems fit.

## 10. Consequential amendments

The Financial Services (Consolidated Licensing and Fees) Rules 2008 are amended in Part 1 of the First Schedule by inserting the following table immediately after the table “CIS Functionaries and Professionals”:

<b>Foreign Investment Dealers</b>					
<b>Code</b>	<b>Authorization</b>	<b>Relevant Section of Securities Act 2005</b>	<b>Processing Fee (US\$)</b>	<b>Fixed Annual Fee (US\$)</b>	<b>Other Fee</b>
SEC-5.1	Foreign Investment Dealer (Commodity Derivatives Segment)	S 29 (3)	(\$ 1,000)	(\$ 3,000)	-
SEC- 5.2	Foreign Investment Dealer (Currency Derivatives Segment)	S 29 (3)	(\$ 1,000)	(\$ 3,000)	-

## 11. Commencement

These Rules shall come into operation on 18 September 2010.

Made by the Financial Services Commission on 18 September 2010.