

GUIDELINES ON SUSTAINABLE AND RESPONSIBLE INVESTMENT FUNDS

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Chapter 1

INTRODUCTION

- 1.01 The *Guidelines on Sustainable and Responsible Investment Funds* (Guidelines) is issued by the SC pursuant to section 377 of the *Capital Markets and Services Act 2007* (CMSA).
- 1.02 These Guidelines set out the additional requirements to be complied with by any new or existing funds seeking to qualify as an SRI fund. It draws upon and adopts best international practices and is not intended to define or create a standard on sustainable and responsible investment products. However, management companies and fund managers are encouraged to keep abreast of global developments and adopt international best practices to meet client expectations on sustainability.

Applicability

- 1.03 These Guidelines apply to–
- (a) an issuer of any new or existing funds seeking to qualify as an SRI fund; and
 - (b) a fund manager seeking for certification in respect of tax exemption for managing an SRI fund
- 1.04 These Guidelines are in addition to and not in derogation of any requirements provided for under securities laws or any other guidelines issued by the SC.
- 1.05 These Guidelines and the relevant securities laws form the regulatory framework governing funds in Malaysia and should be read together.
- 1.06 To assist with the interpretation of the requirements under these Guidelines and their application, Guidance has been provided, where appropriate. Any departure from the guidance will be taken into consideration in the SC's assessment on whether a breach of these Guidelines had occurred.
- 1.07 The SC may, upon application, grant an exemption from or a variation to the requirements of these Guidelines if the SC is satisfied that–
- (a) such variation is not contrary to the intended purpose of the relevant requirements in these Guidelines; or
 - (b) there are mitigating factors which justify the said exemption or variation.

Chapter 2

DEFINITIONS

2.01 Unless otherwise defined, all words used in these Guidelines shall have the meanings assigned to them in the CMSA. In these Guidelines, unless the context otherwise requires:

sustainable and responsible investment (SRI) fund	means a fund structured in accordance with paragraph 3.01;
fund manager	means a person who undertakes the fund management function, or part thereof, for an SRI fund and who is either– (a) a holder of a Capital Markets Services Licence for the regulated activity of fund management; or (b) a venture capital or private equity management corporation registered with the SC;
Sustainable Development Goals (SDGs)	means the Sustainable Development Goals described in the resolution adopted by the United Nations General Assembly;
United Nations Global Compact (UNGC) Principles	means the principles relating to sustainability as described by the UNGC;
existing fund	means any existing unit trust fund, closed-end fund, wholesale fund, exchange-traded fund, venture capital or private equity fund or real estate investment trust, which has not been qualified as an SRI fund by the SC under these Guidelines.

Chapter 3

SRI POLICIES AND STRATEGIES

3.01 An SRI fund must be a fund that–

- (a) is structured as a:
 - (i) unit trust fund;
 - (ii) closed-end fund;
 - (iii) wholesale fund;
 - (iv) exchange-traded fund;
 - (v) real estate investment trust;
 - (vi) venture capital or private equity fund; or
 - (vii) any other fund structure permitted by the SC; and
- (b) incorporates sustainability considerations as stipulated in paragraph 3.05.

3.02 In the case of a feeder fund seeking to be qualified as an SRI fund, the target fund must comply with the requirements under paragraphs 3.05, 3.06 and 3.07.

3.03 In the case of a unit trust fund or a wholesale fund that is an umbrella fund, any sub-fund of the umbrella fund seeking to be qualified as an SRI fund must comply with these Guidelines.

Disclosure and reporting of SRI fund's investments

3.04 An SRI fund must disclose in its prospectus, disclosure document, information memorandum or Product Highlights Sheet (PHS), as the case may be, detailed description of the information as required under paragraphs 3.05, 3.06, 3.07 and 3.08. Where no prospectus, disclosure document, information memorandum or PHS, as the case may be, is issued, the information must be disclosed to the SC in its application to qualify as an SRI fund.

3.05 An SRI fund's policy and investment strategies, including the selection, retention and realisation of its investments, must adopt one or more sustainability considerations such as–

- (a) the UNGC Principles;
- (b) one or more of the SDGs; or

- (c) any other environmental, social or governance factors.
- 3.06 The SRI fund must disclose its policies and processes to deal with such events where the fund’s investments become inconsistent with its investment strategies and policies adopted under paragraph 3.05.
- 3.07 The management company or fund manager, where applicable, must disclose steps that will be taken to ensure that the overall impact of the investments of its SRI fund pursuant to sustainability considerations under paragraph 3.05 is not inconsistent with any other sustainability considerations.
- 3.08 The prospectus or disclosure document must include a statement on the cover page that the fund is a qualified SRI fund under these Guidelines.
- 3.09 In the case of a feeder fund, the prospectus, disclosure document, information memorandum or PHS of the feeder fund, as the case may be, must also include a statement that in the event there is a change in the target fund, the replacement target fund must also be in compliance with the relevant paragraphs under these Guidelines including paragraph 3.12 below.

Guidance to paragraph 3.05

In determining whether a fund satisfies the requirements of this paragraph, information submitted to SC will be compared against SRI strategies as described in the table below. Strategies outlined in this table are illustrative of the various SRI strategies currently in practice globally and are not intended to be exhaustive.

Strategy	Description
Negative screening	Exclusion of companies undertaking certain business activities or practices from a portfolio based on specific environmental, social or governance criteria including Shariah screening methodologies.
Positive screening	Prioritising investment in companies or projects that demonstrate positive environmental, social or governance performance relative to industry peers
ESG integration	Systematic assessment of quantitative and qualitative data on environmental, social and governance factors in investment analysis.
Thematic investments	Selection on investments that align with specific themes related to sustainability
Impact or social investing	Targeted investments with the intent to solve social or environmental issues, or investments towards businesses and projects with a clear social or environmental purpose

- 3.10 The annual and interim reports, where applicable, of an SRI fund must include—
- (a) a statement that the fund has complied with these Guidelines;
 - (b) descriptions on sustainability considerations that has been adopted in the SRI strategies employed; and
 - (c) a review on sustainability aspects of the fund’s portfolio, where available.

Guidance for paragraph 3.10(c)

It is also recommended that a review on the sustainability aspects of the fund’s portfolio be made available to investors periodically. It should include a commentary on action, outcomes and performance metrics (where available) on sustainability topics material to the fund’s portfolio.

A fund manager may choose to present this review in a separate document or report (i.e. other than an annual report) but references must be made to such document in the annual report. In such instances, the review may be disseminated or made available via newsletters, website updates, social media or any other official communication channels.

- 3.11 In the case of an SRI fund structured as venture capital or private equity fund, the information required under paragraph 3.10 must be submitted to the SC within three months after the close of each financial year end or any other period as may be prescribed by the SC.
- 3.12 The management company or fund manager, where applicable, must notify the SC immediately if there is any changes to the SRI fund that would have an impact on the SRI fund’s compliance with these Guidelines.

Chapter 4

APPLICATION TO QUALIFY AS AN SRI FUND

New fund

- 4.01 In the case of a new fund, except for wholesale fund, the application to qualify as an SRI fund must be submitted together with the application for its establishment or listing, where applicable.
- 4.02 In the case of a new wholesale fund, the qualification as an SRI fund must be obtained prior to lodgement of the new wholesale fund under the Lodge and Launch Framework (LOLA).
- 4.03 In the case of a new venture capital or private equity fund, the application must be submitted together with the application for registration of the fund with the SC.
- 4.04 In addition to the submission documents stipulated in the relevant guidelines for the funds referred to in paragraphs 4.01, 4.02 and 4.03, the application must be accompanied by a checklist of compliance with the relevant chapters of these Guidelines. The checklist must include commentary on whether the requirements are met, not met or not applicable, and provide detailed illustration, explanation and justifications thereof, with reference to the Guidance where appropriate.

Existing fund

- 4.05 In the case of an existing fund, the following must be submitted:
 - (a) A cover letter which contains the following:
 - (i) Rationale for the qualification sought;
 - (ii) Details of any departure from these Guidelines, together with relevant justifications and exemption or variation sought for such departure. Where exemption or variation has been obtained, to provide details of such exemption or variation; and
 - (b) A checklist of compliance with the relevant chapters of these Guidelines. The checklist must include commentary on whether the requirements are met, not met or not applicable, and provide detailed illustration, explanation and justifications thereof, with reference to the Guidance where appropriate;
 - (c) Where the fund is required to issue a replacement or supplementary prospectus, an application to register and lodge the fund's replacement or supplementary prospectus to be made in accordance with the requirements set out in *Prospectus Guidelines for Collective Investment Schemes*; and

- (d) Where revisions will be made to a disclosure document that has been lodged, the draft amended or replacement disclosure document.

Further information and documents required by the SC

- 4.06 The SC may, at its discretion, request for additional information and documents other than those specified in these Guidelines.
- 4.07 The applicant must immediately inform the SC on any material change that may impact the application.

Submission of applications

- 4.08 Unless otherwise specified in these Guidelines, an application under this Chapter must be submitted as follows:

- (a) All documents contained within an application must be submitted in both hard and soft copy versions. The soft copy must be in text-searchable Portable Document Format (PDF);
- (b) The soft copy must be submitted via e-mail, up to 10MB per e-mail, to MISsubmissions@seccom.com.my or ALDMail@seccom.com.my (for venture capital or private equity funds); and
- (c) Submission of the hard copy application must be addressed to:
Chairman
Securities Commission Malaysia
3 Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur

(Attention: Corporate Finance and Investments)

In the case of a venture capital or private equity fund, the application is to be addressed to the Authorisation and Licensing Department.

- 4.09 The SC may return any application which is deemed unsatisfactory or which do not comply with the requirements of the SC.

Chapter 5

CERTIFICATION IN RESPECT OF TAX EXEMPTION FOR MANAGING AN SRI FUND

- 5.01 The SC has been empowered to provide certification for the purpose of an application by a fund manager for the tax exemption as set out in Appendix 1 in relation to managing an SRI fund.
- 5.02 This chapter sets out the—
- (i) qualifying conditions as set out in the tax exemption order which must be fulfilled by the fund manager; and
 - (ii) forms and documents that must be submitted by the fund manager, for the purpose of applying for the certification in respect of the tax exemption.
- 5.03 A fund manager who wish to apply for the tax exemption must meet the following conditions:
- (i) The fund manager must conduct the fund management services for the SRI fund in Malaysia;
 - (ii) The fund manager has incurred an annual operating expenditure of at least RM250,000 in Malaysia; and
 - (iii) The fund manager has at least—
 - (a) in the case where the fund manager is licensed under the Capital Markets and Services Act 2007, two full time employees in Malaysia of which one of the employees holds a Capital Markets Services Representative's Licence (CMSRL) under the Capital Markets and Services Act 2007; or
 - (b) in the case where the fund manager is registered with the SC as a venture capital management corporation or a private equity management corporation, two full time employees in Malaysia of which one of the employees is a responsible person approved by the SC.
- 5.04 The SC may, at its discretion, request for additional information and documents other than those specified in these Guidelines.
- 5.05 The applicant must immediately inform the SC on any material change that may impact the application.

- 5.06 For the purposes of applying for the certification as set out in this chapter, the fund manager is required to submit to the SC the completed form and a written declaration in accordance with Appendix 2 and other information as may be required by the SC via e-mail in the following manner:
- (a) Documents must be in a text searchable Portable Document Format (PDF);
 - (b) The PDF-text files must be in a readable and proper condition; and
 - (c) In a size of up to 10MB per email to SRIfundtaxsubmission@seccom.com.my
- 5.07 The SC may return applications which are deemed unsatisfactory or which do not comply with the requirements of the SC.

TAX EXEMPTION ORDER

	Exemption	Available to	Legislation
(a)	Income tax exemption on statutory income derived from fund management services of managing a fund in accordance with these Guidelines	<p>(1) Fund manager that is licensed under the Capital Markets and Services Act 2007 for fund management</p> <p>(2) Fund manager that is registered with the SC as a venture capital management corporation or a private equity management corporation</p>	<i>Income Tax (Exemption) (No.5) Order 2018 – P.U. (A) 356 and Income Tax (Exemption) (No.5) Order 2021 – P.U. (A) 209</i>

Appendix 2

DOCUMENTS TO BE SUBMITTED FOR CERTIFICATION IN RESPECT OF TAX EXEMPTION FOR MANAGING AN SRI FUND

This Appendix contains the following:

- i. Section A: Application form for certification in respect of tax exemption for managing SRI fund
- ii. Section B: Declaration

Section A: Application form for certification in respect of tax exemption for managing SRI fund

- (1) Please complete the form and submit together with the declaration required as set out in Section B.

Name of Fund Manager	
Licensing/Registration Number	
Financial Year End	
Year of Assessment	
Income Tax Reference Number	
Name of Contact Person of Fund Manager	
Contact Number	
Fax Number	
E-mail	

(2) Provide the list of SRI funds managed in the following manner:

No.	Name of Fund	Type of Fund [unit trust fund, closed-end fund, wholesale fund, exchange-traded fund, real estate investment trust, venture capital (VC) or private equity (PE) fund]	Shariah-compliant or Conventional	Has there been any changes to the SRI fund that would have an impact on the SRI fund's compliance with these Guidelines in the last financial year/from the last certification?*

Notes:

(a) *If yes, please state in the column provided if the fund manager has complied with paragraph 3.10 of these Guidelines. A copy of the notification to the SC must also be submitted with the application for the certification of SRI fund in respect of tax exemption.

(b) If there is insufficient space provided in this application form, additional information may be included by way of annexures.

(3) Justification on how the fund manager has complied with subparagraph 5.03 of these Guidelines

(a) Please provide relevant details to confirm that the fund manager has met the requirements for having the prescribed minimum number of full time employees.

Full time employees who are relevant to the SRI funds in the year of assessment				
No.	Full Name	Designation and Job Description*	Date Approved by the SC <i>(if applicable)</i>	Date of Employment <i>(required for those employed within the year of assessment)</i>

Note:

* Employee should be carrying out investment or compliance-related functions, or any functions relevant to the SRI fund. Investment-related functions include front-office staff and mid or back office staff supporting the core fund management activity of the fund manager.

Section B: Declaration

The declaration must have two signatories signed by the executive director, responsible person approved by the SC, or a person authorised by the board of directors of the applicant.

[Company Letterhead]

Chairman

Securities Commission Malaysia

Dear Sir

APPLICANT *(name of fund manager)*

We,*(name of fund manager)*..., confirm that, after having made enquiries as were reasonable in the circumstances, we have reasonable grounds to believe and do believe that, the information in the application, which is provided to the Securities Commission Malaysia (SC) in the application for the certification in respect of tax exemption for managing a Sustainable and Responsible Investment (SRI) fund, is not false or misleading and contains no material omission.

We hereby declare that we are satisfied, after having made enquiries as were reasonable in the circumstances, that the application is in full compliance with the following:

- (i) The SRI fund(s) listed in the application is carried out in accordance with the SRI policies and strategies required under Chapter 3 of the *Guidelines on Sustainable and Responsible Investment Funds*;
- (ii) Paragraph 5.03 of Chapter 5 of the *Guidelines on Sustainable and Responsible Investment Funds* have been met, whereby we have:
 - (a) conducted the fund management services for the SRI fund(s) listed in the application in Malaysia;
 - (b) incurred annual operating expenditure of at least RM250,000 in Malaysia; and
 - (c) *[delete paragraph that is not applicable]*
 - i. for a company licensed under the *Capital Market and Services Act 2007*, two full time employees in Malaysia of which one holds a Capital Markets Services Representative's Licence for fund management activity under the *Capital Market and Services Act 2007*; or
 - ii. for a company registered with the SC as a venture capital management corporation or a private equity management corporation: two full time employees in Malaysia of which one is a responsible person approved by the SC.

We also undertake to provide to the SC all information the SC may require on the application, including the submission of the audited financial statements for the financial year ended (dd/mm/yyyy) which has been made through the[*Electronic Licensing Application (ELA) system/ SC Common Reporting (ComRep) Portal*]... on(date of submission)....

We declare that no other tax incentive application¹ has been made for the fund(s) listed in this application for the stipulated financial year.

Yours faithfully

<Signature>

<Full Name>

<Designation (*Executive Director / Responsible Person*)>

<Date Signed>

<Signature>

<Full Name>

<Designation (*Executive Director / Responsible Person/ Authorised Signatory*)>

<Date Signed>

¹ The tax exemption on the management fee for SRI fund and other tax incentives i.e. tax exemption on the management fee for Islamic funds, venture capital tax incentives; are mutually exclusive. Hence, an application for one incentive can only be made for the same SRI fund in a given financial year.